OCTOBER 1976 MINISTRY WORKSHOP

- List of Participants -

Francis Fox, Solicitor General

Marie Fortier, Executive Assistant to Solicitor General

Georges Vincent, Ministry Assistant

Canadian Penitentiary Service

André Therrien, Commissioner

John Braithwaite, Deputy Commissioner, Inmate Programs

Robert Diguer, Deputy Commissioner, Operational Services

Bill Westlake, Deputy Commissioner, Security

Michel Trottier

Dr. D. Craigen, Director General, Medical Services

André Charette, Executive Assistant to Commissioner
"Member of Working Group"

National Parole Board

W.R. Outerbridge, Chairman

R. Labelle, Executive Secretary

C. Bouchard, Vice-Chairman

Lynn Audet, Special Assistant to Chairman

Gilles Depratto, Director, Policy Planning & Evaluation
"Member of Working Group"

National Parole Service

Lloyd Pisapio, Executive Director

Royal Canadian Mounted Police

Maurice Nadon, Commissioner

P. Bazowski, Deputy Commissioner

R.C.M.P. (con't.)

R.H. Simmonds, Deputy Commissioner, Administration

J.P. Drapeau, Deputy Commissioner, Operations

M.R. Dare, Director General, Security

A.C. Potter, Deputy Commissioner, National Police Services

Ed Witherden, Chief Superintendent, Officer in Charge of Planning Branch
"Member of Working Group"

Secretariat

R. Tassé, Q.C., Deputy Solicitor General

JoAnne Cohen, Executive Assistant to the Deputy Solicitor General

A.T. Wakabayashi, Assistant Deputy Minister, Policy Planning & Program Evaluation

B.C. Hofley, Assistant Deputy Minister, Research & Systems Development

R.P. Bourne, Assistant Deputy Minister, Police & Security Planning & Analysis

R. Haggan, Assistant Deputy Minister, Communication & Consultation

J.G. Regimbald, Senior Financial Policy Adviser
"Member of Working Group"

R.J. Dunphy, Senior Personnel Policy Adviser

Gordon Cassidy, Co-ordinator, Evaluation, Policy Planning & Program Evaluation
"Member of Working Group"

Marcel Laniel, Senior Policy Evaluation Analyst, Policy Planning & Program Evaluation
"Member of Working Group"

R. Gaudet, Director, Security Information Analysis Division
"Member of Working Group"

E.K. Glinfort, Director, Planning & Intergovernmental Affairs, Communication & Consultation
"Member of Working Group"

S.A. Shuster, Director, Planning & Liaison, Research & Systems Development
"Member of Working Group"

Government of Canada / Gouvernement du Canada

MEMORANDUM **NOTE DE SERVICE**

SECURITY-CLASSIFICATION - *DE SÉCURITÉ*
OUR FILE–N/RÉFÉRENCE
YOUR FILE–V/RÉFÉRENCE
DATE: October 1, 1976

TO / A: Ministry Workshop Participants

FROM / DE: M.A. Laniel, Secretary to the Working Group

SUBJECT / OBJET: "Canada. Ministry of the Solicitor General" [Ministry workshop at Mont Gabriel, October 6, 7, 8, 1976]

I Additional Material for the Workshop

You will find enclosed the following material for the Workshop:

To be put in Vol. I - "Discussion Papers":

- under #4 - a letter from the Honourable Marc Lalonde to the Honourable Ronald Basford and its answer, which are important documents related to the Drug Abuse issue;
- under #14 - Report on Priority Issue #14 - "Natives and the Criminal Justice System";
- material entitled "Assessment Session at Ministry Workshop": a checklist of the Working Group efforts and future orientation of its work, which could be discussed at the Workshop.

To be put in Vol. II - "Monitoring of Priority Issues":

- under #16 - "Role of the Private Sector in C.J.S."
- under #28 - "Research Projects relating to Priority Issues"

If any additional material is given to me after Friday, October 1, it will be handed out to you at the Registration desk of Mont Gabriel.

II Arrangements to Pay at Mont Gabriel

S.P.A.C. has decided that the Agencies and the Secretariat would pay for their own representatives at the Workshop.

Mont Gabriel direction has agreed to send one bill, including room and board, for all participants to the Financial Services of the Secretariat, which will then bill the Agencies according to the number of participants. Receptions will be paid by the Secretariat.

The Hotel will keep an individual account for each participant on any other expenses he will make. These expenses will have to be paid by the participant before his departure from the Hotel.

..2

III Agenda

The Ministry Workshop, during its two-and-a-half day session, should cover the nine top priorities:

- #1 - Federal Role in Law Enforcement
- #2 - Young Persons in Conflict with the Law
- #3 - Law Reform Commission Recommendations
- #4 - Drug Abuse
- #5 - Long Term Objectives for Corrections in Canada
- #6 - Role of the Community in Criminal Justice System in Canada
- #7 - Joint Planning and Funding of Correctional Institutions
- #8 - Crime Prevention
- #14 - Natives and the C.J.S.

and a selection of the seventeen other issues kept for monitoring purposes.

Keeping in mind that the Minister will probably be absent from the Workshop on Thursday morning to attend a Cabinet Meeting, the following tentative agenda could be suggested:

Wednesday, October 6

12:00 Lunch (Main Dining Room)
14:00 Statistical overview presentation and discussion in "Le Grand Salon"
All meetings will be held in "Le Grand Salon".
15:30 Discussion on Ministry Objectives
16:30 Federal Role in Law Enforcement
17:30 Young Persons in Conflict with the Law
19:00 Dinner
20:30 "Pousse-café" (liquor) and informal discussion in Le Grand Salon

Thursday, October 7

9:00 Session on issues kept for monitoring purposes
13:00 Lunch
15:00 Law Reform Commission Recommendations
16:00 Drug Abuse
17:00 Long Term Objectives for Corrections in Canada
18:00 Joint Planning and Funding of Correctional Institutions
19:00 Dinner
20:30 Open

Friday, October 8

9:00 Natives
10:00 Role of the Community in C.J.S.
11:00 Crime Prevention
12:00 and afternoon: Discussion on other issues kept for monitoring and assessment sessions

(in particular, organized crime and bilingualism, in which the Minister has manifested a special interest).

Marcel Laniel

Enc.

ML:ss

ASSESSMENT SESSION AT MINISTRY WORKSHOP

I. On Ministry Objectives:

State of the Art

The Working Group on Ministry Objectives and Priorities had reviewed briefly, before the June Ministry Workshop, a certain number of papers related to the Ministry of the Solicitor General's Objectives.

A short background paper was prepared and discussed by the Minister and the Agency Heads in June.

Following that discussion, taking into account the comments made at the June Workshop, a revised background paper was prepared and is part of the material for discussion at the October Workshop.

Future Developments

Pierre Landreville, formerly from the Research division, is preparing a paper in which he will present alternative objectives for the Criminal Justice System; and in particular, for corrections and law enforcement, taking into account the new trends in these two fields. This paper will probably be an important contribution to the discussion of Ministry Objectives and should probably be discussed within the Ministry.

The Working Group had no opportunity to consult on the background paper on Ministry Objectives. This paper was circulated in the "Report on June Ministry Workshop", but no effort was made to collect the reactions to the paper.

Further to the Ministry Objectives being developed, the Secretariat and the Agencies' Objectives will have to be tested in relation to these objectives.

For all these reasons, above-mentioned, it appears that the Working Group on Ministry Objectives and Priorities needs to continue to work in this area.

II. On Ministry Priorities:

State of the Art

The Working Group had identified and categorized all the Ministry Priorities of previous Ministry Workshops. The

June Ministry Workshop came with two lists of priority issues:

1. For nine issues, strategies and goals are being set for 1978-1979.

2. For seventeen other issues, a monitoring system has begun.

The Solicitor General selected, in June, the Federal Role in Law Enforcement, Young Persons in Conflict with the Law, and the Law Reform Commission Recommendations as being the top three priority issues. No other priority ranking was made among the twenty-three other priorities.

Future Developments

The limits of the priority exercise are self-evident:

1. Although 89 issues cover a large number of problem areas, the Working Group made no attempt to cover the universe of issues in the C.J.S., among which the Ministry Workshop could select the Ministry Priority issues.

2. The June Ministry Workshop made very little attempt to discriminate among the twenty-six issues. There are two lists of issues; and the top three issues were selected, as such, by the Solicitor General, but this was the only discimination made.

3. On the seventeen issues kept for monitoring purposes, the Ministry components were left on their own to identify their efforts, needs and concerns for 1976-77 and 1977-78. Although goals were set on some of these issues, Ministry goals have to be approved for each of them, since without them, it will be difficult to assess Ministry performance.

Three tasks naturally flow from these limits. The Working Group could be an intrument in the execution of these tasks:

1. To explore, more extensively, all C.J.S. issues which may be M.S.G. Priority Issues.

2. To develop a methodology, which will help to order these issues.

3. To measure the Ministry performance on all the Ministry Priorities, by setting goals for each of them and developing performance indicators.

III. On the Process:

State of the Art

The Working Group on Ministry Objectives and Priorities is composed of representatives of the three agencies and the four Secretariat branches. An effort has been made to extend the Ministry participation within the agencies and the branches; but no opportunity has been given to truly consult.

The Ministry Workshop process was planned to tie in with the program forecast. Resources identifications for 1978-1979 on nine issues were a first step in that direction.

In June, a Workshop attended by the Solicitor General, Deputy Solicitor General and the three Agency Heads discussed objectives and set priorities. In October, this Workshop will be attended also by the Deputies and will discuss strategies.

Future Developments

The Working Group could become involved in stimulating consultation within the Ministry.

The program forecast implications of the process for better planning and evaluation in M.S.G. are still to be explored. The Working Group, involving the financial advisers of the different components, may help to clarify the possibilities and limits in this area.

The timing for future workshops may better relate to agencies' planning processes if the two Ministry Workshops were held - one in January: to set Ministry priorities; the second in June: to discuss strategies. The Minister and S.P.A.C. could, during early fall, approve the Ministry goals presented to them.

Prepared by M.A. Laniel

Background Paper on Ministry Objectives

In defining the role of the Ministry of the Solicitor General in criminal justice in Canada there are a number of underlying principles about crime and the criminal justice system which are important foundations upon which to build our role.

A. The criminal justice system is part of a larger system designed to improve the quality of life for members of Canadian society.

B. The criminal justice system is a complex system of jurisdictions, fragmented both structurally and functionally.

C. The criminal justice system is a blunt instrument of social control, which must be used with restraint and, which produces social, individual, and economic costs.

D. Crime is inherent to the society in that it is defined by society and it is not an absolute. Thus what is defined as crime, and our reaction to it, change with changing social values.

The main objective for the Ministry of the Solicitor General would be:

To participate in the protection of all members of Canadian society from criminal conduct and the effects of crime.

In directing our activities within this general program objective as efficiently and effectively as possible, and being concerned with the quality and consistency in the delivery of services, the Ministry has the following sub-objectives:

1. To promote and engage in strategies to control criminal behaviour;

2. To promote and engage in strategies designed to prevent crime;

3. To co-ordinate the activities of, and promote a sense of direction for the components of the criminal justice system and other peripheral services.

In attempting to fulfill these objectives and direct Ministry activity there are constraints which are pervasive to the criminal justice system and to the Ministry as a whole. These include more fully involving the community in the operation of the criminal justice system, and promoting a more humane, equitable and just system of criminal justice with minimum interference with individual freedom. In addition, because the criminal justice system is a blunt instrument of social control, which produces social individual and economic costs, it must be used with restraint.

(June 1976 Ministry Workshop)

List of priorities

LIST OF MINISTRY OF SOLICITOR GENERAL PRIORIZED ISSUES

AT JUNE 1976 MINISTRY WORKSHOP

I * Issues for which specific goals should be set and specific strategies developed for the program forecast 1978-1979.

1. Federal Role in Law Enforcement
2. Young Persons in Conflict with the Law
3. Law Reform Commission Recommendations
4. Drug Abuse
5. Long Term Objectives for Corrections in Canada
6. Role of the Community in Criminal Justice System in Canada
7. Joint Planning and Funding of Correctional Institutions
8. Crime Prevention

II * Issues for which monitoring of activities for 1976-77 and 1977-78 should be coordinated.

9. Organized Crime
10. Federal Corrections Agency
11. Role of the Parole Board
12. Diversion
13. Management of Human Resources in C.J.S.
14. Natives and the C.J.S.
15. Peace and Security
16. Role of the Private Sector in C.J.S.
17. Communications Policy
18. Coordinating Mechanisms in C.J.S.
19. Cost of Crime and Criminal Justice
20. Evaluation of Ministry Orientation and Rationalization of Resource Utilization in the Ministry of the Solicitor General
21. Grievance Procedures against the R.C.M.P. (Marin Comm.)
22. Inmates Rights
23. Canadian Proposals to 5th U.N. Congress on Prevention of Crime and Treatment of Offenders. (Reciprocal Agreement on Alien Offenders Under Parole, not under Parole, on Probation)
24. Treatment of Offenders
25. Equal Opportunities for Women
26. Government Bilingual Policies

* The issues are not in any priority order with the exception of issue nos. 1, 2 and 3.

ISSUE #1

Federal Role in Law Enforcement

I. Ministry Policy

To participate in the protection of all members of Canadian society from criminal conduct and the effects of crime by:

(a) Promoting and engaging in strategies to control criminal behaviour;

(b) Promoting and engaging in strategies designed to prevent crime;

(c) Co-ordinating the activities of, and promoting a sense of direction in the components of the criminal justice system and other peripheral services.

II. Program: Federal Role in Law Enforcement

Objective:

To provide continuing Federal leadership, co-ordination and support in the total law enforcement field in Canada.

Goals:

1. To develop a cabinet approved, negotiable position on the Federal role in law enforcement (1977/78).
2. To hold a Federal/Provincial conference on the Federal role in law enforcement (1978/79).
3. To articulate the Federal role in law enforcement by legislation, reorganization or bilateral agreements (1980/81).

III. Responsibility Centres

Under Cabinet direction the Committee of Senior Officials (COSO), with the Deputy Solicitor General and the Commissioner of the Royal Canadian Mounted Police, will be the Steering Committee responsible for developing the federal position. A working group or task force is to be formed, consisting of a representative from each of the Secretariat of the Ministry of the Solicitor General, the Royal Canadian Mounted Police, the Privy Council Office, the Federal-Provincial Relations Office and the Treasury Board Secretariat, with representatives from other Departments included when necessary. The full-time chairman of the task force will be responsible directly to the Deputy Solicitor General.

The task force should be established immediately following the October Ministry Workshop and as a priority should establish a viable interface, communication link or liaison with:

(a) The Secretariat Steering Committee on Preventive Policing;

(b) The (resurrected) Ministry Committee on Drug Abuse;

(c) The Ministry Committee on Law Reform Commission Recommendations;

(d) Department of Justice Committee on Law Reform;

(e) The Interdepartmental Committee on Justice;

(f) The Research Strategy Committee;

(g) The Demonstration Projects Committee, and perhaps,

(h) The National Task Force on the Administration of Justice.

IV. Activities (alternative and/or complementary strategies)

A. The Role task force might first wish to concentrate its efforts in developing a federal role in law enforcement position on a critical analysis of the recommendations, options and problems surfaced in the following works:

(a) The Hale Task Force Report on Policing in Ontario;

(b) The 1974 Report "The Police Function in our Changing Society";

(c) The 1975 Report on "The Federal Role in Law Enforcement in Canada";

(d) Report of the Canadian Delegation to the 5th United Nations Congress on the Prevention of Crime and the Treatment of Offenders", and possibly,

(e) The President's Commission on Law Enforcement and the Administration of Justice. 1967

?

1974 — Nat'l Advisory Committee C J Standards + Goals

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For example: the Report on the Federal Role in Law Enforcement in Canada identifies what its authors perceive as the four most serious current law enforcement problems:

(1) the need to redefine the role of the urban policeman;

(2) control the escalating cost of policing;

(3) control the growth of sophisticated crime; and,

(4) improve the Criminal Justice System.

It has been suggested that the Role task force prepare three background papers:

(1) A paper describing the current role of law enforcement, including policy, programmes, resources available, policy gaps and emerging issues. This paper should also cover the role of other departments and agencies in law enforcement such as the National Harbours Board, Consumer and Corporate Affairs, Unemployment Insurance Commission and Immigration. A distinction should be made between regulatory and police functions. Background papers 5 and 6 of the Federal Role study contain much of this information.

(2) A paper examining the constitutional and jurisdictional issues in law enforcement in Canada. Background paper 8 covers most of the pertinent points.

...5

(3) A paper containing a critical analysis of the current situation and suggestions as to future alternatives. This paper should examine the following principal issues:

- the cost of policing in Canada
- the standard of police services in Canada
- public confidence in policing
- R.C.M.P. provincial policing agreements
- R.C.M.P. municipal policing agreements
- policing in Quebec and Ontario
- benefits to the Federal Government of the "two hatted" policeman
- the role of the Provincial Attorneys General with respect to the R.C.M.P.
- the provision of National Police Services by the R.C.M.P.
- mechanisms for administering the Federal Role in Law Enforcement including the need for a police ombudsman.

NPD/5

However, before embarking on the preparation of these three papers the task force members should determine the importance and relevance of each of the papers and the identified sub-headings to the job of establishing a federal role position. Other areas of concern which may bear scrutiny on a higher priority are:

...6

(a) proposed legislative change (gun control, young offenders);

(b) defencible space;

(c) need for community involvement in law enforcement;

(d) need for a federal-provincial conference on crime;

(e) the four most serious law enforcement problems.

B. Training:

Either as part of the task force's responsibility or independently the following strategies should be examined in respect of the federal role:

NAN application + Police

(1) To continue the development of the Canadian Police College.

(2) To promote the development of Provincial Police Colleges.

(3) To promote the development of police training courses in Universities and Community Colleges.

(4) To promote the development and acceptance of a recruit training standard with emphasis on:

(a) police/community relations;

(b) police ethics;

(c) crime prevention;

(d) crisis intervention

(e) "peace officer" concepts.

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(5) To assist in the development of new police skills and strategies designed to curb sophisticated criminal activity.

C. Research and Development

Research and development requirements will likely be identified by the task force, including such areas as:

(1) The four most serious current law enforcement problems (Federal Role Study).

(2) A National Criminal Justice Reference Centre (The Police Function in our Changing Society).

(3) The development of law enforcement "model" techniques.

(4) Ways and means of improving police services in Canada.

(5) Role of the Community in Law Enforcement.

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Resources:

Because of the potential scope and possible mix of the alternatives suggested it is impractical to attempt a forecast of resource needs with any degree of accuracy. However, if the Role task force is to be given the responsibility of carrying out the bulk of the work required to meet the three goals described on page 1, the following estimate might be made:

1976-77: Task Force - 2 manyears

Training - no additional

R & D - $50,000 (consultants' fees)

1977-78: Task Force - 4 manyears

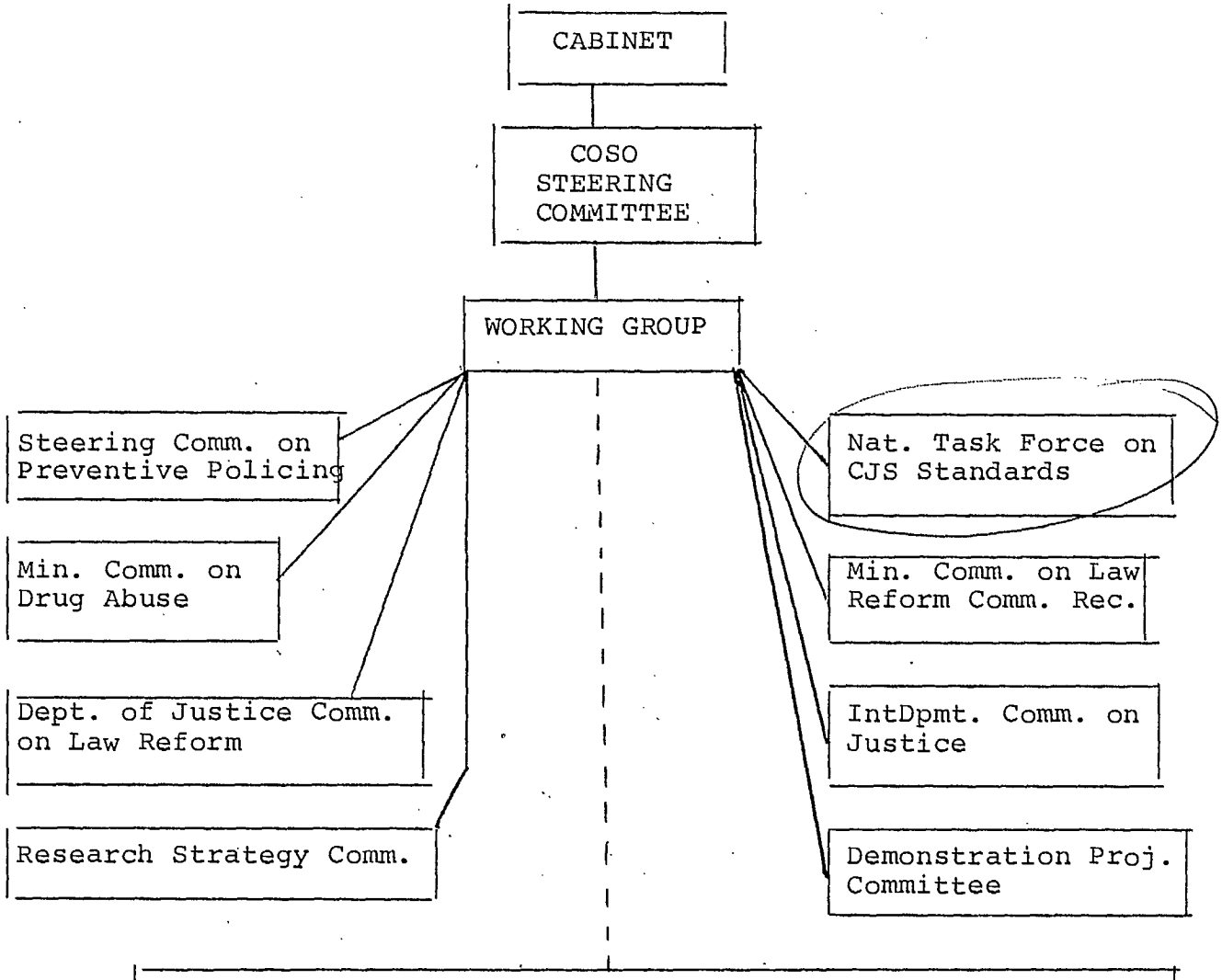
Training - no additional

R & D - $50,000 (Research fees)

1978-79: Task Force: 4½ manyears (½ to manage Federal-Provincial conference)

Training - $50,000 (pilot project)

R & D - $100,000 (Research fees)



1. Report on Federal Role in Law Enforcement in Canada.
2. Hale Task Force on Policing in Ontario.
3. The Police Function in our Changing Society (1974).
4. Report of The Canadian Delegation to the 5th U.N. Congress on the Prevention of Crime and the Treatment of Offenders.
5. The President's Commission on Law Enforcement and Administration of Justice.

RESEARCH DIVISION

REPORT ON

HIGH PRIORITY ISSUES

PRIORITY ISSUE # 1

FEDERAL ROLE IN LAW ENFORCEMENT

Research Division contact -
J.G. Woods

September 1976

FEDERAL ROLE IN LAW ENFORCEMENT

Projects contracted for

Title of Project

"NRC Crisis Intervention Project"

Description

To prepare guidelines for handling and non-violent apprehension by aircrew and terminal personnel of persons involved or potentially involved in aircraft hijacking, bombing, and other violent actions, and to present these guidelines in a handbook.

Principal Investigator and Institution

G. McDonald, University of Toronto

Duration

13/6/75 to

Cost

$5,000

FEDERAL ROLE IN LAW ENFORCEMENT

Projects contracted for

Title of Project

"Social Services Role of the Police: Domestic Dispute and Intervention"

Description

To review domestic dispute intervention training programs, to monitor and evaluate recruit training in crisis intervention, and to develop general guidelines for police domestic dispute crisis intervention training.

Principal Investigator and Institution

B. Levens, United Way of Greater Vancouver

Duration

16/7/75 to 16/7/77

Cost

$57,000

FEDERAL ROLE IN LAW ENFORCEMENT

Projects contracted for

Title of Project

"Social Sciences and Social Policy in the Area of Crime Prevention: A Review of the Literature"

Description

To determine the ways in which the social sciences can contribute to government policy decisions, especially with respect to crime prevention.

Principal Investigator and Institution

Gwynn Nettler, University of Alberta

Duration

11/3/75 to 1/5/75

Cost

$1,500

FEDERAL ROLE IN LAW ENFORCEMENT

Projects contracted for

Title of Project

"Indicators of Crime"

Description

To identify significant predictors of crime through analysis of crime rates in relation to economic and ecological factors.

Principal Investigator and Institution

C. Jaywardene, University of Ottawa

Duration

13/6/75 to 15/9/75

Cost

$1,000

FEDERAL ROLE IN LAW ENFORCEMENT

Projects contracted for

Title of Project

"The Built Environment and Criminal Behavior: A Literature Review"

Description

To explore the implications for crime prevention of the literature dealing with the relationships of physical environment to criminal behavior.

Principal Investigator and Institution

Paul Stanley, A.R.A. Consultants Ltd., Toronto

Duration

13/1/75 to 13/2/75

Cost

$5,000

FEDERAL ROLE IN LAW ENFORCEMENT

Projects contracted for

Title of Project

"Workshop on Crime Prevention"

Description

To suggest future research priorities and to identify useful crime prevention methods for use in Canada.

Principal Investigator and Institution

G. Watson, University of Toronto

Duration

31/5/75 to

Cost

$14,500

FEDERAL ROLE IN LAW ENFORCEMENT

Projects contracted for

Title of Project

"The Modernization of Crime"

Description

To locate organizational strains in the structure of professional crime and to project future developments in the organization of crime in Canada.

Principal Investigator and Institution

Lorne Tepperman, University of Toronto

Duration

13/6/75 to 30/6/76

Cost

$5,000

FEDERAL ROLE IN LAW ENFORCEMENT

Projects contracted for

Title of Project

"Une synthèse sur le coût du crime"

Description

Préparer une synthese des recherches et des théories relatives à l'aspect économique du crime et à la répartition des ressources affectées à l'adminiatration de la justice.

Principal Investigator and Institution

Samir Rizkalla, Université de Montréal

Duration

11/5/74 to 15/3/75

Cost

$4,800

FEDERAL ROLE IN LAW ENFORCEMENT

Projects contracted for

Title of Project

"An Analysis of the Deterrent Effects of Police Law Enforcement"

Description

To review the literature of urban police resource allocation, and to examine certain questions, i.e.

a) the economic theory of offender behavior;

b) the efficiency of police crime-deterrent activities;

c) the costs of crime-deterrent activities.

Principal Investigator and Institution

Stephen Mehay, Concordia University

Duration

13/6/75 to 30/5/76

Cost

$5,000

FEDERAL ROLE IN LAW ENFORCEMENT

Projects contracted for

Title of Project

"Police Requirements and Use of Information"

Description

An analysis of the ways in which existing data could be applied to the solution of police problems, including suggestions for data collection and processing to enhance police efficiency.

Principal Investigator and Institution

Robert Hann, Systems Dimensions Ltd.

Duration

24/4/75 to 24/7/75

Cost

$4,950

FEDERAL ROLE IN LAW ENFORCEMENT

Projects contracted for

Title of Project

"Police Management Information Systems Study: Phase II"

Description

To describe the "state-of-the-art" of Canadian police MIS; to develop a model police MIS Design; and to prepare an inventory of pclice MIS operating in Canada and elsewhere.

Principal Investigator and Institution

R. Hann, et al, Decision Dynamics, Ltd.

Duration

12/75 to 1/77

Cost

$110,000

FEDERAL ROLE IN LAW ENFORCEMENT

Projects contracted for

Title of Project

"A Literature Review Pertaining to Job Satisfaction in Police Service"

Description

To compile and analyse theoretical and empirical studies of job satisfaction in public and private police agencies.

Principal Investigator and Institution

Bonnie Fowke, Hickling-Johnston Ltd.

Duration

15/3/75 to 1/6/75

Cost

$5,000

FEDERAL ROLE IN LAW ENFORCEMENT

Projects contracted for

Title of Project

"A Review of the Literature Pertaining to Community Based Preventive Policing"

Description

To identify preventive policing techniques which seem applicable to Canadian crime problems.

Principal Investigator and Institution

•David Wasson and Robert Neal, John D. Crawford Co. Ltd., Toronto

Duration

17/3/75 to 26/4/75

Cost

$5,000

FEDERAL ROLE IN LAW ENFORCEMENT

Projects contracted for

Title of Project

"Police Attitudes and Their Relationship to Behavior"

Description

To review the literature of police job performance, to develop a battery of preferred tests, and to administer and evaluate the tests, in order to evaluate the effects of social science training on productivity, morale, police-community relations, and attitudes.

Principal Investigator and Institution

D. Dutton, University of British Columbia

Duration

13/6/75 to 9/77

Cost

$37,760

FEDERAL ROLE IN LAW ENFORCEMENT

Projects contracted for

Title of Project

"Policing in Canada: A Bibliography"

Description

To prepare a report titled "Policing in Canada: A Bibliography", and to prepare a bibliography of "in-house" police research.

Principal Investigator and Institution

C. Shearing, University of Toronto

Duration

13/6/75 to 30/4/76

Cost

$23,370

FEDERAL ROLE IN LAW ENFORCEMENT

Projects contracted for

Title of Project

"Evaluation of the Community Policing Program of the RCMP in Colwood, B.C."

Description

To describe the principles of decision theory and their use in evaluation of the effectiveness of criminal justice programs.

Principal Investigator and Institution

J.B. Cunningham and C.I. McInnes, Victoria, B.C.

Duration

5/4/75 to 15/10/75

Cost

$4,800

FEDERAL ROLE IN LAW ENFORCEMENT

Projects contracted for

Title of Project

"A Study of Private Policing in Canada"

Description

To examine all aspects of the contract security industry in Ontario, including users, agencies, and employees, costs, attitudes, and ministry requirements.

Principal Investigator and Institution

C. Shearing, University of Toronto

Duration

1/10/74 to 31/3/75

Cost

$134,686

FEDERAL ROLE IN LAW ENFORCEMENT

Projects contracted for

Title of Project

"Conference on Police and Law/Police Community Relations"

Description

To discuss issues related to community attitudes with respect to police and law enforcement.

Principal Investigator and Institution

Manitoba Police Commission

Duration

1/11/75 to

Cost

$2,500

FEDERAL ROLE IN LAW ENFORCEMENT

Projects contracted for

Title of Project

"A Twelve-Hour Workday: Its Impact on a Police Organizational System"

Description

To investigate the effects of a twelve-hour shift on the morale, efficiency, and general effectiveness of the Saanich police department.

Principal Investigator and Institution

J.B. Cunningham, University of Victoria

Duration

12/11/75 to 27/2/77

Cost

$10,000

FEDERAL ROLE IN LAW ENFORCEMENT

Projects contracted for

Title of Project

"Operation Write-Up"

Description

To describe the chattel identification, block watch, and residential security program of the Ottawa Police Department in the form of a "prescriptive package", which can be used as a model for the description of other crime prevention projects.

Principal Investigator and Institution

Decision Dynamics Ltd.

Duration

1/7/76 to 15/9/76

Cost

$4,900

FEDERAL ROLE IN LAW ENFORCEMENT

Projects in preparatory stage

Title of Project

"Evaluation of the Family Consultant Service of the London Police Department"

Description

To analyse and evaluate a police family consultant service.

Principal Investigator and Institution

P. Jaffee, London, Ontario

ISSUE #2

STATUS REPORT ON NEW LEGISLATION TO REPLACE THE JUVENILE DELINQUENTS ACT

Background

The process of bringing about amendments to the present Juvenile Delinquents Act dates to 1961 when the Department of Justice appointed a Committee on Legislation to study the problem of juvenile delinquency in Canada. The Committee's Report, published in 1965, recommended that major changes be made to the Juvenile Delinquenst Act and that the Federal Government provide financial assistance to the provinces for the development of relevant services and resources to children who may be subject to the proceedings of juvenile law.

After the publication of the Department of Justice Report in 1965 and up until 1972, unsuccessful attempts were made to revise the Juvenile Delinquents Act. Bill C-192, the Young Offenders Act, was introduced in the House of Commons in November of 1970, but following substantial debate and criticism, was allowed to die on the Order Paper at the end of the 1970-72 Session of the 28th Parliament. The Bill was criticized as being too legalistic and procedural and for failing to provide financial assistance to the provinces in implementing the legislation. It was also suggested that consultation with the provinces and private sector had been inadequate.

The juvenile justice issue emerged again in October 1973 when Cabinet authorized the Department of the Solicitor General and the Department of National Health and Welfare to carry out a joint review in consultation with the provinces of the programs, services and financial arrangements concerning young persons in conflict with the law.

In conjunction with the work of the Federal/ Provincial Joint Review Group, a Committee on Legislation was appointed by the Solicitor General to examine the Juvenile Delinquents Act, the 1965 Department of Justice Report, Bill C-192, and the work of the Joint Review Group. The Committee on Legislation published its Report in September of 1975. The Report, entitled Young Persons in Conflict with the Law and containing proposals for new legislation to replace the Juvenile Delinquents Act, was distributed widely for the purpose of consultation with national and provincial associations, provincial and territorial government officials, interest groups and members of the general public in all the provinces and territories. Approximately 70 meetings and workshops were convened across the country and numerous written briefs and submissions were received including provincial and territorial government responses to both the substantive details and financial implications of the proposed legislation.

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Upon completion of the consultation process, the results were analyzed by members of a federal working group representing the Department of the Solicitor General, the Department of National Health and Welfare and the Department of Justice. Final legislative proposals were developed for consideration by the Solicitor General. The final proposals for new legislation and funding provisions are included in a Cabinet memorandum of September 10th, 1976.

Major Substantive Provisions of New Legislation

The major substantive provisions of the proposed new legislation are briefly discussed below.

Philosophy

The proposed legislation (entitled the "Youth Justice Act") would depart significantly from the basic approach of the Juvenile Delinquents Act wherein young persons who break the law are dealt with as "misguided and misdirected". Under the proposals and in keeping with the general intent of the criminal law, young persons would be held responsible for specific offences when their behaviour contravenes the law. However, young persons would not be held accountable in the same manner nor would they suffer the same consequences as adults for behaviour which was in contravention of the law.

The proposed new legislation is based on a number of specific principles and objectives which would be incorporated in a preamble to the legislation. Such a preamble would declare the philosophy, spirit and intent of the legislation and act as a guide to its administration.

Jurisdiction of New Legislation (Offences)

The jurisdiction of the proposed legislation would be restricted to offences against the Criminal Code and other federal statutes and regulations. The general offence of delinquency therefore would be abolished and offences now included under the Juvenile Delinquents Act such as provincial statutes, municipal by-laws and status offences would be excluded from the scope of new legislation.

The general intent of this proposal is to exclude non-serious conduct from the scope of the criminal law that could be better dealt with by other social or legal means. As a result of this restricted jurisdiction, it would remain to the provinces to amend existing legislation, including child welfare and youth protection laws to deal with this less serious behaviour.

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Jurisdiction of New Legislation (Ages)

The minimum age of criminal responsibility under new legislation would be set at age 12. The provinces would, however, continue to have the flexibility to deal with young persons over 12 years of age under provincial legislation where they deem inappropriate to use the Youth Justice Act.

The maximum age of criminal responsibility under new legislation would be set at under 18 years. However, provinces could ask the governor in council to lower the maximum age to 16 or 17 years.

While the Solicitor General's Committee recommended the adoption of uniform ages under new legislation, those ages being 14 and 18 respectively, the consultation revealed strong reactions against the adoption of these ages. While uniform ages are not required under new legislation, the ages provided allow for the potential adoption of the uniform ages of 12 and 18.

Detention of Young Persons Prior to a Court Disposition

The proposed legislation would define the circumstances under which young persons may be detained as well as the procedures to be applied when detention is invoked. It is proposed that young persons should only be held in detention after a police officer has applied the rules and criteria that pertain to adults in addition to special criteria adopted for dealing with young persons. Legislation should also require the necessity for notification of parents, a mandatory review of detention decisions by a youth court judge and should provide that young persons who are held in detention be separated from adults.

Screening and Diversion

The Report Young Persons in Conflict with the Law recommended the adoption of a formal screening mechanism in legislation which would seek to employ alternatives other than formal court proceedings in promoting problem settlement and the resolution of conflict.

While the consultation process demonstrated agreement and support for the concept of diversion, there was widespread disagreement with the model recommended in the Report and a great variance of opinion as to what diversion mechanism, if any, should be employed. The consultation process strongly suggested that it is too early to legislate a specific diversion model because operational experience has not demonstrated the general acceptance of any particular model.

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New legislation would not provide for a formal diversion mechanism at this time, but would rather contain provisions encouraging the development and practice of screening and diversion, including a statement of basic factors which should be considered when diversion is practised.

Rights of Young Persons to Legal Representation

New legislation would fully express the particular rights which should be afforded to young persons, particularly the right to retain and instruct legal counsel at all stages of the procedures. Young persons would have their rights explained to them, including their right to retain and instruct counsel as soon as they are detained, arrested or if they are summonsed by the police. It is also proposed that a young person should be represented at his trial by a lawyer, unless the judge is satisfied that no lawyer is reasonably available. In such instances, a judge could allow a young person to be assisted by a responsible person. The greater involvement of legal counsel has been criticized by some as removing the benefit of the informality of proceedings. It is perceived, however, that this benefit is less valuable in the safeguards that would be so provided to young persons.

Transfer to Adult Court

Instances will arise when the general intent of special legislation dealing with young persons in conflict with the law must be overriden because some aspects of the case demand an exception to the philosophy or practices of the youth court. In this regard, new legislation would provide for the transfer of certain young persons to the adult court but would explicitly outline the guidelines or factors to be considered when such a transfer is being contemplated. Transfer to the adult court would be restricted to young persons over the age of 14 who have been charged with serious indictable offences.

Dispositions

New legislation would contain a range of dispositions designed to meet the needs of young persons, to protect society and to consider the rights of the victims of crime. The dispositions that are proposed for the legislation include the performance of a community service order, the making of compensation and restitution, the payment of a fine, committal to supervision in the community on probation and committal to open and secure custodial facilities.

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Unlike the indeterminate nature of committals under the present Juvenile Delinquents Act, committals under new legislation would be for a fixed period of time and the young person would be advised of a maximum length of committal, as well as the specific nature of the committal.

Review of Dispositions

In order to monitor the progress and welfare of young person subject to a court disposition, new legislation would provide that mandatory periodic reviews be undertaken. Such reviews would be undertaken by a youth court judge or, at the option of the provinces, a provincially appointed review board.

Reviews could confirm the original dispositions or change the nature of the disposition by discharging a young person or reducing the nature or length of restraint. Provision would also be made for the service administrator to initiate the removal of a young person to a reduced form of custody.

In order to provide for those instances where a young person wilfully fails to comply with the disposition of the youth court, it is proposed that the youth court judge extend the disposition or apply the next most restraining form of disposition.

Fingerprinting and Photographing

Under the terms of new legislation, the police would be authorized to employ fingerprinting and photographing practices in the investigation of offences subject to special procedures and safeguards which would be created to guide the police in the use of these practices.

New legislation would contain provisions permitting the taking of fingerprints and photographs by the police in the cases of indictable offences as is permitted under the Identification of Criminals Act. Special procedures would be established for the storage of fingerprints and photographs of young persons which would become part of the youth court record and access to such records would be restricted.

Appeals

It has been recognized that young persons should have the same rights of appeal from decisions affecting them as are provided to adults under the Criminal Code. In this regard, new legislation would not require leave to appeal, but appeals would be as of right for young persons.

Intent of Proposed New Legislation and Increased Federal Funding Assistance

It has been recognized throughout the policy development stages of new legislation that legislation, by itself, will not be sufficient to bring about the needed changes and improvements to the administration of juvenile justice in Canada. A primary concern in the development of a new federal policy in this area has been the recognition that the federal government should encourage the development of better services and resources to young offenders by increasing the financial assistance it provides to the provinces.

The substantive provisions of new legislation coupled with an increased financial commitment to the provinces for the development of new and additional services and resources to young persons are aimed at controling and reducing the phenomenon of delinquent behaviour as it arises, and thereby, hopefully preventing future costs to society of adult crime and reducing the costs sustained by the federal government in the administration of law enforcement and correctional systems.

Summary of Major Funding Requirements of New Legislation

Present financial assistance to the Juvenile Justice System is extended through funding programs administered by the Department of National Health and Welfare, the Department of Justice and the Ministry of the Solicitor General.

The Department of National Health and Welfare presently participates in cost sharing services to young offenders through the mechanism of the Canada Assistance Plan. Cost sharing is limited however to care and after-care services and excludes such services as screening and diversion, predispositional assessments which focus on a study of young persons' needs and services to the young person in his own home and community including probation supervision. Federal funding is therefore weighted in favour of services which seek the solution to the young person's problems through his removal from his home and community to costly institutional and other forms of care.

This is in contrast to the proposals which advocate a greater reliance on community and social service solutions to the problems of young persons in conflict with the law and, where appropriate, away from the use of costly secure custody.

The proposals for new legislation would necessitate the development of new forms of resources or extensions of existing resources based not only on the changing philosophical

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posture of the legislation but also on the recommendation that provinces be urged to increase the maximum age under new law to 18 years. In general, the proposals would require:

1. additional facilities for observation, removal and detention, separate from those in which adults are held;

2. the development of screening and diversion processes and mechanisms;

3. additional assessment resources, including assessments which contribute to a decision whether to divert the young person from the Juvenile Justice System;

4. additional probation and community supervision services;

5. additional legal aid services;

6. assessment and reviews of progress during the term of dispositions;

7. additional open and secure custody facilities;

8. training of personnel throughout the system;

9. development of support systems - information and statistics, research and evaluation;

10. development of standards, including criteria to be followed when diverting young persons from the Juvenile Justice System.

Summary of Major Funding Priorities and Preferred Funding Mechanisms

It has been proposed that the Federal Government provide additional assistance to the provinces by enabling, within the proposed social services legislation, ongoing funding to share on a 50% basis in the cost of additional selected services to young persons in conflict with the law which are not shared under the present Canada Assistance Plan. These designated services would include pre-dispositional services, such as detention, assessment, pre-disposition reports and diversion services, also post-dispositional community supervision and probation services.

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The Ministry of the Solicitor General currently funds innovative and demonstration projects that provide services which are not cost-shared under the Canada Assistance Plan and which would not be eligible for cost-sharing under the proposed social services legislation. Additional project funds have been identified to share in the costs of implementation of the new legislation by encouraging the development of screening and diversion mechanisms, training of personnel throughout the system, public education, research and evaluation.

Summary of Major Policy Recommendations

The major recommendations presented to the Solicitor General for Cabinet's consideration are that:

1. the legislative section of the Department of Justice be authorized to prepare new legislation entitled the "Youth Justice Act", in consultation with the Ministry of the Solicitor General;

2. authorization be given to include in the proposed social services legislations as may be required, provision to allow for the cost-sharing of assessment services, pre-dispositional services and community supervision services to young persons who would come under the application of the proposed Youth Justice Act, and approval be given in principle to provide additional financial assistance to the provinces beginning in the fiscal year 1978-79 in the range of sixteen to thirty-two million dollars annually, subject to discussion and approval by Treasury Board;

3. approval be given in principle to the Solicitor General to provide additional funds over the next five-year period in the amount of three million dollars during 1977-78, rising to five million dollars by the end of the period including the corresponding additional man-years, by means of project funding for juvenile justice projects, including innovation and demonstration projects, particularly screening and diversion projects, training for juvenile justice personnel and public education, subject to discussion and approval by Treasury Board;

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4. the Solicitor General be authorized to consult in collaboration with the Ministers of National Health and Welfare and Justice, with the provincial governments regarding the proposals for new legislation and funding mechanisms, as well as the impact of new federal legislation on complementary provincial legislation.

Possible Implications of the New Legislation for the Ministry of the Solicitor General

Subject to Cabinet and Treasury Board approval to introduce such new legislation, further consultations could be held with provincial government departments primarily affected by the legislation. The aim of such consultation would be to enlist the reaction to the preferred substantive provisions, funding priorities and mechanisms. As an alternative, the Solicitor General could introduce the Bill in Parliament without additional consultation, basing the preferred position on the consultation undertaken to date.

If new legislation is passed by Parliament, the Ministry of the Solicitor General would be called upon to play a significant role in the implementation, monitoring and evaluation of the legislation. The Consultation and Communication Branch is seen as performing an integral role in this area, particularly in administering project funding arising out of new legislation, as well as overseeing the development of certain public education and training programs. Inasmuch as three federal government departments would be involved in the administration of a new legislation, effective inter-departmental consultation and communication would be required.

Initial discussion between the Policy Planning and Program Evaluation and the Consultation and Communication Branches have indicated that at least eight new man-years would be required by the Consultation and Communication Branch to administer the functions outlined above on both a national and regional basis.

While it is difficult to anticipate any significant increase in the resources to the Research and Systems Development Branch at this time, it is particularly relevant to note the priority which juvenile justice projects have been given in the past, with the view to maintaining such visibility if not increasing it as a result of the passage of new legislation.

ISSUE #3

PROPOSAL FOR A MINISTRY OF SOLICITOR GENERAL REACTION AND RESPONSE TO RECOMMENDATIONS OF THE FEDERAL LAW REFORM COMMISSION.

Proposal for a Ministry of Solicitor General
Reaction and Response to Recommendations of
the Federal Law Reform Commission

- 1. Background
- 2. Tasks
- 3. Relationship with the Federal Justice Department
- 4. Federal-Provincial Considerations
- 5. Relations with the Private Sector (National Associations and Universities
- 6. A Mechanism for Ministry Response
- 7. Requirements for Working Groups
- 8. A Proposal for Immediate Action
- Appendix "A": Major Issues
- Appendix "B": Working Groups - Skill Requirements and Anticipated Products
- Appendix "C": Projected Time Frames

September 16th,1976.

PROPOSAL FOR A MINISTRY OF SOLICITOR GENERAL REACTION AND RESPONSE TO RECOMMENDATIONS OF THE FEDERAL LAW REFORM COMMISSION.

1. Background

After several years of intensive research the Federal Law Reform Commission has now tabled a total of seven reports, covering:

Evidence

Mental Disorder in the Criminal Process

Dispositions and Sentences in the Criminal Process

Our Criminal Law

Sunday Observance

Family Law

Expropriation

In addition before the end of 1976, reports will be tabled covering the following topics:

Pre-Trial Procedure

Evidentiary Matters at the Sentencing Hearing

Contempt of Court

Theft and Fraud

Other reports on sexual offences, the jury system and the general part of the criminal code, including responsibility, are scheduled to be tabled in 1977.

In preparing these reports the Law Reform Commission has commissioned a large number of research studies and has

made extensive use of task forces composed of representatives of all components in the Criminal Justice System. In addition a certain amount of consultation has taken place across Canada though focussing primarily on the legal community. In its current and future projects, the Law Reform Commission expects to make even greater use of task forces and much more extensive use of consultation in developing reports.

Ministry response, to date, has consisted largely of monitoring the research work done by the Law Reform Commission and some preliminary analysis of final reports. In addition, the Research Branch of the Secretariat has worked closely with the Law Reform Commission research staff in the preparation of a number of background papers. The Ministry has been represented on two of the task forces (Dispositions and Sentences - Pierre Landreville; Pre-Sentencing Procedures - H. G. Needham). As well, the Ministry, through consultation funding projects and research contracts, has been encouraging experimentation and research into many areas related to the Law Reform proposals, e.g. screening, diversion, non-custodial alternatives. More direct activity has been the development of proposals concerning young offenders and the role of the federal corrections agency which incorporate many of the basic concepts of the Law Reform Commission.

However, despite the above, a comprehensive examination of the papers and formulation of policy and strategy remains to be carried out.

2. Tasks

The Ministry's first task in respect of law reform is to respond to those reports already published. This will include an analysis of major precepts and detailed recommendations, the preparation of a federal government position in respect to these, consultation with the provinces and the criminal justice community regarding the practicability of implementing these measures and to achieve a certain degree of concensus on them, and implementation by way of legislation or policy where necessary.

As noted above, the Law Reform Commission already has in the advanced stages of preparation, several additional reports. A second Ministry task will be to assist the Law Reform Commission in the preparation of these reports and to monitor the development of future reports so as to (a) ensure representation of the Ministry's interest and (b) reduce response time in implementing recommendations.

3. Relationship with the Federal Justice Department

It should be noted that the Law Reform Commission reports to the Minister of Justice and it is the Ministry of Justice which administers the Law Reform Fund. Obviously, since the content of the criminal law of Canada is the direct concern of Justice, that Department must play a primary role in evaluating law reform recommendations and in implementing them. At the same time, as has been pointed out above, the vast majority of the law reform recommendations produced to date directly

affect the operations of one or more agencies of this Ministry, and it is essential that the Ministry of the Solicitor General be directly involved in responding to the recommendations.

The joint committee on criminal justice provides a vehicle for top level coordination of the efforts of the two ministries of law reform, particularly as far as development of federal criminal justice policy is concerned. There exist, as well, numerous formal and informal relationships between officials of the two ministries which could form the basis for the kind of intensive cooperation required to respond to Law Reform Commission recommendations.

If one accepts the fact that any ministry response to the Law Reform recommendations must be made in cooperation with the Department of Justice, the question is then one of organization.

4.Federal-Provincial Considerations

In considering responses to the recommendations to the Law Reform Commission, it is essential to remember the division of responsibility between the federal and provincial governments for the administration of criminal justice. There is no one report which is addressed specifically to one level of government or the other; in the case of Sunday Observance, for example, while there is a Federal Lord's Day Act, there are also a myriad of provincial statutes and regulations regulating the conduct of business, etc., on Sundays. Of

more direct interest to this Ministry is the area of sentencing. While the federal government, by virtue of its responsibility for criminal legislation, can establish certain ranges of disposition, it is really the individual province, tasked with the administration of justice, that determines how, in fact, use is made of particular alternatives.

Any attempt at federal response to recommendations can only be made in concert with the provinces, both in terms of substantive law and in timing of such a change.

The Law Reform Commission has taken care to consult with a wide variety of individuals in each province and provincial governments have all appointed provincial coordinators to represent their interests vis-a-vis law reform. In some cases, provincial corrections interests may not be adequately represented by the provincial coordinators.

It is obvious that any attempt to respond to the recommendations of the Law Reform Commission must be made in close cooperation with the governments of the various provinces and it must be accepted as a precept that, only where there is general concensus as to the value of a particular reform, can such a reform be actively considered.

5. Relations with the Private Sector (National Associations and Universities)

It will be necessary to maintain contact, consult and obtain advice and responses from national groups and universities active in criminal justice, such as

The Canadian Bar Association

The Canadian Association of Chiefs of Police

The Canadian Corrections and Criminology Association

The Canadian Mental Health Association

The Canadian Medical Association

The John Howard Society of Canada

The Elizabeth Fry Society of Canada

University of Toronto School of Criminology

University of Montreal School of Criminology.

It may, as well, be found desirable, at some future date, to involve additional groups in the private sector.

6. Considerations and Constraints

There are four considerations which must be borne in mind when formulating a Ministry response mechanism for law reform:

(a) representation of the Ministry's interest

(b) cooperation with Justice

(c) consultation and coordination with the provinces

(d) contact consultation and dialogue with the private sector.

Two further factors will be of key importance in determining the response mechanism to be used. First, are the governments of Canada and the Provinces prepared to recognize law reform as a high priority issue, bearing in mind that an adequate response will be both expensive and time consuming?

Second, are federal and provincial Deputy Ministers willing to put a sizeable investment of their own time into participating directly in the making of key policy decisions. If they are, existing mechanisms, such as the Continuing Committee of Deputy Ministers of Corrections, can be utilized; if not, additional mechanisms will have to be established, with consequent time delay and additional cost.

7. Three Alternatives

One way of responding to law reform recommendations would be for each federal department and province to assess the reports individually, to prepare positions and, eventually, to negotiate collectively for a common position and means of implementing those recommendations found acceptable.

A variation of this approach would be to join forces with Justice to assess reports and to prepare a federal position which could then be taken to the provinces for consultation and ratification. Following this, means for implementation would be developed.

Both these approaches have certain advantages. Each would enable the two federal ministries to exert maximum influence in the development of a federal as well as a national position on each issue. The second method, as well, would be one way of increasing the influence of the Joint Committee on Criminal Justice and,hopefully, of drawing Justice and Solicitor General closer together. It could be argued, as well, that since the bulk of the work would be done by federal government departments in Ottawa, either would be a more straight forward and less costly means of dealing with the recommendation.

The great disadvantage of both these approaches, however, is that consultation with the provinces occurs only after basic positions have been taken. This is not acceptable, since the great majority of the recommendations affect topics which are primarily in the sphere of responsibility of individual provinces. It is therefore of questionable logic to develop first a federal position on areas which are primarily a provincial responsibility and then go to the provinces to consult with them as to whether they like our approach or not.

An alternative approach would be to treat the various law reform issues as a series of joint federal-provincial projects.

Under this approach, working groups composed of federal and provincial officials, as well as individuals drawn from the private sector, would assess issues and prepare policy

documents. After consultation at senior levels and ratification at ministerial level, the working groups could then develop the necessary implementation means.

It should be noted that each federal government department or provincial government would be able to make its interest felt at all levels and there is nothing in this alternative to preclude the formation of committees in individual departments or governments to provide support to representatives at whatever level.

This alternative has certain obvious advantages.

First it permits maximum cooperation between the two federal departments and the governments of each of the provinces at all stages of the process.

Second it would eliminate a great deal of duplication of effort, entailed by the previous two alternatives, and would substantially reduce the possibility of confrontation over certain contentious issues.

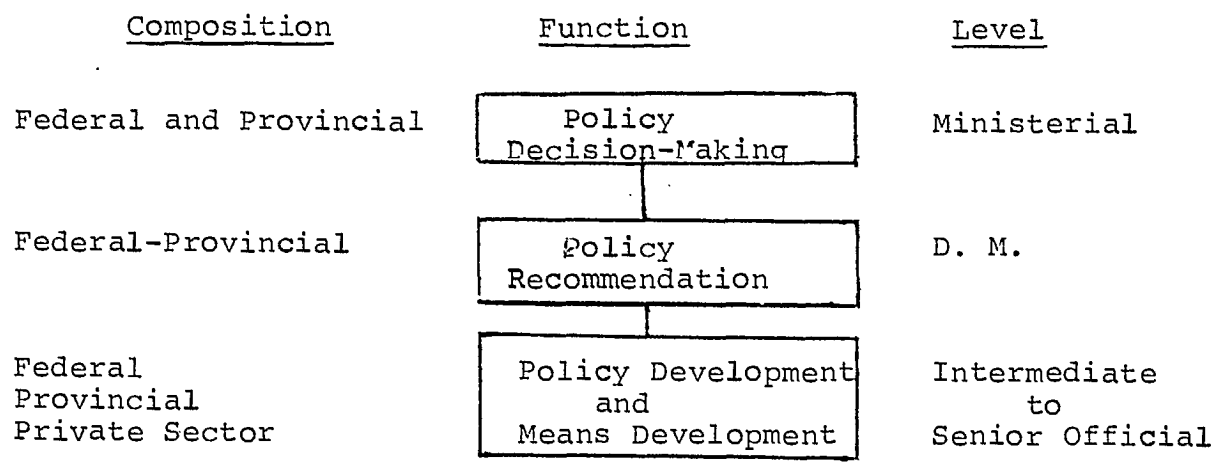
This alternative would also provide better coordination and make it possible to realistically schedule the development of alternatives and their implementation.

8. A Suggested Structure

If the"joint Federal-Provincial" alternative is selected, there are a variety of structures which could be

utilized. The preferred alternative, however, is to make use of existing policy making mechanisms wherever possible.

The basic model is three-tiered, as shown below:



8 (a) Policy and Means Development

There are four tasks which would be performed at this level:

(a) Analysis of Law Reform Commission recommendations in a given subject area;

(b) Development and preparation of policy alternatives relative to (a); these could be passed to the next level in a format similar to that used for cabinet submissions on policy papers;

(c) After policy consensus has been achieved, the development of implementation means, such as model legislation, standards and guidelines.

(d) On items where policy consenus cannot be achieved, material could be referred back to this level for further analysis and development.

Because of the number and diversity of issues, it is impractical to consider simultaneous action on all. A decision must be taken in the very near future as to the relative position each topic should have on an ordering of priorities.

Each group would have a secretary, who would ensure that work progresses on schedule, that essential communications take place and would, in addition, have the specific responsibility of drafting documents. Such a working group would be analogous to task forces now employed by the Law Reform Commission, as well as those convened, from time to time by this Ministry.

It should be pointed out that the private sector, though it always is in a position to make its positions known at all levels, will be directly involved at this basic level.

It is anticipated that members of working groups will make extensive use of consultation, as individuals, with their own agencies, to ensure maximum input at the formative stage of the process.

8 (b) Policy Recommendation

For each area of law reform, as indicated above, the working group analyzes the Law Reform Commission's recommendations and prepares policy alternatives and recommendations in the form of a document to be submitted to the decision-making level.

After a document has been submitted to this level, a reasonable period of time must be allowed to permit top-level

consultation within each department and/or level of government.

Following this, a committee composed of Deputy Ministers, or their authorized representatives, would meet to consider and debate the document.

Where there is general agreement on a course of action, it can then be referred to the Ministerial level for a decision; some alternatives will not require this step, and can be referred directly back to the working group, which will then develop the means for implementation.

Where such a consensus cannot be reached, the matter can be subjected to further study, either by the working group, or by another mechanism, such as a national or federal-provincial conference, or dropped.

Working group schedules could be structured so as to provide for regular productions of material, around which DM meetings could be built.

Use could be made of the Continuing Committee of Deputy Ministers of Corrections as a forum for discussing recommendations and achieving consensus at the DM level. It will be necessary to augment CCDM with DAG's or other necessary officials (or, in some cases, to diminish its size) to ensure coordinated response.

A second alternative would be to create a federal-provincial task force composed of officials at the ADM level, authorized to speak for their governments/agencies on matters under consideration.

The danger of the first alternative is that it may seriously overload the capacity of CCDM; to say nothing of the effect on individual D.M.'s. On the other hand, it can be argued that DM's will have to play a key role any way we structure it and, why, therefore, insert another mechanism which would only slow the process down and add to its costs.

9. Policy Decision-Making

Many issues will require policy decisions at the ministerial level. There are a variety of ways by which such decisions could be made - either individually or collectively.

10. Requirements for Working Groups

A detailed study of the five reports which are of concern to this Ministry reveals that there are a host of recommendations on any one of which, a working group could be formed. It is more realistic, however, to divide the subject matter into major areas of recommendations and formulate a working group for each area. One division would be as follows:

1. Our Criminal Law
   - (a) Strict Liability
   - (b) Criminal vs Regulatory Offences
   - (c) Decriminalization of Certain Offences
2. Mental Disorder in the Criminal Process
   - (a) Pre-Trial Issues
   - (b) Issues of Fitness and Responsibility
   - (c) Issues of Disposition
   - (d) Use of Mental Health Resources in the Criminal Process

3. Disposition and Sentences in the Criminal Process

   (a) Information and Education

   (b) The Community and Crime Prevention

   (c) The Police: Screening and Caution

   (d) Pre-Trial Settlement

   (e) Dismissal, Acquittal and Discharge

   (f) Range of Sentences

   (g) Administration of Sentences

4. Sunday Observance

   (a) Abolition of the Lord's Day Act

5. Evidence

A summary of major issues for each topic is attached as Appendix "A". Skill requirements and anticipated products are shown at Appendix "B " and an attempt at project time frames at Appendix "C".

11. Action on Current and Future Law Reform Commission Projects.

This proposal has dealt substantially with those reports already tabled. This is clearly inadequate; with four more reports due to be released before Christmas and at least three in preparation for publication next year, it behooves

the Government to begin consideration of these topics as soon as possible.

The Law Reform Commission is quite prepared to have federal representation on its task forces; in fact, both Justice and Solicitor General have already participated in at least one of these (Sentencing Procedures). The Commission further invites participation in their consultation process. which henceforth will play a major part in determining scope and content of reports.

It is essential that the two Federal Ministries play a monitorial role in Law Reform Commission projects. In addition, it is desirable that the views of the Ministries be made known to the Commission, as working documents are being prepared; in this way, concepts which may be good in theory, but which are impossible to actualize, may be identified at an early stage of the process.

Active participation in all the Commission's projects would be both expensive and time-consuming. A preferred alternative would be to play a more passive role of monitoring the Commission's progress and attendant public reaction and only making more active input where there is an issue where it is essential to make the Federal or Ministerial position clearly known to the Commission.

12. Strategies for Immediate Action.

Time is essential. While only a few provinces have yet given much serious thought themselves to law reform, most, if not all, will want to know as soon as possible what the Federal Government thinks and how it proposes to respond. There is already some thought in Ontario that the Federal Government intends to implement the recommendations holus-bolus, and that with a minimum of consultation with the provinces.

At the same time, while Justice and Solicitor General have encouraged certain initiatives on law reform, there has emerged no comprehensive response strategy. The ball is very clearly in the Federal court and the time is right to recommend a response strategy to the Joint Committee on Criminal Justice.

As well, Ontario and five other provinces obviously expect some kind of Federal comment on law reform at the CCDM meeting this fall. A few provinces expect discussion on substantive issues; most are concerned with process.

Some of the ideas suggested above have been informally explored with representatives of Ontario and Quebec who were very much in agreement with the mechanism suggested. The point was made that there will, no doubt, be certain issues on which the Federal Government has begun to or may wish to work and for which this mechanism would be inappropriate. There is general agreement between Justice, Ontario and this

Ministry that political considerations render such situations inevitable and the best course is to proceed as we have in the past, using consultation where possible.

At the requests of the Governments of British Columbia, Saskatchewan, Manitoba and Nova Scotia, arrangements have been made to carry out similar discussions.

The Ministry must -

(a) Decide upon a response strategy;

(b) Seek Justice support for that strategy through the Joint Committee on Criminal Justice;

(c) Explore provincial attitudes to that strategy, as well as to other aspects of law reform;

(d) Prepare a proposal for response to be presented at the next CCDM meeting.

APPENDIX "A" - Major Issues

1. Our Criminal Law

(a) Strict Liability

For which offences should the doctrine of strict liability apply?

(b) Criminal vs Regulatory Offences

Should the criminal law distinguish between real crimes and regulatory offences?

Should certain dispositions (notably imprisonment) be restricted to real crimes?

(c) Decriminalization of Certain Offences

Are there some acts which are now regarded as criminal which should, in to-day's context, not be?

2. Mental Disorder in the Criminal Process

(a) Pre-Trial Issues

Should police and prosecutors encourage pre-trial screening of mentally disordered accused?

Should police and prosecutors be specially trained to recognize and deal with the mentally disordered offenders?

Should community based resources be used for resolution of "marginal" cases?

What screening criteria should be used in cases of mentally disordered persons?

Should screening procedures be left to the discretion of individual jurisdictions?

If so, at what levels?

What kinds of information relative to screening need jurisdictions exchange with each other?

(b) Issues of Fitness and Responsibility

Should criminal procedure maintain an exemption from trial based on mental inability to participate?

What is the rationale of the fitness rule?

Should its limitations be altered?

When and under what circumstances should the state be able to detain the unfit accused?

Should the verdict "not guilty by reason of insanity" be subject to any post-acquittal procedures, such as a committal hearing under provincial legislation?

Should the code articulate the criteria of unfitness and, if so, what should these criteria be?

Should lack of recollection, alone, be a cause of unfitness?

Who should be able to raise the fitness issue?

Should the fitness issue be determined at trial, at preliminary hearings, or at both?

Should it be possible to raise the fitness issue at any stage of proceedings?

Should full adjudication of the merits of the charge be permissible before the issue of fitness is determined?

Should the fitness issue be made a question of law to be determined by the presiding judge or magistrate or justice?

Should the fitness procedure be better articulated in the code? If so, how?

Should Section 544 of the Code be repealed?

Should Section 542 of the Code be amended to provide only for a mandatory post-acquittal hearing to determine whether there are grounds to detain the accused under the provisions of the relevant provincial mental health legislation?

What should be the criteria for the disposition of the unfit accused?

(c) Issues of Disposition

Should the Criminal Justice System accept the principle that treatment administered within the context of a just sentence must be consented to by the offender and the receiving institution?

When should conditions of psychiatric treatment form part of an order for good conduct, reporting, performance, residence or probation?

Should the trial judge be able, in appropriate circumstances, to order that a portion of the entire term of imprisonment imposed upon an offender be spent in a mental hospital?

What provisions should be made in the Penitentiaries Act and in correctional legislation for the transfer of mentally ill prisoners from prisons to mental institutions?

Should Section 546 of the Criminal Code be repealed as redundant and unnecessary?

(d) Use of Mental Health Resources in the Criminal Process

What should be the role of the mental health expert in the criminal process? Following from this, what procedures should be designed to encourage such experts to give evidence on what they know best?

How can the psychiatric resources of the community be used more efficiently?

Should psychiatric treatment of individuals within the criminal justice process be dependent upon obtaining the consent of the inmate?

What constraints should be imposed generally on the administration of treatment to individuals?

How should the incompetency of an individual within the criminal process be determined?

Should such a decision be subject to an appeal or periodic review?

How should court remands for examination of mentally disordered accused be made?

What guidelines should be imposed for such remands and for the contents of reports?

To what extent should procedures vary from jurisdiction to jurisdiction?

Should the use of the Lieutenant Governor's Warrant as a means of disposition of mentally disordered accused or offenders be abolished?

If so, what should be the future of the provincial Boards of Review established under Section 547 of the Code?

3. Disposition and Sentences in the Criminal Process

(a) Information and Education

Should there be a major reorganization of present methods of collecting and disseminating criminal justice data by Statistics Canada?

Is there a need for the development of additional provincial statistics and accounts in this area?

Should there be developed local accounts of crime that inform the citizen of his safety and his possible contribution to crime prevention?

Should the federal government take responsibility for a national reporting system concerning the administration of justice?

Should the federal government assist in the development and coordination of information systems on other levels of government?

Should there be developed curricula in the areas of law and legal institutions for use in schools, including demonstrations of legal procedures in the classroom setting?

Should there be a variety of legal materials and information developed which could be made accessible to the public through libraries and adult education institutions?

Should the federal government develop legal educational materials, provide for consultation and support pilot projects, even though education is principally a provincial matter?

Should there be established a national criminal justice institute with facilities and resources for a flexible program of training, interaction and national policy development?

(b) <u>The Community and Crime Prevention</u>

Should citizens' justice councils be established in each community to facilitate dispositions

which involve mediation and arbitration, to identify community needs that permit the useful application of community service orders, and to assist in those aspects of other sentences which call for the support of the victim and the re-integration of the offender into the community?

Should such citizens' councils be supported by federal or provincial governments or by both?

(c) The Police: Screening and Caution

Should the role of the police be primarily that of a peace-keeping body and only secondarily a law enforcement one?

Should the Criminal Code and provincial legislation relating to the police specifically recognize the existence of police discretion in responding to a crime, including the power to take no action, to issue a caution or a warning, or to screen cases for non-prosecutorial methods of disposition?

Should the Criminal Code and the Canada Evidence Act be amended to ensure that information supplied and admissions made by the accused in the course of discussions concerning a pre-trial settlement cannot be used against him subsequently in judicial proceedings? (This recommendation should be examined in the context of the draft Code of Evidence proposed by the Law Reform Commission).

(d) Pre-Trial Settlement

To what extent does the prosecution not only have a processing but also a screening function?

Should prosecutorial discretion be specifically recognized and made visible?

Should the prosecution be involved in the charging process?

Should the office, status and function of the Justice of the Peace be re-examined?

Should the Attorneys General of the Provinces and Territories develop and publish policy guidelines for charging, pre-trial settlements and the conduct of prosecutions?

Should the office of the Crown Attorney be provided with assistance to deal with pre-trial settlements and contacts with community resources?

Should the Criminal Code Rules governing procedure before court appearance be amended to require the police to convey promptly to the Crown all the relevant information once the police have decided to lay a charge, and to empower the Crown for the purpose of seeking a non-prosecutorial method of disposition to withdraw all charges laid by the police?

Should the Code specify that any disposition after court appearance, other than a simple termination of a prosecution, requires judicial approval?

Should the Code provide for the formal recording of the terms of a pre-trial settlement, and specifically under what circumstances and within what period of time a case, once diverted for settlement by the police or the Crown, can be brought to court for prosecution?

(e) Dismissal, Acquittal and Discharge

Should the court be provided with its own service for the purpose of pre-sentence investigation?

Should judges appointed to sit in criminal cases be required to undergo a period of orientation in sentencing practices and in observing sentencing facilities?

Is there a need for the chief judge of each court to convene periodic sentencing seminars and institutes?

Should judges make periodic visits to agencies and institutions to which they commit offenders?

Should judges be provided with sabbatical leaves so study in-depth materials relating to their duties, including the changes occurring in the community and in correctional practices, to develop innovative means for improving sentencing?

Should the Court's power to dismiss a charge upon the Crown's request for a withdrawal or for the

Crown's failure to present evidence and the effect of such dismissal on the subsequent proceedings be clarified by the Criminal Code rules governing these matters?

Should restrictions on the use of discharges in relation to an accused, other than a corporation, be removed from Section 662.1(1)?

Should Section 666 be repealed so that where an accused is discharged upon the conditions described in a probation order, the wilful failure or refusal to comply with the order should not amount to an offence unless such breach of the order constitutes an offence under the general law?

Should proof that the accused has breached a condition of the discharge be sufficient to give the court jurisdiction to exercise the powers conferred by Sections 662.1(4) and 664(4)?

(f) Range of Sentences

Should the Criminal Code recognize orders such as good conduct orders, reporting orders, residence orders, performance orders, community service orders and restitution and compensation orders, now possible as conditions of probation orders under Section 663, as separate sentences so that each may be clearly observed to serve a distinct, specified purpose?

Where consistent in purpose, should the accused be subject to two or more of these orders as well as to some other type of sentence such as a fine?

What conditions should such orders be made subject to?

Is there any point in having the accused undertake in writing to comply with the order, to emphasize his personal responsibility?

Should the Code recognize restitution as a separate sentence, and not merely as an incidental benefit which may accrue to the victim through some other sentence?

Should the court be required to give such consideration to this sentence so that priority is given to the interest of the victim?

Should the court be authorized to order a wide variety of forms of restitution, appropriate to the circumstances of the offence, the offender and the victim?

Should restitution schemes involving the cooperation of the victim be subject to the victim's consent?

Should there be provided federal and provincial legislation as well as cost sharing agreements to empower the court in the circumstances specified in this report, to order the state to pay compensation?

Should the sentence of a fine be available in all cases and the present restrictions on the use of fines be abolished?

Should all fines above $50 be computed on a "day-fine" basis?

Should the court at the time of imposing a fine impose a term of imprisonment in default of payment?

Should an administrative official appointed by the court be empowered to calculate the "day-fine" unit, determine terms of payment, and investigate cases of default with a view to either extending time for payment or referring the case to the court for other action?

In cases of wilful default should the court, after hearing, be empowered to order attachment of wages or property, or to impose a prison sentence for default?

Should legislation provide that imprisonment should be only used as a sentence of last resort when no other sentence is appropriate?

Should legislation provide that imprisonment should be imposed only to separate the offender for the protection of society, denounce highly reprehensible behaviour, or penalize those who

have wilfully refused to comply with the conditions of other sentences?

Should the legislation state the circumstances under which each of the three types of imprisonment may be imposed, and the maximum duration of each type of imprisonment for signle and multiple offences?

Should the court be required to give reasons for imposing a sentence of imprisonment?

Should minimum prison sentences be abolished?

Should preventive detention be abolished?

Should statutory remission be abolished?

Should specific provision be made in the Code for a hospital order as a sentence of the court?

Should the court be required to make specific findings on a preponderance of evidence on all factual issues relevant to sentencing?

Should the court be required to state, in the presence of the offender, the precise terms of the sentence and the reasons for selecting that sentence?

Should the deferral of sentencing be required until all outstanding charges against the accused are disposed of and should it be required that where possible, the sentence cover all outstanding convictions and be integrated with any prior, unfulfilled sentence?

Should the receipt of pre-sentence reports by the Court be made mandatory before imposing a sentence of imprisonment?

Should the court have discretion to withhold portions of the pre-sentence report from the accused on certain grounds?

Should a full record of sentencing procedures be maintained and a copy of this record be transferred to correctional authorities as required?

Should the prosecutor be required to give timely notice to the defence of his intention to ask for a sentence of imprisonment?

Should it be possible for panels of judges to meet to consult upon the various dispositions which might be made in respect of a particular case, where the disposition has not yet been made?

(g) Administration of Sentences

Should the court be empowered to appoint orders to supervise the carrying out of various kinds of orders and to report to the court cases of default?

Should the court with the assistance of officials appointed by it be given the power to supervise and enforce compliance with such orders?

Which authority should have jurisdiction to supervise and review the sentence and the power to decide matters relating to leaves of absence and variations in levels of restriction?

Should the National Parole Board be abolished and a Sentence Supervision Board, as described in the report, be constituted and its powers and duties specified?

Should specific regulations and procedures be developed for stages of restrictions of freedom and conditions for the progress of offenders from one level to another?

Should the respective functions of federal and provincial penal institutions be redefined?

APPENDIX "B" : WORKING GROUPS: SKILL REQUIREMENTS AND ANTICIPATED PRODUCTS

TOPIC	SKILLS REQUIRED									ANTICIPATED PRODUCTS (OTHER THAN POLICY DOCUMENTS)
	POLICE	LEGAL (COUNSEL)	JUDICIARY	CORRECTIONS	PAROLE/PROBATION	COMMUNITY RESOURCES	FORENSIC MEDICINE	LEGAL DRAFTING	RESEARCH/STATISTICS	
1. Our Criminal Law										
(a) Strict Liability	X	X	X					X	X	Revision to C.C.
(b) Criminal vs Regulatory Offences	X	X	X				?	X	X	Reorganization of C.C.
(c) Decriminalization of Certain Offences	X	X	X	X	X	X	X	X	X	Revision & Reorganization of C.C.
2. Mental Disorder in the Criminal Process										
(a) Pre-Trial Issues	X	X	X			X	X	X		Revision to C. C.; Develop Training Programs, Screening Criteria and Guidelines.
(b) Issues of Fitness and Responsibility		X	X				X	X	X	Revision to C.C.
(c) Issues of Disposition		X	X	X	X	X	X	X	X	Revision to C.C. Penitentiaries & Parole Acts, Draft Model Orders & Provincial Legislation
(d) Use of Community Mental Health Services	X	X	X	X	X	X	X	X	X	Revision to C.C.; Draft Guidelines Model Provincial Legislation
3. Dispositions and Sentences in the Criminal Process										
(a) Information and Education	X	X	X	X	X	X	X		X	Prepare Model Curricula, Material Proposal for Statistical Reform National Criminal Justice Institute.

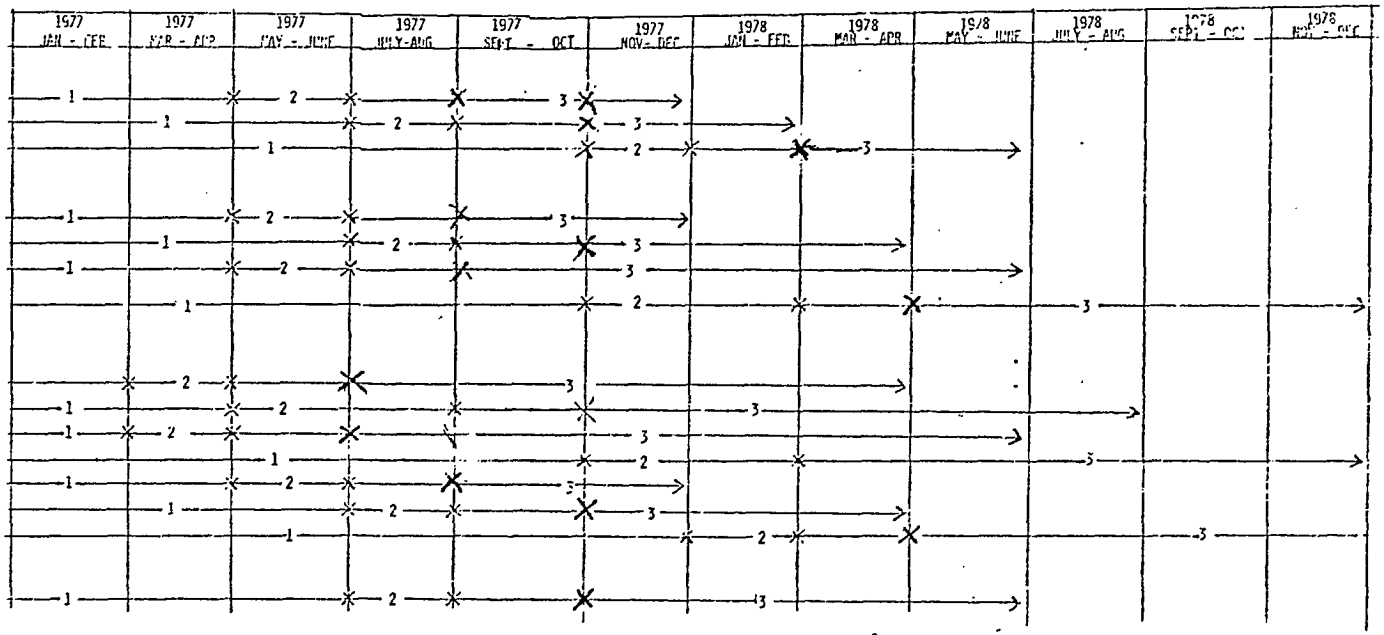
APPENDIX "D" : WORKING GROUPS: SKILL REQUIREMENTS AND ANTICIPATED PRODUCTS

TOPIC	SKILLS REQUIRED									ANTICIPATED PRODUCTS (OTHER THAN POLICY DOCUMENTS)
	POLICE	LEGAL (COUNSEL)	JUDICIARY	CORRECTIONS	PAROLE/PROBATION	COMMUNITY RESOURCES	FORENSIC MEDICINE	LEGAL DRAFTING	RESEARCH/STATISTICS	
(b) The Community & Crime Prevention	X	X	X	X	X	X				Prepare Guidelines
(c) The Police: Screening & Caution	X	X	X			X		X	X	Revision to C.C., C.E.A.
(d) Pre-Trial Settlement	X	X	X					X		Revision to C.C.; Draft Model Guidelines.
(e) Dismissal, Acquittal & Discharge		X	X		X	X			X	Revision to C.C.; Draft Model Guidelines.
(f) Range of Sentences	X	X	X	X	X	X	?	X	X	Revision to C.C.; Draft Model Provincial Legislation
(g) Administration of Sentences	X	X	X	X	X	X		X	X	Revision to C.C.; Draft Model Provincial Legislation

APPENDIX "C" PROJECTED TIME FRAMES

PHASES

I ASSESS REPORT AND PREPARE POLICY
II PARTICIPATION BY FEDERAL GOVERNMENT AND PROVINCES AND OUTSIDE ASSOC PUBLIC
III PREPARE IMPLEMENTATION PLANS
(LEGISLATION, GUIDELINES, ETC.)



OTTAWA, K1A 0K9
JUL 15 1976

The Honourable S. Ronald Basford, P.C., M.P.,
Minister of Justice and
Attorney General of Canada,
Justice Building,
OTTAWA, Ontario,
K1A 0H8.

My dear Colleague:

I believe that we should seriously consider enactment of new legislation to regulate the availability and use of psychotropic drugs. Since the preparation of such legislation will raise basic health social and legal questions, I will want to have direction from Cabinet before work is begun on a new Bill. I would like an opportunity to discuss with you some of the basic issues that I plan to raise in Memorandum to Cabinet.

Several factors have made me decide that we should consider new drug legislation. Much of the public concern in Canada has shifted over the last couple of years from drug abuse to alcohol. This is justified. As the Le Dain Commission emphasized, alcohol is our major drug of abuse and in recent years per capita consumption of alcohol has grown rapidly. There is mounting evidence of the serious consequences of this in terms of impaired driving, teenage drinking, increasing rates of liver cirrhosis and serious social problems amongst native people. I have adjusted priorities within this department's non-medical use of drugs program to reflect these concerns.

... 2

Nonetheless, misuse and abuse of both licit and illicit drugs continue to present serious health and social consequences, and are known to be factors in serious crime. The most significant change in recent years has been the appearance of multiple drug use as the dominant pattern. Needless to say, this pattern of use greatly increases the problems of regulation, law enforcement and treatment. That is, it extends the range of substances that have to be of real concern in terms of their abuse potential and it means that control of any single substance will not, by itself, do much to solve the basic problem of abuse.

Current patterns of use are complex and difficult to assess. All of the drugs that caused concern during the late 1960's are still used.

As you are well aware, British Columbia suffers more than its share of the heroin problem. It appears that the population of physically addicted heroin users has stabilized somewhere between 15,000 and 20,000, more than half of them in British Columbia. In addition to the foregoing stable situation, periodic non-additive use of heroin in the multiple drug use pattern continues to rise. The view in the United States is that the number of daily heroin users has begun to rise again and I am concerned about what this may mean for Canada since traditionally Canadian drug use patterns follow those established in the U.S.

We continue to have a significant incidence of abuse of substances such as amphetamines, sedative-hypnotics and hallucinogens. Within the last couple of years, the incidence of cocaine use has grown in Canada. In addition, there is considerable concern about the serious health and social harm being engendered by solvent abuse which is most common in depressed and isolated areas and amongst native people.

I believe that it is timely to examine our legislative requirements for more than our long standing commitment to deal with the law respecting cannabis,

even though when the Bill was discussed in the Senate there was consideration of some issues involved including health hazards, the deterrent effect of the law, and the social costs associated with use of criminal law as a means of prohibiting possession. The provision of automatic pardons for first offenders that was recommended in the Senate Committee on Constitutional and Legal Affairs was an attempt to deal with the latter concern, but it does not deal with the totality of the problems associated with drug use.

I regard this problem as being one of some importance since more than 100,000 Canadians have been convicted for possession of marihuana since 1968, 27,367 of them in 1975. As you know, the Law Reform Commission recommended in one of its recent reports that regulatory as opposed to criminal offences should be considered as a means of dealing with drug problems. While this is a difficult question to resolve because of its constitutional implications, it is one that will be crucial in review of the present law and the decision whether a legal prohibition should be extended in respect to any additional drugs such as amphetamines.

On a broader point, we have not dealt with the final report of the Le Dain Commission. When we received the report at the end of 1973, I had it reviewed by an Inter-departmental Committee with representation from several federal agencies, including the Department of Justice. The Committee made recommendations on a number of points, some of which we are able to act upon through this Department's Non-Medical Use of Drugs program. Amongst the Committee recommendations, a copy of which is attached, emphasis was placed on adoption of a new federal drug bill that would incorporate the principles of drug control policy on the development of formal means of diversion and treatment as an alternative to the criminal justice system. In short, the Committee recommended steps to deal simultaneously with supply of drugs and drug demand and to offer alternatives to the criminal process in certain instances.

In view of the above, I would suggest that we consider the need to raise the following topics for decision by Cabinet;

Honourable S. Ronald Basford, P.C., M.P.

1. That a Bill be introduced dealing in a comprehensive way with the regulation of all psychoactive substances. The most expeditious way to do so might be to incorporate into the Food and Drugs Act a part dealing with dangerous drugs; including those now regulated by the Narcotic Control Act by developing a series of appropriate schedules.

2. That it provide for scheduling of drugs in terms of their actual and potential risk to the individual and society, with penalties related to the scheduling.

3. That it consider the possibility of dealing with unauthorized possession of certain drugs as non-criminal offences, and on the other hand, of extending possessional offences to include certain other drugs with a high potential for abuse.

4. Such legislation should be capable of being expanded to cover alcohol and tobacco should Cabinet indicate a willingness to move in this direction.

5. That it include the possibility of the referral of drug dependant persons to appropriate treatment programs.

6. That it consider the resource implications of expanded legislation. These could be sizeable. Furthermore, Federal-Provincial responsibility for both health and enforcement aspects would require in-depth examination.

7. Any proposed legislation should take cognizance of the convention on Psychotropic substances since Third World Pressures on industrialized nations to ratify this treaty will be intense.

... 5

Honourable S. Ronald Basford, P.C., M.P.

I am also forwarding a copy of this correspondence to our colleague the Solicitor General so that I might receive his views with respect to these suggestions. If a decision is reached that this is the direction we should recommend to Cabinet, I expect it could take up to one year of intense inter-departmental consultation to resolve the basic issues raised herein.

Yours truly,

Original Signed By
MARC LALONDE

Marc Lalonde

Encl.

cc: The Honourable W. Allmand

SOL. G.
R.C.

August 25, 1976 P2:13

The Honourable Marc Lalonde, P.C., M.P.,
Minister of National Health & Welfare,
Room 558 - Confederation Building,
OTTAWA, Ontario.

My dear Colleague:

I have now had an opportunity to consider your letter of July 15, 1976 outlining your proposals for new legislation dealing with psychotropic drugs and inviting my views thereon.

I am in complete agreement with your conclusion that it is now time for the Government to consider new drug legislation which goes considerably beyond the provisions of the existing laws and the amendments proposed in Bill S-19. There is no doubt in my mind that new measures are badly needed to combat the ever-growing number of drug and drug-related offences. While vigorous and effective law enforcement is essential, such measures alone are not sufficient to cope with the problem and we therefore must address ourselves to additional approaches if any meaningful, long-term solutions are to be found.

Consequently, I am fully agreeable to working with you and the Solicitor General on formulation of new, comprehensive legislation as a matter of considerable priority.

Responding in a preliminary fashion to the several policy issues that you outline on page four of your letter, I am not convinced that the best approach to comprehensive legislation is by way of amendments to existing laws. It might be better to contemplate a

. . . /2

separate, new enactment. I agree with your proposal to schedule the various types of drugs and to have penalties related to the scheduling. I also favour the suggestion of reconsidering the matter of dealing with the possession of certain drugs simply on the basis of being a violation of the criminal law although, as you note, this has constitutional law implications.

The question of including alcohol and tobacco within the legislation is essentially a matter for Cabinet to determine. I agree with the proposal for treatment programs but would be inclined to go further and consider making provision for compulsory treatment.

There is no question that resource and federal-provincial implications will require close consideration and I agree that the legislation should take into account the international convention on manufactured drugs.

In approaching the proposals outlined in your letter, I am not convinced that formulation of a legislative policy along the lines indicated by you necessarily need take a year of interdepartmental consultations. It is my impression that much of the ground has been canvassed already by the Le Dain Commission, the earlier interdepartmental committee and in the Senate hearings. If this be correct, I would hope that we might move the policy formulation along rather more expeditiously.

I would suggest that you, Mr. Allmand and I plan to meet fairly early in September, each with our senior policy official present, with a view to providing a clear policy basis upon which our officials can proceed to prepare a legislative policy memorandum to Cabinet. In so far as my Department is concerned, I propose to designate Mr. L.-P. Landry, Assistant Deputy Attorney General (Criminal Law), as the senior policy official for this task.

Yours sincerely,

Ron Basford

cc: The Honourable Warren Allmand

Detailed recommendations of the Interdepartmental Committee are as follows:

1. LEGISLATIVE POLICY

The Interdepartmental Committee recommends:

- *that the Government proceed with preparation of a new federal drug Bill to incorporate principles of drug control policy and criteria for drug classification;*
- *that the Bill provide for scheduling of drugs on the basis of their relative individual and social risks;*
- *that administrative controls and criminal penalties reflect this drug classification;*
- *that criteria for disposition of cases be stated publicly;*
- *that an interdisciplinary working party with representation from Departments involved in drug policy be established:*
  - *to develop more specific instruments for classification of drugs;*
  - *to test their application in practice; and*
  - *to review the application of the criteria with those who would be administering the law.*

2. CONTROL OF PRODUCTION AND DISTRIBUTION

The Interdepartmental Committee recommends:

- *that there be a strong legislative basis for control of production and distribution and effective measures to implement such controls;*
- *that criteria for disposition of trafficking and related cases be publicly stated;*
- *that full use be made of the Income Tax Act as a means of combatting large-scale importation and trafficking;*
- *that Customs further intensify its enforcement efforts at points of entry to interdict the increasing flow of illicit drugs into this country;*
- *that there be no change in the definition of trafficking to exclude giving of small quantities without exchange of value, but that the option always be available to proceed by way of summary conviction rather than indictment;*
- *that there be no change in the grounds of parole for offenders convicted of trafficking offences; and*
- *that there be Amendments to the Post Office Act and the Customs Act to allow investigation of the first-class mail, but with safeguards to prevent inappropriate use.*

3. CONTROL OF POSSESSION

The Interdepartmental Committee recommends:

- *that some study be undertaken of the question of whether the criminal law power could be applied satisfactorily to the problem of converting offences of a criminal character, such as simple possession of narcotics, into non-criminal offences, retaining criminal procedure to deal with and dispose of those offences in a manner appropriate to the situation;*

- *that there be a publicly-stated commitment to use informal and formal diversion as means of dealing with possessional offences;*

- *that the federal government promote exchange of information on informal diversion arrangements;*

- *that immediate steps be taken to establish pilot projects to demonstrate the use of formal diversion;*

- *that such projects be federally funded, possibly through the Innovative Services program;*

- *that the Departments of the Solicitor General, Justice and National Health and Welfare be involved in planning such projects; and*

- *that such projects be undertaken with provision for careful evaluation of the results achieved.*

4. EDUCATION AND INFORMATION

The Interdepartmental Committee recommends:

- *that high priority be given to drug education as a means of preventing harmful drug use;*

- *that drug education programs be developed for use in school-based programs related to personal-social development and health, particularly at the elementary level;*

- *that specific efforts be made to enlist the support of voluntary community associations as participants in educational efforts;*

- *that the federal government provide leadership in the field of drug information and education:*

  - *by undertaking specialized program development;*
  - *by facilitating exchange of educational and informational programs between provinces; and*
  - *by providing information and materials concerning drugs and their effects and patterns of drug use.*

5. REMEDIAL PROGRAMS

The Interdepartmental Committee recommends:

- *that the federal government not endorse compulsory treatment as recommended by the Le Dain Commission;*

- *that arrangements for pre-trial diversion recommended on pages 19-20 be understood as applying to persons found in simple possession of opiates;*

- *that an amendment to the Bail Reform Act be considered to exclude offenders believed to be opiate dependent from its general provisions;*

- *that compulsory referral for treatment take place for opiate-dependent persons who do not accept pre-trial diversion or for whom it is not appropriate;*

- *consideration be given to relaxing methadone maintenance controls to some degree to encourage initial and continued participation in such programs;*

- *experimental use of intravenous methadone for heroin-dependent persons in one or two settings for a defined period of time;*

- *no use of heroin in Canada even experimentally during the period of time when the efficacy of intravenous methadone is being tested and assessed;*

- *federal support for testing of narcotic antagonists in outpatient settings;*

- *that in its efforts to promote improved treatment in Canada, the federal government emphasize programs that are designed to come to grips with behavioural and lifestyle problems associated with drug dependance;*

- *that the federal government consider special interim financial support to increase the rehabilitative capacity of methadone maintenance programs and to escalate the development of lifestyle-oriented treatment and rehabilitation programs; and*

- *that the federal government adopt a basic policy of release of opiate-dependent inmates into the community for purposes of treatment but with provision of therapeutic supports in institutions for those who cannot appropriately be released.*

6. RESEARCH

The Interdepartmental Committee recommends:

- *that the recommendations of the Le Dain Commission be adopted as guidelines in the development of the research program;*

- *that greater emphasis be placed upon epidemiological research as a means of problem definition with special attention to coordinated collection and interpretation of federal statistics.*

- *that greater attention be given to a research strategy for evaluation of preventive policies and programs;*

- *that there be more interdepartmental collaboration in research activities in respect of programs or concerns of more than one department;*

- *that research activities of the federal government reflect its particular interest in:*

  - *formal pre-trial diversion of drug possession cases;*

  - *testing of narcotic antagonists in outpatient settings; and*

  - *development of new treatment programs.*

7. INNOVATIVE SERVICES

The Interdepartmental Committee recommends:

- *that the recommendations of the Le Dain Commission be followed as guidelines in the administration of the Innovative Services program;*

- *that there be wider dissemination of information on activities and results in Innovative projects;*

- *that a clearer set of priorities be established for use of Innovative Services funds, reflecting the particular interest of the federal government in:*

  - *early intervention to prevent harmful drug use;*

  - *fostering the development of community-based treatment networks that will provide the treatment variety and continuity consistent with local needs;*

  - *formal pre-trial diversion to alternative arrangements for drug possession offences; and*

  - *behavioural and lifestyle emphasis in treatment.*

8. TRAINING

The Interdepartmental Committee recommends:

- *that emphasis be placed upon the development of information materials and training programs suited to the various groups involved in dealing with problems of harmful drug use;*

- *that the federal government pay particular attention to the informational and training needs of those involved in the development and implementation of relevant federal policies. Of particular importance are the police, prosecutors, courts and correctional authorities responsible for implementation of drug control policies;*

- *that such programs include particular reference to:*

  - *the basis for public policy in respect of harmful drug use;*
  - *the properties of drugs and their effects;*
  - *patterns and trends of drug use; and*
  - *available means of dealing with harmful drug use.*

9. COMMITMENT OF RESOURCES

The Interdepartmental Committee recommends:

- *that a comparative analysis of resources now committed by the federal government to the prevention and treatment of harmful drug use be undertaken as a basis for determining future allocations in this area.*

10. INTERACTION OF DRUG PROGRAMS

The Interdepartmental Committee recommends:

- *a coordinated system of data collection on patterns and trends in drug use;*
- *development of a comprehensive federal policy, with clearer definition of goals for various programs and roles for participating agencies;*
- *establishment of a continuing interdepartmental committee to review goals, activities and results and advise on common solutions to emerging problems; and*
- *more formal negotiations with the provinces on the development of policies and programs.*

ISSUE #4

WORKING PAPER ON PROGRAMME PLANNING FOR DRUG ABUSE IN THE MINISTRY OF THE SOLICITOR GENERAL

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TABLE OF CONTENTS

I. DESCRIPTION OF THE PROBLEM

During the 1960's the problem of drug abuse in Canada began to grow at an exponential rate. As the illegal and dangerous use of halucinogenic and narcotic substances increased, particularly amongst adolescents, it became apparent to public policy makers that conventional social control mechanisms intended to restrain this behavior were inadequate. Social control measures included both formal and informal sanctions against behavior deemed by society to be undesirable. Formal control included penalties provided for in the Narcotic Control Act and in the Food and Drugs Act; informal control consisted of peer group and other social pressures compelling the avoidance of illegal psychotropic substances.

As formal measures of social control proved ineffective, and as informal controls over drug related behavior weakened with the growing use of both legal and illegal psychotropic substances, the federal government appointed a royal commission to inquire into and report on the problem. The Commission of Inquiry into the Non-Medical Use of Drugs or the LeDain Commission as it was named after its Chairman Gerald Le Dain, was established by Order in Council on May 29, 1969. After an exhaustive study Le Dain submitted his final report to the Government on December 14, 1973. The Commission's recommendations were subsequently reviewed by the Interdepartmental Committee of the Le Dain Commission whose chairman was the Director-General, Non-Medical Use of Drugs Directorate, Department of National Health and Welfare. The Ministry of the Solicitor General was represented on this committee by officials from the Ministry Secretariat, the R.C.M.P., the Canadian Penitentiary Service and the National Parole Board. The Interdepartmental Committee submitted a report in early 1975 and so far little has been done by way of acting on

its recommendations. The Department of National Health and Welfare has the lead role concerning this issue and the latest development is a suggestion made in a letter dated July 15, 1976 and sent to Mr. Basford, Minister of Justice from Mr. Lalonde, Minister of National Health and Welfare, wherein it is suggested that we "seriously consider new drug legislation".

As the Ministry of the Solicitor General awaits further decisions on the issue of drug abuse, the problem itself continues as a major concern to the Ministry. Current legislation designed to control the use of drugs as well as law enforcement practices and criminal rehabilitation practices have not proved to be effective enough in controlling the problem of drug abuse. In this regard the use of a drug such as heroin is seen as a social problem which is continuing to impose rising costs on Canadian society. For example, recent dramatic increases in violent crime in the Vancouver area have been directly related to supporting the needs of the 8,000 - 10,000 heroin addicts in the area. In addition to the social costs of heroin related crime there are also costs to society which result from the reduced or lost productive capacity of the heroin user, as well as welfare, medical, and other treatment costs imposed on society by heroin addiction.

Heroin is included in the Schedule to the Narcotic Control Act along with a number of other psychotropic substances which impose lower social costs. In this regard cannabis is a scheduled drug which is being used regularly and which is being experimented with on a much wider scale than heroin. If cannabis use imposed the same social costs as heroin use, the impact on Canadian society in human and material terms would be unimaginable. However, the social costs of cannabis use are seen to be no greater and perhaps even less than the social costs of

using legal psychotropic substances such as alcohol or tranquilizers. Regular use of cannabis does not represent an expensive habit to the individual nor does it lead to a physically deteriorated state as is often the result of regular heroin use. Nonetheless, the possession and use of both heroin and cannabis are equally prohibited under the current legislation in spite of the fact that heroin represents an unacceptable threat to society and cannabis represents a threat to society which in terms of social costs is as acceptable as the threat of alcohol and other legal pyschotropic substances.

In designing a programme strategy for the Ministry of the Solicitor General on the priority issue of drug abuse, the shape of any such strategy must be defined by the limitations and direction provided in the relevant legislation, namely the Narcotic Control Act and the Food and Drugs Act. Under normal circumstances these guildelines would be sufficient, however, programme planning in this area is hampered by the fact that the government is preparing to review this legislation. As a result long term planning must be deferred in favor of shorter term planning in anticipation of a forthcoming and revised national policy on drug abuse. Programme planning in the Ministry of the Solicitor General is further restricted by the fact that a solution to the problem of drug abuse in Canada demands a level of programme co-ordination amongst different government departments such as National Health and Welfare and Justice. A high degree of programme interdependency in approaching the larger social problem of drug abuse is required due to the fact that the problem has a much wider social significance than its impact on the Ministry's responsibilities in the criminal justice system. Some idea of the dimensions of the problem are reflected in

this description from the Le Dain Commission Report:

> Non-medical drug use particularly among young people has been seen as expressive of a general dissatisfaction with the conditions of modern life, in particular the dehumanizing conditions of urban living and employment. It is thought to reflect the sense of alienation or estrangement from modern institutions and values which many young people feel. In this sense, non-medical drug use is seen as an aspect of a general protest against or retreat from modern conditions.

It is suggested therefore that the role of the Ministry of the Solicitor General in dealing with the problem of drug abuse repre sents more of a palliative function in coping with the criminal manifestations of the problem rather than a curative function in terms of the wider social significance of the problem.

From the point of view of what public policy decisions are needed to remedy the problem of drug abuse in Canada it is evident that decisions will have to include a much wider area of social policy than that which is the responsibility of the Ministry of the Solicitor General. This conclusion is indicated both in the findings of Le Dain and in the recommendations of the Interdepartmental Committee of the Le Dain Commission. The public policy dimensions of the problem of drug abuse were identified by the Interdepartmental Committee as touching on the following areas:

1. Legislative Policy
2. Control of Production and Distribution

3. Control of Possession

4. Education and Information

5. Remedial Programmes

6. Research

7. Innovative Services

8. Training

9. Commitment of Resources

10. Interaction of Drug Programmes

Assuming that the Ministry is prepared to embark on a short term programme strategy as an interim measure between the demise of the current policy and the evolution of a new policy this list is also helpful in identifying areas in which short term programmes can be designed. For a more precise time frame in planning a short term programme strategy, the only available guide is a reference in Mr. Lalonde's letter to Mr. Basford of July 27, which states:

> If a decision is reached that this is the direction we should recommend to Cabinet I expect it could take up to one year of intense interdepartmental consultation to resolve the basic issues raised herein.

The dimensions of the problem of drug abuse therefore are seen to involve a very wide area of social policy. However, the particular characteristics of the problem which are of immediate concern to the Ministry of the Solicitor General may be summarized as follows:

- law enforcement control of the importation, distribution and use of illegal drugs;
- the treatment of inmates in the federal penitentiary system who have been convicted of drug related offences;
- the provision of treatment and other conselling services to

parolees who have a record of drug related offences.

These three areas of Ministry responsibility share a common ground in that they represent contact with drug abuse after the fact. The extent of that contact is determined not only by the penalty sections of the Narcotic Control Act and the Food and Drugs Act, but also by the operational practices of the Ministry agencies. Therefore, any limitations to designing an immediate and short term Ministry programme strategy within the guidelines of the present policy will in addition be determined by the extent to which each agency of the Ministry is prepared to allocate resources to this problem of drug abuse.

In allocating resources as part of a Ministry strategy there arises the question of identifying the optimal distribution of Ministry resources needed to effectively combat the problem. In this regard it is posited that in finding an optimal distribution of resources one must first define an overall operational objective for the Ministry in its programme planning strategy. In deciding on such an objective it can be safely assumed that any subsequent programme strategy decision will be subject to a cost benefit analysis in two respects which are as follows:

1. What are the social costs and benefits expected from the various strategies under consideration and how do they compare?
2. What are the political costs and benefits expected from the various strategies under consideration and how do they compare?

In examining the problem of drug abuse in Canada and in subsequently setting out possible programme strategies to deal with the problem, what is strongly suggested is a strategy which will emphasize the overall

operational objective of reducing the social costs of drug abuse, while minimizing political costs and maximizing political benefits. Since it is seen that heroin use imposes greater social costs than cannabis use, then a logical conclusion from the point of view of our objective of reducing social costs is to design a programme strategy which will concentrate more resources on controlling heroin use than on controlling cannabis use. If heroin and cannabis represent two extreme examples from the schedules of prohibited drugs, with heroin imposing more social costs and cannabis imposing lesser social costs then the problem of allocating Ministry resources to the priority issue of drug abuse has been partially resolved. An optimal allocation of resources of drug abuse can be determined on the basis of social costs. The scheduled drugs which impose greater social costs will be at one end of a scale and will be allocated greater resources for control. Those scheduled drugs which impose lesser social costs will find themselves at the other end of the scale and will therefore require few resources for control.

This represents only a partial solution to the problem of designing a Ministry programme strategy because the other variable in the calculus is that of political costs. The political content of any programme strategy on drug abuse will be quite high due to the fact that not only is the problem a pervasive one in Canadian society but also because those drugs which are most widely used are the ones at the lower end of the social cost scale and it is these drugs such as cannabis which are widely used by the youth of our society. Parents, teachers and others who are exposed to adolescent drug use tend to identify such usage as a moral problem or as a problem which is characterized by the physically ravaging effects of heroin. As a result any Ministry programme strategy which was seen to de-emphasize control measures against prohibited drugs

at the lower end of the social cost scale could result in a negative political reaction which would embarrass the government and bring pressure to modify the strategy to a more politically acceptable design. This type of negative political reaction was recently expressed in a letter to the Solicitor General from a Toronto service club which was strongly critical of suggestions that drug legislation in Canada be liberalized. The service club presented a variety of factual data which represented a confusion of the dangerous effects of heroin addiction with the use of cannabis. Furthermore, the service club indicated that it had established its own committee to study the issue and that this committee did not include any doctors, lawyers, policemen, and the like, in order that its deliberations and findings not be "biased". To the extent that these service club petitioners are representative of general public perceptions of the problem of drug abuse then any modifications of current drug programmes by way of reallocating resources will risk incurring an adverse political reaction.

An additional concern in emphasizing one type of drug abuse while ignoring or de-emphasizing other types is related to the fact that the heroin addict often reaches the state of heroin addiction after having started on his career of drug abuse with drugs of a relatively harmless nature. If law enforcement, correctional and parole authorities choose to devote more of their resources to controlling heroin than to controlling less dangerous drugs such as cannabis, then such efforts may lead to an increase in the use of less dangerous drugs and thus a possible expansion of the potential number of those who are prone to dangerous drug addiction. In this regard, it is also significant to point to the conclusion of Le Dain that we are living in a culture which is

highly supportive of drug use as a method of relieving the anxieties of everyday life. According to Le Dain:

> Modern advertising encourages the notion that there is no reason to put up with discomfort. A whole consumer industry turns on keeping people in pursuit of pleasure.

The fact that current government policy imposes few restrictions on the manufacture and promotion of drugs not in the schedules to the Narcotic Control Act and the Food and Drugs Act is seen as a major factor in reducing the effects of any programmes in the area of drug abuse. In controlling the problem of drug abuse Le Dain pointed out that the extent of this problem has been largely influenced by the use of not only illegal drugs such as heroin and cannabis, but also by the use of legal psychotropic substances such as alcohol and tranquilizers. In this regard Le Dain was unequivocal in his conclusions:

> As we have seen, the massive extent of adult drug use and the ease with which adults resort to pharmaceutical and alcoholic substances are major influences on illegal and non-medical drug use by adolescents.

Within the context of the larger problem of the non-medical use of both legal and illegal drugs, the Ministry must therefore consider a number of questions which can be summarized as follows:

1. In view of the fact that the government is planning a major review of drug legislation, possibly within two years time, should the Ministry design a programme strategy, of necessity a short term programme strategy within the guidelines of the current policy?
2. If it is agreed to design a short term programme strategy will

it be feasible or necessary to co-ordinate this strategy with the programmes of other departments concerned with the problem of drug abuse, departments such as National Health and Welfare and Justice?

3. Is it agreed that social and political cost factors will be significant considerations in the design of a Ministry programme strategy to combat drug abuse in Canada?

4. Is reducing the social costs of drug abuse a valid and acceptable overall operational objective in designing a Ministry programme strategy for drug abuse?

5. In designing a programme strategy to deal specifically with the more dangerous drugs such as heroin to what extent will such a strategy be ineffective without a concurrent strategy to control potential heroin users, namely those who are now using less dangerous drugs such as cannabis?

6. Can an effective Ministry programme strategy be implemented if both prevailing social values and current public policy encourage and permit the development of a drug dependent culture in Canada?

II. PROGRAMME OPTIONS FOR THE MINISTRY

Within a social costs definition of the problem of drug abuse and in the context of its special significance and importance to the Ministry, the following short term programme strategy options are believed to represent reasonable alternatives for consideration.

OPTION 1

A. DECISION

The Ministry will develop a short term programme strategy on the basis of the current policy and without seeking to involve other federal or provincial government departments or agencies. This strategy will represent a Ministry wide assault on the problem of drug abuse.

B. THE STRATEGY

1. Research

A research project will be initiated and it will be intended to identify the social costs related to the use of some or all of the psychotropic substances listed in the schedules to the Narcotic Control Act and the Food and Drugs Act. The specific breakdown of social cost factors will be as follows:

a) To what extent does the drug generate criminal behavior apart from the criminal sanctions contained in the existing drug statutes?

b) To what extent is the drug user of each scheduled drug under consideration rendered incapacitated and a burden on the state by virtue of his drug habits?

2. Law Enforcement

The R.C.M.P. will allocate their drug investigational resources to controlling the drugs which have been identified above as imposing the greatest social costs.

3. Corrections

The Canadian Penitentiary Service will identify inmates in the federal prison system who have committed drug related offences. These inmates will then be given the opportunity to participate in programmes which will be aimed at disassociating them from the personal attitudes and environmental dependcies which Le Dain identified as the principal causes of the more dangerous varieties of drug abuse.

4. Parole

The National Parole Service will develop specific rehabilitative programmes for those ex-inmates who have committed drug related offences. The purpose of these programmes will be to aid the individual in overcoming the personality weaknesses which draw him to the sub-cultures which surround the more dangerous types of drug abuse, such as the heroin sub-culture.

In the case of both corrections and parole it will be necessary to make an assessment of the role which drug addiction has played in the criminal career of the individual. The findings of the research part of this strategy will be of use in this assessment.

C. ADVANTAGES

1. Le Dain pointed out that the availability of drugs is a major factor in the problem of drug abuse. To the extent that law enforcement efforts are successful in reducing the supply then success will be possible in reducing the problem.

2. With an addict living in the controlled environment of the prison system, he could have the opportunity for counselling and treatment over an extended period of time for the personality weaknesses which Le Dain identified as being significant contributing factors in the more serious forms of drug abuse.

3. When the ex-inmate is returned to a normalized status in society, then parole officials can make available to him new or additional rehabilitative services.

4. Expanded roles for research, law enforcement, and rehabilitation are provided for in the recommendations of the Interdepartmental Committee although not in precise terms. There is therefore a good possiblity that these programmes could complement or be included in the new policy.

D. DISADVANTAGES

1. If police operational policies are seen to de-emphasize the more visible yet less harmful forms of drug abuse, the adverse political reaction which was earlier described may ensue.

2. If the supply of dangerous drugs is sharply reduced by police action then the prices of the drugs, particularly the prices of those drugs which leave a physiologically dependent effect on the addict will rise. Due to the fact that physiological dependency creates an inelastic demand for such drugs, related crime will in all likelihood increase to meet the higher prices. This situation could lead as well to violence within the addict community and acts of revenge directed at the police. One possible suggestion in dealing with these negative side effects of a more effective law enforcement programme in the heroin community, is to establish heroin maintenance or methadone maintenance clinics.

3. Treating inmates in the correctional system and on parole will create a demand for both trained staff and special facilities as well as a need to restructure current programme strategies in other areas. Such changes threaten major organizational adjustments for the Canadian Penitentiary Services and the National Parole Services.

4. Correctional and parole based drug programmes may involve a substantial commitment of material and human resources which neither the C.P.S. nor the N.P.S. are prepared to absorb at this time. This is an especially pressing concern due to the fact that we are planning for the short term future and there is no firm guarantee that this programme strategy based as it is on corrections and parole will be provided for in the forthcoming policy.

5. Drug related criminal behavior is only one type of criminal behavior which is within the responsibility of the Canadian Penitentiary Service and the National Parole Service. If these agencies were to modify existing programmes and distribution of resources in order to concentrate on drug related criminal behavior, then other rehabilitative efforts will be compromised.

OPTION 2

A. DECISION

The Ministry will concentrate on controlling the production, distribution and possession of illegal drugs by means of an expanded law enforcement programme. Efforts will be heavily concentrated on those drugs which are seen to exact the highest social costs.

B. THE STRATEGY

1. The research project which was described under Option 1 will be included here also.

2. The strategy will be a law enforcement one and it will include not only the R.C.M.P., but also provincial and municipal police working together. By means of a series of regional seminars in such areas as Vancouver, Toronto and Montreal, where the more serious social effects of drug abuse are evident, police forces will meet to establish operational priorities within each region. A co-operative strategy will hopefully emerge from these discussions and it will include a heavier and more concerted use of police resources in dealing with dangerous drug offences than has heretofore been brought to bear on the problem.

C. ADVANTAGES

1. By curbing the supply of the more dangerous drugs, Le Dain pointed out that a major cause of deleterious drug addictions will be eliminated.

2. Until a more comprehensive government programme strategy is possible, a narrow law enforcement strategy will reduce the most harmful effects as an interim measure.

3. A stronger law enforcement role is suggested in both the Le Dain report and in the report of the Interdepartmental Committee. Thus it is likely that this option will become a part of a longer term government approach to the problem.

D. DISADVANTAGES

1. As in 1 and 2 of Disadvantages, Option 1.

2. Other police forces may not share the same objectives of reducing the overall social costs of drug abuse. To the extent that there is disagreement on this objective, the Ministry will have to adjust its strategy accordingly. (Specifically what may arise is a situation where the full co-operation and resources of a local police force is needed but not available because that police force is committed to other problems which it sees as more pressing than drug abuse.)

OPTION 3

A. DECISION

The Ministry will organize a federal/provincial/private sector conference on drugs similar to the Edmonton Conference on Native Peoples and the Criminal Justice System.

B. ADVANTAGES

The conference will serve to more clearly define the political attitude of the country in terms of what drug policies and programmes are acceptable. Conclusions and recommendations of the conference will be widely circulated with a view to identifying and developing support for alternative courses of action.

C. DISADVANTAGES

The Ministry may have to seek support of other government departments as well as provincial governments in this venture and such support may not be readily forthcoming for any number of reasons related to varying perceptions of the problem.

Since there is little that can be added to the scientific analysis of drug abuse, the conference could only be expectedto have a political role.

III. RECOMMENDATIONS

It is recommended that Option 2, an expanded law enforcement strategy be adopted by the Ministry. This strategy is preferable due to the fact that police forces already have in place, extensive resources for dealing with drug abuse.

IV EXECUTIVE SUMMARY

The federal government is preparing to review its policy on the control of narcotic and hallucinogenic drugs. Current policy is based on the Narcotic Control Act and the Food and Drugs Act. The forthcoming review will be based on the findings of the Commission of Inquiry into the Non-Medical use of Drugs, and on the recommendations of an interdepartmental committee of officials which reviewed these findings. The Ministry of the Solicitor General was well represented on the interdepartmental committee which made its recommendations in early 1975. Further government initiative on this issue is in the hands of the Minister of National Health and Welfare, Mr. Lalonde. In that regard Mr. Lalonde wrote to the Minister of Justice, Mr. Basford, on July 15, 1976, suggesting that we "seriously consider new drug legislation".

In the meantime the Ministry of the Solicitor General is concerned with the problem to the extent that immediate action is required in the period between the demise of the current policy and the evolution of a new policy. It is roughly estimated that a new policy is two years away which indicates that programme planning will be of a short term nature.

Reducing the social costs of drug abuse is a suggested overall operational objective for a Ministry programme strategy for drug abuse. The social cost factors of drug abuse include:

1. personal and material losses related to drug related crimes;
2. the reduced or lost productive capacity of the drug user;
3. welfare, medical and other treatment costs related to the use of prohibited non-medical drugs.

In addition to social costs, a Ministry programme strategy must also be designed in such a manner that adverse political reaction is minimized. Social costs and political costs are therefore seen as two critical considerations in the selection of a Ministry programme strategy to combat drug abuse.

In terms of social cost factors, heroin and cannabis are seen to represent two controlled psychotropic substances which impose on society unacceptable and acceptable costs respectively. Each of the various other drugs listed in the schedules to the Narcotic Control Act and the Food and Drugs Act could perhaps be seen to exact a level of social costs which falls somewhere between those social costs of heroin and cannabis. However in designing a programme strategy which would accurately reflect these differences, the Ministry must also be aware of the fact that the general public may not share the same perception of the problem. Parents, teachers and others who are exposed to adolescent experiences with cannabis and other drugs which are both widely used by adolescents and which exact comparatively few social costs may react negatively to a programme strategy which was seen to give a low priority to controlling these particular drugs.

New short term drug abuse programmes may also be unfeasible in terms of organizational requirements especially programmes in the area of corrections and parole.

Considering that the R.C.M.P. and other police forces in Canada are now devoting a good part of their resources to controlling the manufacture, possession and use of illegal drugs, it is recommended that such programmes be coordinated and expanded with the Ministry acting as a catalyst in this effort.

ANNEX

1971 Convention on Psychotropic Substances

The Department of National Health and Welfare is preparing a Cabinet Document recommending that Canada sign the Convention. This document will be subject to the approval of the Ministers of tional Health and Welfare, the Solicitor General, the Minister of Justice, and the Secretary of State for External Affairs. At this point no serious conflict is seen between current government policy on drug abuse and the terms of the Convention.

ISSUES #5

STRATEGY FOR THE

MINISTRY OF THE SOLICITOR GENERAL

ON

LONG TERM OBJECTIVES IN CORRECTIONS

POLICY PLANNING & PROGRAM EVALUATION BRANCH

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TABLE OF CONTENTS

I. INTRODUCTION

This brief paper attempts to outline the present work which has been done by the two task forces on Long Term Objectives in Corrections and to describe some of the issues which have yet to be addressed, or questions which need to be raised about the work of the Task Forces.

The final section of the document outlines some of the future directions for activity for task forces or other groups, federally or provincially, which might be brought about as a result of the meeting of the Ministers of Corrections in the fall.

II. SUMMARY OF OPTIONS EXAMINED IN BOTH TASK FORCES

The Task Force between the Federal Government and British Columbia on Corrections considered a number of options, but finally only considered four options in detail: -

Option 5. Delivery of all correctional services within the province of British Columbia would become a provincial responsibility while the federal government and provincial government would share cooperatively responsibility for policy formulation, priority setting, standard setting, planning, research, evaluation, information systems, staff development, etc.

Option 9. Generally, the current division responsibility would be maintained except that the "2-Year Rule" would be altered to a "6-Month Rule", i.e. sentences of imprisonment for six months and less would become a provincial responsibility, and sentences of more than six months would become a federal responsibility.

Option 10. The formation of a joint federal-provincial Crown Corporation charged with the responsibility for all functions related to the delivery of all correctional services in the Province of British Columbia. Each level of government would delegate jurisdictional responsibility to this agency. A jointly appointed Board of Directors would give the corporation accountability to both parliaments, through the respective ministers concerned, i.e. the Solicitor General of Canada and the Attorney General of British Columbia.

Option 11. Generally, the current division responsibility would be maintained but the 2-Year Rule would be altered to a divisional responsibility based on the purposes of sentence of imprisonment, as suggested by the Law Reform Commission.

The options were examined descriptively as to how unified the delivery of correctional services within the Province of British Columbia and the extent to which this delivery of service will be decentralized. As would be expected, options 5 and 10 appear to be the most unified and most decentralized. Within the assumptions made by the Task Force, these then appear to be more attractive options because the unification encourages consistency in delivery of service; and decentralization should encourage better ability of corrections to relate to community concerns as well as better coordination in communication within the criminal justice system and with the community.

The options were analyzed with respect to their philosophy, service delivery, administrative structure, financial impact, constitutional legislative impact, effect on justice system and the effect on social services. Once again, options 5 and 10, within the assumptions made by the Task Force, appear to be the most attractive except that they require changes in the administrative structure, something that was relatively minor with options 9 and 11. In addition, options 5 and 10 would appear to be more expensive in the short term, although there may be long term savings.

With respect to the Federal-Provincial Task Force on Long Term Objectives in Corrections, that task force considered in detail four options which were: -

Option 1. A division in jurisdiction of corrections based on sentence length of 6 months; those sentences 6 months and less would be within provincial jurisdiction and those greater than 6 months will be within federal jurisdiction.

Option 2. The present split in jurisdiction in the administration of Corrections but with a substantial increase, and greater priority, on coordinating mechanisms, particularly within each province, to deal with local correctional needs.

Option 3.A The totally provincial administered corrections system within each province - here the federal government

would relinquish legislative and service delivery authority in corrections to the provinces.

Option 3.B Total federal administration of institutions and parole in Canada - here the provincial governments would relinquish legislative and service delivery authority for institutions.

After the Task Force considered a number of trends and concerns for corrections over the next decade, they made analyses of the options within criteria similar to those considered by the British Columbia/Federal Government Task Force (with the addition of criteria for standards, both national and local). This Task Force felt the objective for the long term should be to work towards a more unified corrections system in Canada (Option 3.A). However, because of the current economic and political realities, the Task Force felt that no major changes in jurisdiction would be feasible in the near future.

This would suggest the most practical option within the short term would seem to be option 2, i.e. the present split with co-ordinating mechanisms. Within this, it would be possible to take specific steps such as an increased effort to develop jointly national standards, to complement a common criminal code and the achievement of greater coordination. The difficulties in defining common standards and goals as well as feasible means for the implementation within each province, are not to be underestimated. The Task Force concluded by suggesting that more work would be needed on the specific form of these steps if such strategy were accepted by the Ministers.

III. ISSUES

The above summary of the work of the two task forces is, of course, too brief and the full task force reports should be read, in order to understand why the positions were taken by the two groups. However, even considering the full task force reports, a number of questions are not addressed in as complete detail as necessary. The following questions would appear to be of great interest: -

The major concern would seem to be the role of a federal presence in Corrections.

(a) If 5 to 10 different correctional systems are to be contemplated for Canada (i.e., one for each province or region

depending on geographical needs) there is a real issue as to where national consistency and standards are necessary. This consistency would include standards on goal, priorities, operations, as well as other areas which may be important. In addition, research, information systems and consultative projects are but a few areas where, if there is not consistency and a national focus, there would probably be substantially greater, and duplicated, expenditures.

(b) There would appear to be a number of areas where economies of scale or national needs must be satisfied such as in inter-provincial transfers which can now be accomplished easily through the federal system. Moreover, in dealing with serious and special offenders, there may not be sufficient numbers in any one region or province (particularly the smaller provinces) to merit the special institutions which may be necessary. Thus, the offenders' needs and the protection of the community may best be met through some national input in the administration of corrections, given the disparate capabilities of different provinces.

(c) Because the corrections response to serious offenders and/or offences obviously serves to reinforce moral values and to denounce these actions to society, there may be some need for a national denunciation of such offences. This could be done for example, through a national corrections system, dealing with serious offenders, since they offend not simply local or provincial moral values but those which affect the country as a whole.

Given that the above considerations would seem to rationaliz the need for a national influence in corrections, the issue which should be raised is the means by which federal government might influence and by which it can have a serious effect on operations, plans, priorities and objectives for corrections of Canada. A number of the methods for a national influence and corrections would include the following: -

(a) Funding: What type should be made, whether regular funding through tax points, or discretionary funding. The advantage of discretionary funding is it can serve to lead and direct activity in certain areas; but the discontinuity of this funding may well frustrate, rather than encourage correctional administrators. The difficulty with regular contributions

to corrections is that although it provides the continuity necessary, it does not provide the opportunity for a leadership position by the federal government in corrections.

(b) A second method, other than funding, would be to have some joint priority setting exercise which may or may not include federal monies. The Department of Regional and Economic Expansion is obviously one organizational mechanism which could include funding and which could facilitate federal input to corrections.

(c) A third option would be that part of the administration of corrections remains with the federal government. For example, the parole board and/or parole supervision, might remain federal, thus, assuring federal direct influence on operations. Obviously, by having direct input in the administration of corrections, the federal government can ensure that it is much closer and sensitive to the real needs in corrections, has a more credible role and a direct effect. On the other hand, this direct effect may be more than compensated by the distance of a centralized system administering local and community needs, and the difficulty of integrating the actions of this part of the administration of corrections with other parts. (provincially administered). Appendix A analyzes in somewhat more detail the pros and cons of having for example, the parole board remain a national organization.

Although the Task Force reports considered a number of options before examining the four options in detail, there are other options which should be perhaps looked at seriously in light of the above considerations. One of these would be to have all serious and indictable offences within the federal jurisdiction and all other offences within provincial jurisdiction. A second option to be considered might be to have all dangerous offenders or offences as a federal responsibility and all other offenders within provincial jurisdiction. A more complete analysis of this option is given in Appendix B, but it should be pointed out that in both cases, the difficulty of defining dangerousness and of reaching some, either administratively or legislatively defineable method of division, is extremely difficult.

One of the more critical issues of concern to the federal government is exactly how our role and future objectives in corrections are consistent with and complement developments elsewhere. Particularly with respect to the federal government's role in law enforcement, there is a need to insure compatibility both in terms of leadership roles as well as any operational responsibilities. From a federal perspective it may be important to consider explicitely means by which this consistency can be insured in any of the strategies developed in the following section.

Finally, it is clear that although the Task Forces considered much information about the current delivery of correctional services by the provinces, and by the federal government, there is relatively little information on problems within the present systems. Although duplication in dual delivery of service are alluded to in many places in both reports, there is relatively little analysis as to why this is inefficient, ineffective or should be changed and in what directions. Thus, a more operatonal definition of the kinds of problems which have occurred in the past, and methods for addressing these, would perhaps be necessary before any action could be taken.

These then are some of the concerns which might be raised about the two task force reports and which lead us to suggest a number of directions for future activities.

let's study it to death!

IV FUTURE WORK AND STRATEGIES

Considering the above concerns from the Task Force reports, the following objective would weem appropriate for our strategy on different divisions of jurisdiction for corrections in Canada:

"To provide continuing federal leadership, coordination, and support in the corrections field in Canada".

This objective would seem to be best implemented within the following goals.

1. To define the federal role in corrections in Canada by 1978-1979.
2. To describe this role by legislative, organizational, and where necessary bilateral agreements after reasonable and appropriate consultation between the provinces and the federal government.

It must be realized that whatever strategy is comtemplated or selected for the Ministry, with respect to the long term objectives in corrections, will depend on any guideline decisions made by the Ministers of Corrections in their fall meeting. Thus, if the Mininsters should choose to select a long term objective of unification of corrections in Canada this would necessarily influence any of the strategies to be undertaken. Indeed, it is assumed that these strategies would simply serve to further detail that goal and in particular, the steps for achieving it. We have included a final strategy "H" as an example of this.

The following strategies and activities which could best accomplish these goals there would seem to be:

A. Further consultation, including work with field personnel, in order to better document current problems and possible options.

B. Province by province analysis of the division of jurisdiction taking into account the two task force reports already produced.

C. Organization of a conference with representatives from different jurisdictions and interest groups in corrections.

D. Development of strategies on issue by issue basis between the federal government and the provinces

E. Indepth study of other jurisdictions- developing implications for the federal provincial relations in corrections in Canada.

F. Assume that all necessary work has been completed on Long Term Objectives and encourage no further discussions, at least on a national basis.

G. Accept one of the options analysed by the two task forces and begin implementation of that division of jurisdiction.

H. Long Term Objectives for Corrections developed by Ministers and steps to be further detailed for achieving these objectives.

In order to consider these strategies seriously we have developed some brief arguments giving their advantages and disadvantages.

A. Further federal provincial consultation

This option would consist of work with field personnel documenting current problems in delivery of services, as well as suggestions from relevant interest groups in corrections. It would also consider administrative and operational changes which might help to alleviate these problems. Primary among the considerations which might be

undertaken by further Task Force consultation, would be work on standards, both the type of standards to be considered, and the mechanism which would encourage these standards, particularly from a national level. It is interesting to note that the Federal Provincial Task Force on the Administration of Justice has also considered this to be a primary concern.

The main arguments to be made for this strategy are first that it provides for consistency nationally in any further work. Second, it may be most relevant to areas in corrections such as funding, basic philosophy and economies of scale which might be realized by dealing with macro changes in corrections rather than micro changes at the operational level.

There are number of disadvantages which should be pointed out for this strategy. First, it would appear not to deal with some of the real problems and difficulties in the most direct way possible. (at an operational level). Furthermore, since it is a national influence and national consultation in corrections the implementation issues for any solutions would be at the conceptual level. Since the consultation is presumed to take place at a federal/provincial rather than on a province by province basis, or issue by issue basis, regional despairities would be not addressed as completely as possible, an it may be suggested that some solutions which would be arrived at would be theoretical, not dealing with the real problems in corrections.

The types of activities which might be anticipated within this strategy include:

1977/78 Secretariat Development of options - 2 man years
1978/79 Canadian Penetentiary Service and Secretariat Developments - 4 man years
1979/80 Canadian Penetentiary Service (Federal Corrections Agency) - 8 man years for policy development and implementation

B. Province by Province analysis

This would include building on directions developed by the two task forces by dealing with specific provincial problems. It would then allow the development of conceptual framework in the division of jurisdiction which would include regional and provincial disparaties and needs.

It may also be possible to group the provinces in terms of their long term objectives for corrections - those wishing to bring about change in the near future would be in one group, while those looking to longer term changes (and perhaps more fundamental ones) could be dealt with in another group. Again, this would depend to some extent on the direction given by the Ministers at their meeting in the fall.

A number of arguments can be made which would seem to support this strategy, including its ability to deal with regional dispairities and to address the problem at a macro level within each province.

However a number of disadvantages would appear to hold for this strategy including its lack of consistency, and of a policy overview at a national level. Perhaps most important is that such a strategy, if dealt with only at a conceptual or senior administrative level, would appear not to deal with real operational problems and the implementation of their solution.

The following resource allocations would seem to be appropriate for this strategy:

1977-78 Canadian Penetentiary Service and Secretariat
- 4 man years for consultation

1978-79 Similar resource allocations

1979-80 Implementation of solutions federal corrections agency -
- 10 man years

C) Organization of a Federal/Provincial Conference on corrections

This conference would serve, not only to represent different interest groups and jurisdictions in corrections, but would assist in identifying a number of the more visible problems as well as suggestions for their solutions.

The basic advantages and disadvantages of this strategy would appear to be the same as those involving further consultation (A above) since this is simply a more detailed development of that strategy.

Although the resource allocations would be the same as under A, it would be appear that less would be needed in terms of federal-provincial consultation for 1979-80 because of the basic development done at the Federal-Provincial Conference in 1977-78.

D) To address Federal-Provincial division of jurisdictions on an issue by issue basis

Many of the problems addressed by both task forces, appear to be common accross the different provinces. This would seem to indicate that it may be possible to examine such areas as the remand of already sentenced defenders, or standards, on an issue by issue basis.

There are a number of advantages which would appear for such a strategy including the consistency, and general polcy overview which could be developed at a national level. In addition since each problem was dealt with individually at a federal-provincial level it would allow, through various mechanisms (such as joint regional committees), the addressing of real operational problems and of the implementation of their solution.

However, the difficulties of this strategy would appear to be its lack of accomodation of regional dispairities in corrections, and that the solutions proposed would be incremental and not deal with global funding, philosophy and basic economies of scale which could be addressed by more macro changes with the total administration of corrections.

The basic resource allocations for this strategy would appear to be

1977-78 4 man years Canadian Penetentiary Service (Federal Corrections Agency)
1978-79 4 man years Federal Corrections Agency
1979-80 4 man years Federal Corrections Agency (all of these man years devoted to consultation an issue by issue basis)

E) Study of other jurisdictions internationally

Many of the problems of which occur federally and provincially in corrections in Canada would appear to be similar to those of other federated states. Thus, indepth consultation with other countries would be a benefit, not only in determining likely problem areas but the types of solutions which have been useful.

The basic arguments for this option would be the consistency at a national level and the furnishing of a basic macro policy framework overview of directions to be undertaken.

The basic disadvantages of such a strategy are first, that it does not deal with real problems or the implementation of their solution. Secondly, regional dispairities could not easily be accomodated within such a strategy. Strategies which would likely be recommended from such a study would be incremental thus not dealing in a global way with corrections. However, it is possible that changes in other federated states would suggest global changes which would be useful within the Canadian context.

The basic resource allocations would appear to be

1977-78 -- 4 man years within the Secretariat for indepth evaluation and analysis of other jurisdictions

1978-79 -- 2 man years in each of the Federal Corrections Agency and the Secretariat for drawing implications of these studies for the Canadian experience

1979-80 -- 8 man years in the Federal Corrections Agency to begin implementation of any suggestions.

F. No further work on Long Term Objectives in Corrections

At the present time, discussions have been ongoing on corrections and implicity on its objectives, since 1973. Much has been accomplished without the need to address the longer term or overall correctional objectives. For this reason, such a project may be philosophical and theoretical at best and not really direct, in any real sense, the ongoing activities in corrections. In addition, both the federal government and the provinces do not appear to be ready to move towards a new division of jurisdictions or major changes in the administration of corrections in the near future. If we couple to this, the very great temptation and ease with which such a project can get lost in the philosophical issues, rather than lending a real direction to corrections it would appear to suggest that dropping further discussions on the subject might be quite viable.

However, unless we look at the long term objectives in corrections, it will be impossible to analyze decisions made at the present with respect to their long term implications, particularly as they relate to other initiatives in the federal jurisdiction, as well as ongoing and new ones in the provincial jurisdiction . In addition, the project requires a relatively small manyear allocation, with the possibility of an extremely high pay-off in developing direction for corrections in Canada in the future. The exercise can assist in focusing on a set of priorities for further discussion at an operational level, it can bring pressure in areas

such as, better coordination, and the process itself has value in that senior correctional administrators and policy makers converse regularly on the future directions of correction thus ensuring more consistency in their efforts.

The basic resource allocations, if the strategy were selected are, of course, no further manyears.

G. Selection and implementation of one of the task force options

The argument could be made that the options have really been treated quite completely in the present task force documentation, at least at a conceptual level. This would seem to imply that further discussion would simply get lost in other conceptual issues and not deal with real operational problems. In addition, other discussions on operational issues such as those dealing with joint planning and funding of correctional institutions would be allowed to proceed if a decision was made as to which option should be pursued. This leads to a more general problem of with not selecting an option immediately, that operational problems are held without solution because longer term decisions have not been made on future corrections both federally and provincially in Canada.

However, the selection of a particular option would seem premature especially when both federal Solicitor General and the Privy Council Office feel that it is inappropriate to select one at this point in time. In addition, the selection of one option immediately would mean that the major policy efforts within both jurisdictions, would be towards change in the division of jurisdiction rather than on many of the policy problems which are presently being analysed in different forums, including the Committee of Ministers of Corrections and the Continuing Committee of Deputy Ministers.

Moreover, such a decision should be consistent with the federal role in other jurisdiction, and as such should await developments on the role in such areas as law enforcement.

This type of activity which might be anticipated within the strategy includes:

1977-78 - 2 manyears Secretariat, 2 manyears CPS, for the development of implementation plans;

1978-79 - 20 manyears in Canadian Penitentiary Service to begin the implementation;

1979-80 - 20 manyears in Canadian Penitentiary Service for implementation

H. Selection of Long Term Objectives by Ministers

This strategy assumes that the Ministers in Corrections meeting in the fall would select some long term objectives for corrections in Canada, such as, unification. They would presumably expect that the strategy to be undertaken would further detail methods of achieving this objective and develop interim goals and steps.

This strategy will allow some direction to be defined for corrections in the long term in Canada , thus other policy issues and operational problems could be addressed within this context. Depending on the strategy selected for actually detailing the steps to be undertaken, there could be consistency at a national level (for example, with strategy "A" above) and some addressing of real problems on an operational and policy level within the different provinces.

This, however, raises one of the difficulties with this strategy in that it could not easily be used to address regional disparities, and a special mechanism would probably have to be put in place to take these into account. In addition, it would probably preclude any further work on long term goals and objectives in corrections in Canada. Finally, the strategy clearly assumes that we know what the problem is, when there is still considerable controversy as to exactly where the inefficiencies and ineffectiveness of the administration of corrections lie.

The types of activities which might be anticipated within the strategy include:

1977-78 - Secretariat and CPS development of steps, 4 manyears;
1978-79 - Secretariat and CPS development of steps, 4 manyears;
1979-80 - Canadian Penitentiary Service and Secretariat development steps, 4 manyears;
- Canadian Penitentiary Service undertaking implementing some steps, 10 manyears.

As can be seen from the above brief analysis there is no clear solution. However, what is suggested is that further consultation is needed, both on an issue by issue basis, as well as deling with current problems within each province.

The most immediate strategy which might be suggested is that the Task Force continue its work, dealing at a national level with difficulties in the administration and division of jurisdiction in corrections and the joint regional committees be tasked with addressing particular regional problems which might have national implications. Thus there would be a dual strategy of addressing current problems in divisional jurisdiction at the operational level through the joint regional committees, and policy problems through a national Task Force.

Appendix A

ROLE OF THE PAROLE BOARD IN THE LONG TERM FEDERAL-PROVINCIAL SPLIT IN CORRECTIONS

Description:

For this option, the Parole Board would remain under federal jurisdiction, with all other parts of corrections a provincial responsibility. In considering this particular option, that is the role of the Parole Board in any future federal/provincial split in corrections, a number of alternative roles may be appropriate for it. For example, within the Law Reform Commission recommendations, a sentence supervision would be seen more as a review mechanism than a direct decision-making body but would expand its area of concern beyond simple decision-making to looking at grievances and all parts in the administration of the sentence of incarceration. Alternatively the present role of the Parole Board as primarily a decision-making body could also be considered the national role.

PART I. OVERVIEW

The division of responsibility for this option would be largely the same as the total provincial delivery of services which was considered by both task forces, except that the decision for release from the institution is made by a federal board (or, as a Sentence Supervision Board, it would review these and other decisions). This influence is not to be underestimated, however, since indeed major influences on the board's decision are:

(1) information from the institution, which would now be provincial jurisdiction totally; and

(2) information on opportunities for the offender and the community, which would also be totally within provincial jurisdiction. As will be seen in the evaluation of this option, this difficulty of jurisdictional split may seem to mitigate against the Parole Board remaining federal. Thus, the main organizational concern which seem to be the difficulty of the federal jurisdiction making decisions about or reviewing the decisions of, release and transfers with the provincial jurisdiction.

PART II. IMPACT ON CRITERIA

A. Objectives and Philosophy -

The main advantage of this option would appear to be the national consistency which would be maintained in release from

institutions. This would allow the board to be sensitive to the trade-off between the protection of the public and freedom of the individual, and the opportunity available to the offender. This would also seem to fit within the Law Reform Commission purposes of sentence where they outline the need for Sentence Supervision Board which would make decisions on the term inmates would remain in institution. All of the purposes of sentence of denunciation, incapacitation and non-compliance would be administered by the provincial system, a position which, verbally, the Law Reform Commission, assumes to be better than the present split of institutional jurisdiction.

There are, however, several disadvantages to this option from a philosophical point of view. First of all, it would appear that it is both non-unified and centralized, particularly in the Parole Board decision making (or review), although the Board itself could be administratively decentralized. Thus, this would not allow these decisions to be as sensitive to local values as may be desirable since, with whatever administrative setup - there would be a control component to it. However, the non-unification of the corrections system within each province does not appear to have as negative a value as it had for other options, since the Parole Board would make (or review) all release decisions and thus there would not be problems of inconsistencies in the delivery of service within each province, (since the Board would be the only release authority). Indeed, the consistencies supplied at the national level would be substantial and relatively little local inconsistency would appear to take place.

However, this option does not provide a focus for secure facilities, for example, at the federal level, and community treatment at the provincial level. For this reason, community treatment may well become a second priority for the reasons outlined in the task force reports.

Perhaps most importantly, this split in jurisdiction would seem to mitigate against the trend in corrections of gradual release of the offender from institutions. Since all community and release services would be supervised by the province, it would mean that the federal board would have to make such decisions (or review them) for temporary release or gradual release, thus compounding that decision process. This would seem counter to the philosophy which is being developed within the Federal Corrections Agency.

B. Service Delivery -

This option would seem to increase program opportunities for offenders within each province, since all programs would be delivered by the provincial authority. It would thus encourage a wide diversity of programs available to offenders. Particularly, the latter point which seems to be in concurrence with the reports of several task forces, such as the Glassco Commission, which suggested the province was in a better position to deliver social services.

One major disadvantage for this option is that, since secure facilities and community programs were within the same jurisdiction (provincial), there would not be a unique capability in each jurisdiction and thus, community programs might tend to be of a lower priority.

C. Standards -

This option obviously provides the best forum for national standards in decision making as to release from institutions. However, there is no such national standard in the delivery of institutional programs, and these would tend to become balkanized in 5 to 10 different provincial corrections system. Indeed, all of the difficulties of having a totally provincially administered corrections system would appear to apply here and further details can be obtained from the two task forces reports. For example, there would not seem to be the opportunity for higher standards which the federal government presence often seems to encourage with its greater resources.

Although this option would seem to provide equity to the inmate in terms of Parole decision making, this equity would not seem to apply cross provincially in the delivery of programs as well as program opportunities for him.

D. Administrative Structure -

Simply because of the existence of two systems which must interact (since the release decision (or its review) depends on institutional information and environment and the community to which the inmate is released) there are administrative difficulties. Thus, two jurisdictions which are forced to interact; one provincial and one

federal, could operate with substantially less efficiency overall, and presumably in the long term, less effectiveness in the delivery of correctional services.

E. Financial Impact -

The main question here would be how to arrange the complete provincial delivery of correctional services with the one national parole board. This would be particularly important, since the board would be able to make decisions as to the number being released from institutions and to the community which would have drastic effect on work loads in both areas for the province. Thus, the financial situation may be exacerbated having federal direct input in the decision making area.

F. Impact on Justice System -

Although this option will allow good cooperation for the incarcerated offenders, since all such programs would be delivered provincially, the interaction of the National Parole Board with other criminal justice agencies would be difficult since most of those agencies would be within provincial jurisdiction.

G. Impact on Social Services -

Similarly, since most social services are provincial, at a conceptual level, one would assume a greater difficulty of integrating parole decision making (or its review) with the services which might be available to the released offender.

H. Private Agency Impact -

It would seem that the consistency in dealing with private agencies might improve under this option, since only the province would attempt to contract for services. Thus, there would seem to be more pressure for consistency in dealing with private agencies.

Appendix B

SPLIT IN JURISDICTION BASED ON DANGEROUSNESS OF OFFENDER

Description:

Under this option, those offenders classified as dangerous, would be incarcerated within the federal jurisdiction (and we assume a federal parole board and federal parole supervision as before). The main pressure for such an option is to find a consistent partition in the delivery of correctional services so that each jurisdiction can make maximum use of its own potentials, resources and economy in the delivery of correctional services. Also, as will be seen in the evaluation of this option, there are a number of philosophic and value dimensions which would seem to be satisfied better by having dangerous offenders dealt with at a national level than at a provincial level. However, these may be removed by the difficulty of implementing such a split.

Part I. OVERVIEW OF OPTION

A. Division of Responsibility -

The main difficulty is to define the division of responsibility for this option. The definition of dangerousness, either through administrative regulations, or legislation is difficult. Criminologists and others have attempted to make such definitions, but the criteria inevitably are soft and a substantial amount of subjective judgment is involved. This is not to say that the decision for jurisdiction split is not ready for subjective judgment at the present time. It is clear that many personnel in the C.J.S. make their decisions based on factors which implicitly and often explicitly involve their values and subjective opinions. Thus, the difficulty of defining dangerousness may be over emphasized, but would remain an issue, and inconsistencies across the country would inevitably occur, although having a national body, such as the Parole (or sentence supervision) board involved could possibly increase this consistency.

B. Delivery of Service -

Tables 1 and 2 show the split in the delivery of

correctional services, both institutional and community, for this option. As can be seen, since the federal government would still be involved in the delivery of institutional services, it is implied that it would also share in the development of planning, information, research and other activities.

With respect to the delivery of institutional services, the federal involvement would be mainly in maximum and medium institutions with the majority of other institutions within the responsibility of the provincial government.

C. Organization -

There would not be major changes in present organizations since the medium and maximum security institutions would still be under the jurisdiction of the federal government. However, transfer of minimum security institutions and mechanisms for ensuring correct identification of offenders have to be instituted. The exact means for this identification has yet to be determined.

D. Reporting Relationships -

Reporting relationships would remain much the same as they are within the present system.

Part II. IMPACT ON CRITERIA

A. Objectives and Philosophy -

The most important advantage to this option would appear to be its implementation of the Law Reform Commission purposes of sentence since those offences and offenders where incapacitation seem to be a main criteria, would presumably go to the federal system (this of course could be argued on several grounds and dangerousness - either inside or outside, may not be the only criteria for incapacitation). In addition, those offenders sentenced simply for denunciation or non-compliance would probably be incapacitated within the provincial system. This would also provide a good focus in the division of correctional services since the federal government would handle those offenders where high security was necessary with the provincial government having the higher priority on community treatment and programs.

There are, however, a number of disadvantages with this option. First of all, it is neither unified nor decentralized

both of which each task force felt were beneficial. It is not unified since there would be a split in the delivery of services within each province; and it is not decentralized since the Parole decision making and secure facilities in corrections would be within the federal jurisdiction. Both task forces did make the assumption that the provincial government is politically closer to the needs of the community and could thereby reflect these needs better in the delivery of correctional services. Thus this option would not appear to put corrections close to the community, for at least the dangerous offenders. An additional difficulty would be encountered here, in that there would be a lack of consistency between the federal and the provincial delivery of correctional services in each province. Although there would be consistency nationally for the delivery of secure facilities and services to the serious offender, this would not be true to the minor offender (and because of the less substantial intereaction that corrections has with the minor offender consistency may not be as critical here).

B. Service Delivery -

One of the major benefits of this option would be that it would take maximum advantage of unique capabilities which would be developed in each correctional jurisdiction since the federal government could concentrate on secure facilities and the provincial government on community treatment). This would also appear to be within various commission recommendations for delivery of correctional services by the province (all secure facilities would be federally administered).

A major drawback, however, in terms of service delivery within this option, is that there would not be a number of program opportunities that might be offered within a single correctional jurisdiction. Thus, there would not be the diversity of programs available to offenders in each jurisdiction.

C. Standards -

One of the major advantages of having the federal government involved in the delivery secure facilities is that it would provide national standards in operations, priorities and planning. However, this would not allow local consistency and

standards since there would be more opportunities for incompatibilities between federal and provincial correctional services within each province.

The federal involvement in the delivery of secure correctional services would seem to encourage higher standards in the delivery of secure services. However, such a split in service delivery may be viewed as inequitable to the inmate within each province who may be "arbitrarily" sentenced to one jurisdiction or the other.

D. Administrative Structure -

This option has relatively little to recommend it in terms of administrative structure since the federal system would be extremely hard to administer with all offenders being dangerous or needing secure facilities. There would be a bad correctional environment in the institutions for the staff. In addition, because of the split in jurisdiction, there would presumably be less efficiency in the actual delivery of services, since economies that might otherwise be realized, would not be, with the split jurisdiction.

E. Financial Impact -

Although this option would seem to give economies in the delivery of services for the dangerous offenders such economy would not be realized for those services delivered to the less serious or community oriented treatments (because of 10 separate systems).

F. Impact on the Justice System -

Although there would be good cooperation with other criminal justice agencies in the delivery of services to less serious offenders,
serious offender and thus, gradual release and communication with these agencies could indeed be worse under this option.

G. Impact on Social Services -

Once again, there would be good cooperation for the less serious offender but this would decrease cooperation and service delivery for the more serious offender.

H. Impact on Private Agencies -

Although it might be assumed that the majority of

private agencies' services are taken for the less serious offender, and that this option would allow cooperation and consistency in dealing with this private agency, there would nevertheless be difficulty in both governments in dealing with private agencies (for a number of offenders who may be relatively similar in characteristics and needs). Thus, this would not seem to encourage as much consistency as some of the single jurisdiction options considered by task forces.

TABLE 1

DELIVERY OF COMMUNITY SERVICES

Men & Women

	Federal Involvement	Provincial Involvement
Parole Granting Authority	X	X
Case Preparation & Parole Supervision		X
Pre-sentence Reports & Probation Supervision		X
C.R.C.		X
Fine Supervision		X
Bail Supervision		X
Community Service Orders		X
Restitution Orders		X
Attendance Centres		X
Pre-court Intervention		X
Planning	X	X
Information	X	X
Research	X	X
Management Structure & Responsibility	X	X
Staff Development	X	X
Personnel	X	X
Finance	X	X
Standard Setting	X	X
Priority Setting	X	X
Goal Setting	X	X

TABLE 2

DELIVERY OF INSTITUTIONAL SERVICES

	MEN		WOMEN	
	Federal Involvement	Provincial Involvement	Federal Involvement	Provincial Involvement
Maximum	X		X	
Medium		X		X
Minimum		X		X
Psychiatric	?	X	?	X
Drug/Alcohol Treatment		X		X
C.C.C.		X		X
Forest Camps		X		X
Remand		X		X
Temporary Absences		X		X

ISSUES #6

THE ROLE OF THE COMMUNITY IN THE CRIMINAL JUSTICE SYSTEM

Consultation Centre
Ministry of the Solicitor General
September 1976

THE ROLE OF THE COMMUNITY IN THE CRIMINAL JUSTICE SYSTEM

BACKGROUND

There is probably no single theory or rationale which adequately explains the trend in recent years towards increased citizen involvement and participation in all parts of the Criminal Justice System. It has been suggested that the demands for citizen participation is a reaction to the erosion of a sense of community, the alienation, the loss of control over one's environment, and the inadequacy of material acquisitions as the primary quality of life resulting from the urbanization, specialization, growth of government, and the relative wealth of the industrial era. For the Criminal Justice planners and practitioners the motivation for involving citizens may be a purely practical means of coping with growing case loads; a recognition that he/she cannot hope to control and manage crime on his own; or perhaps a realization that specialization has not necessarily led to effective expertise.

Whatever the explanation, the trend is pervasive and it is evident throughout the Ministry of the Solicitor General activities, from the establishment of citizen committees in Federal penitentiaries to the consultation process for the 'Young People in Conflict with the Law' proposals, and the focus in many preventive policing programs.

A dominant theme in the Law Reform Commission's proposals is the need to reverse the process of referring an ever-increasing number of socially problematic behaviours to the Criminal Justice System for resolution; to reduce the extent of Criminal Law; and to use the Criminal Justice System with restraint - as a last resort for problems the community is unable to manage.

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Other levels of government (i.e., Ontario) have studied the implications of giving direction and guidance to this trend by making a specific policy statement about the legitimacy of citizen participation, perhaps in the form of a statement to the effect that there is an inherent value in communities becoming involved in resolving and managing Criminal Justice problems up to the level of their capacity.

The consideration and formulation of such a policy statement would of course be only a first step, which should be translated into specific guidelines through a definition of the limits, problems, the checks and safeguards, etc., of community involvement within each of the Ministry's programs and priority areas. A global definition of the role of the community in the Criminal Justice System, if at all possible, would have little meaning as it would span the whole range from potential community responsibility (i.e., in Diversion programs), to a partnership with government (i.e., aspects of prevention), to participation (i.e., community corrections), to assistance (i.e., volunteers and probation), to general support and confidence (i.e., law enforcement custodial programs).

The Task Force on the Role of the Private Sector in the Criminal Justice System may provide an important first step in the clarification of issues within the component parts, programs and methods employed in the Criminal Justice System, particularly as the definition of what constitutes 'private sector' may be expanded from the traditional perception.

STRATEGIES

Alternative No. 1

The simplest strategy the Ministry could adopt would probably be based on an acceptance of present trends without further clarification and a concentration upon developing methods and vehicles

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to increase citizen participation on all levels. This would involve:

- opportunities for input into government policy development;
- opportunities for special publics to participate directly in achieving the aims of the Criminal Justice System; and
- educational programs to enlist general public support for and confidence in existing criminal justice agencies.

The following steps could then be taken:

(a) A simple confirmation that increased citizen participation in the Criminal Justice System is a Ministry priority.

(b) Each Agency and Secretariat Branch examine existing opportunities for community input and participation, explore new opportunities, and develop specific goals for 1977/78 and 1978/79, i.e., citizen committees in every institution by --.

(c) The Consultation Centre, through increased application of human and financial resources, step up efforts to experiment with and develop new vehicles for community participation, such as local Justice Councils in B.C., the Church Council, Criminal Justice Project, and the proposed support of community catalysts to develop local programs in Saskatchewan, as well as new methods for community participation such as Formal Diversion programs, 'Operation Identification' projects, and innovative uses of volunteers.

(d) On a regular basis, compile and distribute widely within the Ministry (perhaps through co-operation between the Research and the Communication Divisions)

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experience gained through experimentation locally (including problems identified) by Regional Consultants, Regional Agency Offices, and the Research Division.

(e) Examine the feasibility of establishing a Ministry Advisory Committee along the lines of the British Advisory Committee on Penal Reform; MACTO in Ontario, etc.

(f) Establish a process for monitoring progress towards specific goals by Agencies and Secretariat Divisions. The simplest might be to leave this task to the working group of the Ministry Workshop.

One major drawback to this strategy lies in point (a). If the rationale and ultimate extent of community involvement, the checks and safeguards needed, and the problems to be faced, are not defined for each Ministry program and priority area first, all this will likely have to be faced over and over again at the local level in individual programs and projects often in a crisis atmosphere. As indicated earlier, the motivations for encouraging involvement and for becoming involved may be quite different but may not become apparent until an Advisory Board questions the meaning of 'advisory' and the battle for control, information or finances develops. Should private industry eventually take over the management of community institutions? How far can citizens become involved in law enforcement before lynch mobs develop? Who should control community work order programs?

On a broader level, the endorsement by the Ministry of the present trend without giving direction to it and without considering the implications, which include the very role of government, would perhaps postpone materialization of many issues and problems. But if the present trend is as pervasive as it seems, it may be a costly delay.

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announcement then let them come

It is therefore recommended that part (a) in the above suggested strategy be replaced by the following steps.

Alternative No. 2

1. As a first step, the Ministry designate a person or committee (within the Policy Planning and Program Evaluation Branch) to bring together the considerable amount of material available on citizen involvement for the purpose of developing a recommendation for a general principle which may be adopted as the Ministry position. Such a principle may go as far as saying that there is an inherent value in community involvement to the degree local communities are willing or capable of participating. Or it may indicate a much more limited legitimization. The important issue is that implications flowing from the statement are considered.

   In compiling the suggested material, the Task Force on the Role of the Private Sector would undoubtedly be a major contributor. Many papers already developed within the Ministry contain relevant information as do the Law Reform Commission papers and various policy papers by other levels of government.

Private Sector Public involvement

2. That a person or committee be designated to examine each Ministry program and priority area with a view to define the potential extent, problems, checks and safeguards, etc., for community involvement. As each definition is completed, and before it is considered for adoption as a Ministry policy, a process of consultation should be developed involving both local communities and relevant program managers.

   An example of the suggested definition of community involvement in a specific priority area can be found in the evolving Ministry

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position on Formal Criminal Justice Diversion. It addresses such questions as to the extent to which community involvement is desirable, under what conditions it should take place, the guidelines which can be used, and the safeguards necessary.

3. Once a definition is adopted as Ministry policy, the suggested steps under Alternative 1 could then be followed.

RESOURCES REQUIRED

There are few programs and priority areas in which the Ministry of Solicitor General is not already applying manpower and financial resources to encourage greater community involvement either directly as a major support strategy (i.e., Diversion, preventive policing, community resource centres), or indirectly as a consequence of other strategies.

Consequently, resource requirements for each program and priority area can initially be determined arbitrarily by allocating additional resources to areas where an accelerated program is desired (i.e., experimentation with juvenile Diversion programs).

To determine required resources on a Ministry-wide, planned basis, it would be necessary to await the goal-setting process for each program as suggested in the strategy outlined above. The only initial resources required for this process is the necessary manpower allocations. This will involve:

1. For development of a recommendation for a general principle which may be adopted as the Ministry position, a relatively short (perhaps three months) full-time assignment of a staff member in the PP&PE Branch should suffice.

..

2. For development of proposals regarding definitions and guidelines within individual programs and priority areas it may be advisable to assign this task to different committees. There should only be minimal or no new resource needs involved in such a strategy.

. . . . . .

September 15, 1976.

Issues #7

FEDERAL/PROVINCIAL JOINT PLANNING

OF CORRECTIONAL INSTITUTIONS

MINISTRY OF SOLICITOR GENERAL

SEPTEMBER 1976

FEDERAL/PROVINCIAL JOINT PLANNING

OF CORRECTIONAL INSTITUTIONS

BACKGROUND

The federal and provincial governments both operate correctional systems. These correctional systems are separate and except for recent inmate exchange agreements, they have traditionally operated in parallel. Whether or not an inmate is a federal or provincial responsibility is dependent solely upon length of sentence: those inmates having sentences longer than two years are classified as federal inmates, while those with sentences of less than two years are a provincial responsibility.

The agreement for the exchange of inmates between prison systems was completed in 1973. This agreement provides more flexibility in planning correctional needs, but is based upon operating costs alone. A receiving system must not include in its charges to the sending system any capital costs relating to land, buildings, physical plant, equipment or furnishings.

Some of the smaller provinces, having limited resources to fund correctional institutions, have requested federal aid in their new construction programs. The federal government has been approached by Newfoundland, Prince Edward Island, New Brunswick and Manitoba in this regard. In order to study this issue, a committee was formed within the federal Ministry of Solicitor General. A study has been carried out to identify and evaluate alternatives for federal-provincial cost sharing in the specific cases of Newfoundland and Prince Edward Island. This study was primarily for the purpose of evaluating the economic aspects of joint planning, and in this sense the scope of the study was somewhat limited.

The objectives of this study were:

> *"To examine the existence of cost savings associated with joint institutions and to*

investigate ways in which these savings can be fairly allocated between the federal and provincial governments."

Based on the objective outlined above, it was decided to investigate the following:

a) The existence of cost savings in joint planning of correctional institutions. This was attempted at a conceptual level by assuming a behaviour of the various cost elements and by providing theoretical arguments for the existence of savings under joint planning.

b) The amount of these savings. Through an empirical investigation, using an investment planning model developed during the study, estimates of the amount of savings were developed.

c) The possible formulae for sharing the cost savings.

RESULTS OF THE STUDY

During the study an investment planning model was developed to evaluate cost sharing alternatives. Through the use of a computer program, the model was exercised for a number of different construction scenarios for the particular cases of Newfoundland and Prince Edward Island. The construction scenarios included cases where the federal government and the provinces planned alone to meet their needs, and cases where the provinces and the federal government planned together and constructed joint institutions. By comparing the total costs incurred when the federal and provincial governments plan jointly, it was possible to derive an estimate of cost savings which might result from joint planning. Some sensitivity analysis was performed to determine how these savings behaved when inmate population growth rate, institution size and discount rate were varied.

In one alternative, separate planning results in a federal expenditure of $7,630,000 and a provincial expenditure of $7,750,000, for a total expenditure of $15,380,000. Joint planning over the same period, to supply the same capacity, results in total costs of $14,130,000 to both levels of government. The capital cost savings from joint planning therefore amount to $1,250,000. In addition, this particular scenario resulted in an operating cost saving of $750,000. Total cost savings therefore were $2,000,000. These estimates of cost savings are considered to be conservative. As a result of these savings, the federal government could negotiate to pay up to 50% of the capital costs for 40% of the beds in a joint institution in Newfoundland and up to 69% of the capital costs for 60% of the beds for a joint institution in P.E.I. without exceeding the costs it would incur in acquiring the same institutional space alone.

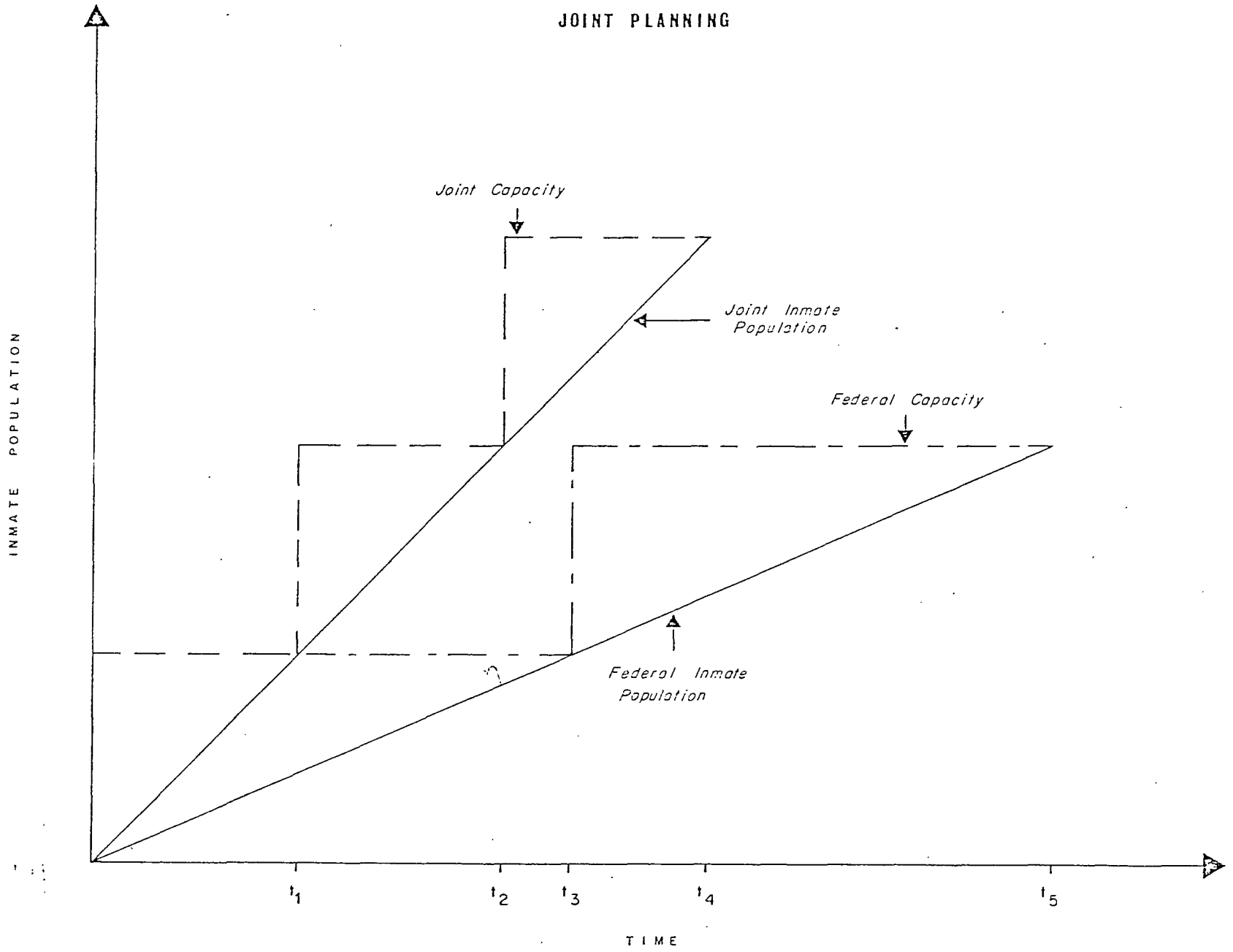
The major conclusion of the study was:

> *Joint planning results in higher utilization of correctional institutions which in turn allows deferment of capital expenditure resulting in real cost savings to the two levels of government.*

This can be illustrated by considering the investment planning problem related to correctional institutions. Consider first the case where federal and provincial governments plan alone in order to meet required cell capacity. Figure 1 provides a simplified illustration of the factors determining the timing of their investment in facilities. The case of planning alone is depicted from the standpoint of the federal inmate population on the lower part of Figure 1. This forecast inmate population is shown to increase over time at a constant rate. Existing cell capacity at the beginning of the planning period is plotted on the vertical axis. Excess cell capacity that exists at the beginning of the

Figure 1

TIMING OF INVESTMENT – SEPARATE AND JOINT PLANNING



planning period is shown to decrease over time until at time t_3 investment in additional capacity is required in order to meet the growing inmate population. (In reality, this investment might be made earlier than t_3, since planning is usually based on a level of utilization less than 100% and since there is a construction delay in bringing new facilities into operation.) The addition of the new facility shows up as a vertical shift in available cell capacity at time t_3. Assuming the current federal design of medium-security institutions, the shift would represent an addition of 180 cells. A similar planning cycle is followed separately by the provincial governments.

Consider next the case where federal and provincial governments plan jointly in order to meet their required cell capacities. Figure 1 also illustrates the profile of investments in facilities in this situation of joint planning and compares it with the previous situation. The existing bed capacity and the size of new institutions are the same as in the case of separate planning, but the higher combined inmate population growth rate gives rise to a requirement for new capacity earlier, at time t_1. However, since there now exists the option of more than one government sharing the space provided in a new institution, each government is able to increase its capacity in smaller steps.

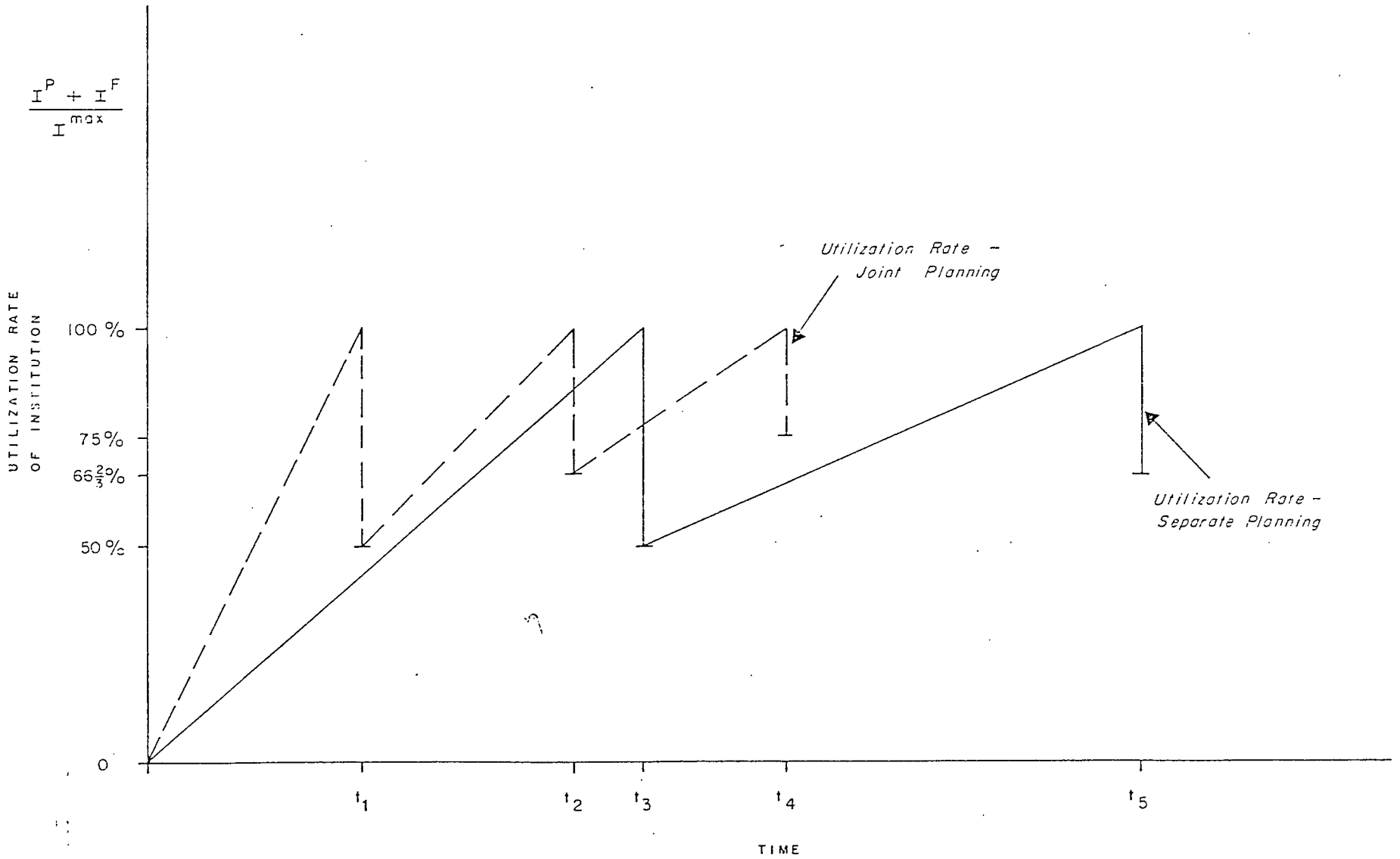
Figure 2 shows the effect of joint planning on the rate of utilization* of facilities. The figure applies equally to the federal and provincial governments.

The continuous line in Figure 2 plots the rate of utilization for the separate institutions of Figure 1. The large vertical shift in available capacity at t_3 Figure 1, results from the addition of a large separately-planned facility, implying a sharp decrease in the rate of utilization of such facilities as shown in Figure 2. Similar decreases

* The rate of utilization is defined as the number of inmates divided by the available cell capacity.

Figure 2

UTILIZATION RATE OF INSTITUTIONS



in the rate of utilization occur each time after t_3 that a separate facility is added. In general, each of the vertical shifts in capacity shown in Figure 1 show up in Figure 2 as corresponding decreases in the rate of utilization of facilities for both cases of joint and separate planning. However, because the inmate population growth rate is greater under joint planning, the average under-utilization in this case is less than that of the case of separate planning, for similar time periods.

The dotted line in Figure 2 plots the rate of utilization for joint planning whereas the solid line plots the rate of utilization for separate facilities. It is clear that there is a higher average rate of utilization in the case of joint planning since the dotted line generally lies above the solid line.

LIMITATIONS OF THE STUDY

As was noted earlier, the scope of this study was limited to an evaluation of the economic aspects of joint planning. No examination was made of the social, ownership, managerial or other non-economic aspects. In addition, no consideration has been given to the jurisdictional implications of the shared federal-provincial building program. "Joint Institutions" would probably require that federal inmates fall into provincial responsibility or vice versa, thus resulting either in a federal withdrawal from or increased federal responsibility for corrections in the provinces.

TREASURY BOARD APPROVAL

Upon completion of the study, the Ministry submitted in April 1976, a proposal to Treasury Board. In the submission the Ministry sought the approval of the Treasury Board to enter into negotiations with Newfoundland

regarding sharing the construction of a correctional institution. These negotiations would then form the basis for an examination of the joint funding of these institutions.

In June 1976 the Treasury Board approved the request of the Ministry and agreed with the need for further study into the implications of cost sharing:

> *The Ministry should examine the effects of shared facilities, the arrangements for exchanging the inmates and the payment of capital contributions, as well as the possible savings for the two levels of government. It would also be possible to study at the same time the problems that a program of joint planning and utilization would impose on operations, and how to resolve these problems.*

Treasury Board requested that upon completion of this work, the Ministry submit a proposal on joint planning for Cabinet approval.

ALTERNATIVE STRATEGIES

There are two alternative strategies which could be adopted by the Ministry.

Alternative 1

The Ministry could proceed with one of the following without first conducting any further study into the implications, both economic and non-economic (such as social, jurisdictional and managerial) of joint planning:

(a) reject the concept of joint planning and continue with the current procedure of separate planning by the federal and provincial governments;

or

(b) adopt cost sharing in the building program.

Alternative 2

The Ministry could proceed with the following two-part approach:

(a) establish the needs of both levels of government in Newfoundland and P.E.I., update the information captured by K.L. McReynolds Limited in 1974 and prepare a comprehensive building program for any proposed institution.

(b) study the problem of joint planning in a wider context with the following objectives:

(i) to determine with the provinces of Newfoundland and Prince Edward Island the implications of joint planning of correctional institutions, the advantages, the disadvantages, and the constraints.

(ii) to examine the potential savings to both levels of government.

(iii) to examine the implications of capital contributions.

(iv) to examine the social, managerial, ownership and other implications which arise in the consideration of joint planning and to recommend the manner in which these might be overcome.

(v) to study the requirement for data to examine the problem of joint planning.

RESEARCH DIVISION

REPORT ON

HIGH PRIORITY ISSUES

PRIORITY ISSUE # 7

JOINT PLANNING & FUNDING OF CORRECTIONAL INSTITUTIONS

Research Division contact -

Hugh Haley

September 1976

JOINT PLANNING AND FUNDING OF CORRECTIONAL INSTITUTIONS

Projects Contracted For

Title of Project

"Spatial Assessment of Correctional Facilities"

Description

To evaluate the Manitoba Youth Centre, a-cording to specifications defined in the architectural design of the institution as to its flexibility, facilitation of staff/residents interactions and general atmosphere. Within the institution, it is expected that the research will provide a methodology conducting similar research within the Penitentiary's proposed new institutions and that it will provide some insights as to the staff/resident interactions.

Duration

10/3/76 - 30/5/77

Cost

$27,138

Person(s) or Organization(s) Responsible

K.L. McReynolds, Toronto, Ontario

JOINT PLANNING AND FUNDING OF CORRECTIONAL INSTITUTIONS

Projects Contracted For

Title of P roject

"Evaluation of Mission B.C."

Description

Person(s) or Organization(s) Responsible

Dr. E. Fattah, Simon Fraser University

Duration

Cost

ISSUE #8

CRIME PREVENTION

Consultation Centre
Ministry of the Solicitor General
September 1976

CRIME PREVENTION

BACKGROUND

1. The Ministry of the Solicitor General was created in 1966 on the basis that it was a rational response to the growing need in Canada to provide at the Federal level 'a national focal point for crime prevention, corrections, criminal rehabilitation and national security'.

2. At various points over the intervening years, non-governmental consulting firms have reviewed the policies and priorities of the Ministry and have recommended the creation of specific crime prevention policies. (Notable among these is the Canada Consulting Group, 1971.)

3. During the 1970s, the major emphasis of the Ministry on crime prevention has been in the policing activities of the RCMP. Recently, substantial programs in Operations Identification and Specialized Services for Youth have been developed through the RCMP. In 1975/76, the Research Branch of the Secretariat undertook research in the area of Environmental Design as a Crime Prevention Strategy, and results can be expected from this activity in 1977/78. The Consultation Centre has implemented community development strategies in several communities and has assisted police departments in the development of Preventive Policing projects.

4. Essentially the Ministry's crime prevention activity has been confined to policing where it is planned and rationalized, and to the Secretariat where, (except for the Co-ordinating Committee on Preventive Policing established by the Peace and Security Program) crime prevention activity has been on an ad hoc basis generally in response to the interests and biases of particular individuals or in reaction to popular and high profile activities in other areas.

5. This latter tendency to develop programs more on instinct than on rational and pragmatic consideration of implications and alternatives, has led to the Criminal Justice System

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accepting a broader responsibility for the prevention of crime than it can realistically maintain. This fact in itself has led to the substantial erosion of public confidence in the credibility of the Canadian Criminal Justice System.

6. It is becoming increasingly urgent that the Canadian Criminal Justice System, and particularly the Ministry of the Solicitor General, delineate what it accepts as its responsibility for preventing and controlling crime. Federal leadership is required to encourage other major components of the Canadian Criminal Justice System to articulate and meet their own responsibilities for crime prevention. The Ministry can play a significant leadership role in developing and shaping new efforts to assist communities in the prevention and control of crime in Canada.

7. To this end, the Ministry Workshop of June 1976 identified Crime Prevention as an issue requiring goal-setting and strategy development for fiscal year 1978/79.

8. The requirements of this task therefore are:

   (a) to identify, define and rationalize those responsibilities for crime prevention that rest with the CCJS generally and MSG specifically;
   (b) to begin to provide leadership to the CCJS in promoting and engaging in appropriate strategies (policies and programs) designed to prevent crime.

TERMS OF REFERENCE

The Workshop directed that strategies be developed to achieve the following goals:

1. To define and rationalize those aspects of crime prevention that can legitimately be considered the concern of the Canadian Criminal Justice System.

2. To define those aspects of crime prevention which the Ministry accepts as its responsibility, and to articulate Ministry policy respecting these responsibilities.

3. To develop jointly with other Federal Departments and Provincial Governments co-ordinated strategies for meeting the Ministry's responsibilities for crime prevention and for assisting other departments and jurisdictions in identifying and discharging their own responsibilities.

4. To develop specific strategies for raising consciousness of community responsibility and of fundamental means of preventing, reducing and controlling crime at the community level.

STRATEGIES

Option 1

Continue all current MSG activities designed to prevent crime. Describe and declare same as limits of MSG concern and responsibility for crime prevention.

(a) This could be accomplished in fy 76/77 by compiling and publicizing an inventory of MSG prevention programs, their rationale, and objectives.
(b) In fy 77/78 emphasis could be put on evaluating and adjusting these policies and programs.
(c) In fy 78/79 existing programs would maintain. Resource requirements would be incrementally increased based on the costs of the two previous fiscal years.
(d) This option implies the maintenance of a low profile, while accepting no major leadership responsibilities except in the existing programs of the Secretariat Steering Committee on Preventive Policing and the normal program of the RCMP.

..

Option 2

Develop a process to examine what is now considered to be the crime prevention experience of MSG Agencies and Secretariat, Provincial and Municipal Departments, and private agencies responsible for justice policies and programs. This would involve the development of a consultative review and inventory of current Federal, Provincial, Municipal and private sector policies, programs, resources, gaps in programs and policies, and emerging issues and concepts. The process would include a multi-level analysis of desirable directions and opportunities, and the appropriate sharing of responsibilities. The process would provide a framework within which to assess the total and appropriate roles of the CJS and MSG respecting crime prevention. It would also indicate the range of choices and issues to be considered by other Federal Government Departments, Provincial and Municipal Governments, and private service agencies.

RECOMMENDED STRATEGY

Option 2 is recommended because the process will capitalize on existing programs and experience of dealing directly with attempts to prevent actual occurrences of crime, and indirectly by encouraging experimentation, exercising influence, and developing knowledge.

This process should also achieve the following 'spin-off' effects:

(a) encouraging other levels of governments to assess their efforts and directions in crime prevention;

(b) participating with other levels of government for joint planning and policy development while preparing these jurisdictions for Federal initiatives;

..

(c) demonstrating that the MSG is prepared to invest whatever time and resources are required to develop the appropriate research and planning processes to cope with jurisdictional and regional realities while recognizing the complexity of the problem involved in designing crime prevention programs which are not fragmented and inconsistent in philosophy, purpose and method;

(d) permits review of the various levels of decision-making that appear to result in the CJS accepting broad responsibilities for crime prevention that may be inappropriate to the role of Criminal Justice Agencies;

(e) assess the degree of consensus for developing national, regional and local strategies of crime prevention based on expectations that are appropriate to Criminal Justice agency capabilities and objectives.

TYPES OF ACTIVITY

Fiscal Year 1976/77

Goals to be Achieved

1. Plan and initiate consultative review of existing CJS programs in crime prevention.
2. Identify major factors requiring critical analysis.
3. Develop provincial, regional and local contacts for input and analysis.

Activities

- All existing programs and activities should continue as planned.
- National Consultant on Crime Prevention would be hired in Consultation Centre.

- Compilation and assessment of MSG experience, rationale, objectives, and policies, in collaboration with agencies and Secretariat Branches.
- Initiate similar process by visiting provincial, municipal and private sector agencies and departments in collaboration with Regional Consultants and Provincial and Municipal officials.
- Visit operating prevention programs to develop network of contacts at operating levels to ensure the input of practical considerations.
- Finalize the range of factors requiring critical analysis.

Responsibility Centre:	Consultation Centre
Location:	Ottawa, Provincial capitals, and major cities across Canada.
Resources Required:	National Consultant on contract - salary approximately $28-30,000 p.a. expenses: $6-8,000 p.a.

Fiscal Year 1977/78

Goals to be Achieved

1. To define and rationalize those aspects of crime prevention that can legitimately be considered the concern of the Canadian Criminal Justice System.
2. To define those aspects of crime prevention which the Ministry accepts as its responsibility and to articulate Ministry policy respecting these responsibilities.

Activities

- Develop a report for Senior Policy Advisory Committee indicating results of critical analysis of current situation and identifying suggestions for future choices, areas of consensus and disagreement on issues, policies, programs, roles, etc.

- Proposals for the preparation of a Cabinet Document, if required.
- Begin the development of strategies for implementing preferred options together with Policy Planning and Program Evaluation Branch of Secretariat, senior officials of Ministry agencies, and implicated provinces, municipalities, and private sector agencies.
- Establish Provincial, regional, and local seminars as required to examine issues.
- Possible National Conference to discuss policies, options, implications, responsibilities, and roles.
- Critical analysis must, among other concerns to be identified at the Provincial and Municipal levels, deal with the relevance of the following:
    - o experience of RCMP and Secretariat Steering Committee on Preventive Policing
    - o role of community in Criminal Justice System / complicity of the unaware community / community confidence in the Criminal Justice System
    - o report of the Task Force on the Private Sector
    - o principles articulated in YPICL
    - o Consultation Centre's experimental projects in crime prevention
    - o Law Reform Commission's recommendations related to Family Law and Decriminalization
    - o Diversion
    - o Role of the Federal Corrections Agency
    - o Victimization studies / unresolved crimes

..

- o crime prevention through environmental design
- o recommendations of the 1975 Conference on Natives and the Criminal Justice System.

Responsibility Centre: Consultation Centre and PP&PE

Location: across Canada.

Resources Required: Mainly financial; continue contract of National Consultant; expenses may be increased to cover the needs for a series of Workshops and possible National Conference (not expected to exceed $15,000).

Fiscal Year 1978/79

Goals to be Achieved

1. To develop jointly with other Federal Departments and Provincial Governments co-ordinated strategies for meeting the Ministry's responsibilities for crime prevention and for assisting other departments and jurisdictions in identifying and discharging their own responsibilities.
2. To develop specific strategies for raising consciousness of community responsibility and of fundamental means of preventing, reducing and controlling crime at the community level.

Activities

- Federal Government and MSG declare policy choices required to define responsibilities and identify program implications.
- Allocation of responsibility for crime prevention programs.
- Structuring of Standing Ministry Committee to co-ordinate and monitor implementation of crime prevention programs and to liaise with other Federal Departments in the development of joint action plans.

- identify strategies for stimulating Provincial Governments and communities to undertake crime prevention initiatives that have proven effective.

Responsibility Centre: MSG Agencies, Secretariat and Ministry Committee.

Location: across Canada

Resources Required: to be determined by approved programs.

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September 1976

REPORT ON PRIORITY ISSUE #14

NATIVES AND THE CRIMINAL JUSTICE SYSTEM

Prepared by

C. Jefferson
National Consultant - Natives
Consultation Centre

Background

At the Ministers of Corrections meeting in December 1973, Federal and Provincial Ministers recognized the growing crisis concerning the numbers of Native people entering the prisons of Canada, particularly in the West. A decision was made to hold a conference on the subject.

In February 1975, Native people and Government delegates from across Canada assembled to tackle the problem together. Following this two day conference on Native Peoples and the Criminal Justice System, a Federal/Provincial conference of twenty-two Ministers was convened. Commitments were made concerning dozens of recommendations produced by the Conference. Attached is a list of recommendations agreed to by Ministers (see Appendix A).

A year and a half has passed since these commitments were made and it is perhaps time to take serious stock of progress made. Progress in this area can be measured in two ways: degree of fulfilment of Ministerial commitments, and the reduction of the flow of Native people into Canadian prisons.

From all indications, the number of Natives incarcerated is continuing to enlarge. In the West, women's provincial prisons are made up of 60% - 98% Native. Male Natives still comprise 40 - 80% of men's provincial prison population. The Alberta Native Courtworker's Association recently estimated that well over 50% of juveniles appearing in Alberta courts are Natives. Federal Penitentiaries still house disproportionate numbers of Native people, notably in Stoney Mountain, Prince Albert, and British Columbia Penitentiaries.

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The Ministry of the Solicitor General has moderately increased spending for Native programs since the Edmonton conference. However, present funds available are not able to meet demands in the Native program area. Nor has the Ministry embarked on any new major efforts to deal with Natives coming into conflict with the law.

The conference in Edmonton held in February 1975, created high expectations in the Native sector that problems identified would be acted upon. The need for new resources and strategies was recently recognized by the Ministry; Native Peoples and the Criminal Justice System were added to the Ministry priority list requiring new funds and plans.

New Resources and Strategies

1. The Canadian Penitentiary Service
   - submitted by Peter Fisher, Director, Community Relations and Special Programs, Canadian Penitentiary Service.

This Division has, for some time, now, been trying to establish Native programs as a separate funding area. Currently, Native programs form the bulk of our funded projects; however, for the most part, the programs concerned are no longer "innovative", in that several of them have been ongoing for several years, and have long since demonstrated their worth, and the overall majority of programs adhere to program principles which are now well-accepted. We are still carrying these programs because there is no other source of funding to pick them up. Regionalization and decentralization of these programs have already occurred with respect to monitoring and evaluation; however, no funds are available at the regional level, and, given the existing financial situation, this did not appear to be likely to change. Our own budget is fixed, with the result that these continuing programs use up funds which should be being utilized to develop both Native and Non-Native "innovative" programs.

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We have begun moving in the direction of identifying those funds and/or programs provided by other Federal Departments, notably Indian Affairs and Secretary of State, for federal Native inmates. We know that the amount of both is minimal, and difficult to identify. The objective is to make clear to Treasury Board that we are the only real source of funds for programs for the federal Native inmate; and that additional funds are required for both the proven, necessary programs and for exploring new areas of service delivery. Such a process of obtaining funds is laboriously slow, and without any guarantee of success.

The possibility that this Ministry might itself identify and/or generate increased funds for Native programs would greatly facilitate a resolution to this problem.

A minimal amount of funding is provided for alcohol and drug programs, probably the area of greatest need for treatment. The liaison and referral programs are well-established in some areas, but need more resources in other areas. An area that has been virtually un-tapped is the sensitization of both non-Native staff and the Native communities themselves, to the problems facing the Native offender. And in direct relation to Native inmates themselves, we have been unable to facilitate programs within the institutions due to lack of funds, e.g. Native cooperatives, pre-release and post-release employment programs, visitation programs - a unique problem, due to the distance of most reserves from the institutions, and, on a larger scale, forestry and work camps which could build on the natural skills of many Native inmates: bush-clearing, fish and game guiding, management of conservation and game areas, and so on.

A very rough, preliminary assessment of the amount of funding involved would be as follows:

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A.	Current Programs -	1976-77	346,262.30
		1977-78	387,584.30
B.	Expanded Alcohol & Drug Program	1977-78	100,000.00
C.	Expanded Liaison & Referral Program (to remote areas)	1977-78	100,000.00
D.	Sensitization Programs (including video project)	1977-78	150,000.00
E.	Institutional Programs	1977-78	100,000.00
F.	Forestry and Work Camps	1977-78	300,000.00
	TOTAL	1977-78	1,137,584.30

2. The National Parole Service

The following is a summary of NPS requirements for additional resources to provide a more adequate service to native offenders:

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Prairie Region

A regional coordinator of native programs at WP4 level is required to provide liaison with all government departments and native associations and to develop and coordinate programs in the three provinces. This position is particularly required in the Prairie Region because the Native fact is very significant and alive in their midst.

Once a regional coordinator is hired, it is expected that new programs will be generated. As a start $50,000 will be required for 1977-78.

Atlantic Region

Funds are required for the following projects:

1. To hire a specialist for one year to study native needs in the region and to evaluate services to natives. Amount is $20,000

2. Special projects in institutions and native communities. Amount $50,000

3. Native community correctional worker in Halifax to liaise with CRCs, police, courts, etc. Amount is $15,000.

4. A CRC facility in Happey Valley Labrador. Amount $50,000.

5. Translation of pamphlets into innuit. Amount $10,000.

Summary of Cost for 1977-78

Prairie Region

WP4	$50,000

Atlantic Region

Specialist	$20,000
Special Projects	$50,000
Native community correctional in Halifax	$15,000
CRC facility in Labrador	$50,000
Translation of pamphlets	$10,000
	$195.000

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3. The R.C.M.P.

There is a pressing problem revolving around the lack of Native policing for non-status Indians and Metis which comprise the bulk of the Native population. This concern was expressed recently by the Native Council of Canada during a Federal Advisory Council meeting with Commissioner Nadon. They proposed that consideration be given to a policing program for Metis and non-status Indians similar to the Special Constable program.

In order to investigate the feasibility of such an approach, consultation would be required on a Federal/Provincial basis, in conjunction with the Native Council of Canada and its members. New resources would be necessary to conduct such negotiations; this would be coupled with an allotment of man/years for Native police upon completion of agreements.

4. Consultation Centre, Secretariat

The Edmonton Conference delegates recommended that the majority of funds allotted for Native programs be aimed at prevention and diversion approaches.

This year, the Ministry has spent $40,000 on Native prevention programs, through the Consultation Centre. The only Federal program preventive nature is the National Native Alcohol Abuse Program. This program is funded by the Department of Indian and Northern Affairs and Medical Services within Health and Welfare. The funds, however, are available to status Indians only, thus effectively excluding non-status Indians, Metis, and mixed Native groups; 750,000 to 800,000 people are thus excluded from the program. And yet, 99% of Native crime is alcohol related.

.../7

1. Native prevention and Diversion Program

To meet this need it is proposed that a fund be created by several Federal departments for Native crime prevention and diversion programs. The Department of Indian and Northern Affairs has already expressed an interest in such an endeavor. The program should be of a 3 to 5 year duration as an initial trial period, starting with a moderate fund and increasing as interest, and expertise develops.

1977-78

$250,000	-	Solicitor General
250,000	-	Indian and Northern Affairs
250,000	-	Health and Welfare
250,000	-	Justice
$1,000,000		TOTAL

1978-79

$500,000	-	Solicitor General
500,000	-	Indian and Northern Affairs
500,000	-	Health and Welfare
500,000	-	Justice
$2,000,000		TOTAL

For the first year of operation, the project could be administered through a coordinator, and existing regional staff in the Consultation Centre. During the first year an ongoing evaluation should be instituted through the Research Division, and should include studying the need for increased manpower in the project. Very little, if any, consciousness of crime prevention potential is evident in federal programs.

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5. Employment of Natives

The Ministry approved a policy paper in June, 1975 which included principles and an overview of a strategy to employ Native Peoples. Treasury Board is in the final stages of developing a cabinet document outlining an affirmative action program to allow positive discrimination in employing Native peoples in the Federal civil service. Each department will be required to submit a plan of action.

The Ministry, however, to date has made little progress in hiring Native peoples, with the exception of the RCMP through the Special Constable program.

The Ministry Committee on Natives and the Law will be submitting a plan in the late fall concerning a Native employment strategy to SPAC for approval. They have, however, already identified the need for a bursary system for native people similar to that recently implemented by the Ontario Department of Corrections.

1977-78 - Bursaries

$100,000 - the location of funds has yet to be determined

1978-79 -, Bursaries

$250,000

The candidates will be required to submit their applications during the spring for the fall semester of 1977. The bursary for each student is estimated at $2,500/year including tuition fees, expenses and accommodation. Upon completion of the degree, the student would not be required to work for the Solicitor General. Rather, a series of jobs identified within the Ministry would be presented to the graduate.

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The Department of Justice has a similar program for natives wishing to enter law school, which is seen to be quite successful. Manpower and Immigration does not provide funds for a course extending past 52 weeks. The Department of Indian and Northern Affairs has seriously decreased funds providing adult education for Status Indians.

This bursary program would only be a part of a larger Native employment strategy. The Committee believes that a bursary program would result in an increased number of highly qualified Native candidates for employment as parole officers, classification officers, researchers, police officers, and Parole Board Members.

Summary

The Ministry should provide a leadership role in developing effective programs to reduce incarceration and recidivism amongst Canada's Native people. Through the provision of funds and development of new strategies this role could be fulfilled.

Total estimated costs:		1977-78 f/y
1. Canadian Penitentiary Service	-	$ 1,137,584.30
2. National Parole Service	-	195,000.00
3. Royal Canadian Mounted Police	-	yet to be determined
4. Consultation Centre	-	250,000.00
5. Bursaries for Native students	-	100,000.00
Total		$ 1,682,584.30

Over one half of the Native population is under 18 years of age. If we are to make an impact on Native conflict with the law, a strong redirection is required immediately before this group of young people reach maturity.

APPENDIX A

Recommendations Agreed to
Meeting of Ministers
February 5, 1975

JOINT CONCERNS

A Institutions

1. Where incarceration for Native offenders is necessary it should be in an institution in close proximity to their normal place of residence preferably in a community based treatment facility.

2. Programs, particularly of a social, cultural or educational nature, special counselling services and community based work programs such as forestry camps must be made more available to Native inmates and must be tailored to their specific needs.

3. Recognition and support must be given by institutional administrators and Native groups alike to Native inmates' self help groups.

4. Training standards for correctional officers should be upgraded and provision made for sensatizing staff to the needs and aspirations of Native inmates.

B Policing

1. A strong and more positive relationship between Native communities and police must be encouraged.

2. Police authorities must be prepared to work with Native communities in determining policing needs and developing forces.

3. Band and special constable programs must be upgraded and extended.

4. Increased numbers of Native persons must be recruited and trained as police officers.

C Prevention

1. In policy planning and programing development emphasis should be placed upon prevention, diversion from the Criminal Justice System to community resources, the search for further alternatives to improvement and the protection of young persons.

2. A community based program of education must be developed and implemented to instruct elementary and secondary students as well as adults in the Native community in both the law and the operation in the Criminal Justice System.

3. Alcoholism is intimately associated with Native criminality: special programs must be directed at this problem at the community level.

4. All non-Native staff in the Criminal Justice System engaged in providing services to Native peoples should be required to participate in some form of orientation training designed to familiarize them with the special needs and aspirations of Native persons.

5. Native persons should be closely involved in the planning and delivery of services associated with criminal justice and Native peoples.

D Administration of Justice

1. More Native persons must be recruited and retrained for service functions throughout the Criminal Justice System.

2. Legal services available to Native persons should be improved and extended.

3. Native communities should have greater responsibility for the delivery of criminal justice services to their people.

4. Native community workers should be provided to communities to give assistance in obtaining legal aid and advice to provide legal education courses etc.

E Courts

1. Alternatives to incarceration developed in conjunction with Native communities must be an important consideration in sentencing.

2. Diversionary programs should be developed for first and minor offenders to limit further penetration into the Criminal Justice System.

3. Police officers should not function as prosecutors or court officials (subject to further discussion between federal/provincial governments).

4. The use of Native para-professionals must be encouraged throughout the Criminal Justice System.

5. Native court worker programs should be expanded.

F Probation, Parole and After Care

1. Probation, parole and aftercare supervision and assistance must be much more readily available to Native offenders and must be decentralized to the community level.

2. The goal of probation, parole and aftercare must be primarily to re-orient the Native person to the community of his choice.

3. That all new inmates must be made aware of their rights and also of the criteria for obtaining parole.

4. Better services must be provided to Native inmates in the preparation and presentation of cases for parole.

5. That bail supervision should be studied in order to reduce the number of remand in custody cases before trial.

6. Existing half-way house programs must be expanded to include community resource centres and community residential centres for the special provision being made [illegible] of Native persons.

APPENDIX B

Prepared by
C. Jefferson
National Consultant - Natives
Consultation Centre

Notable Progress

1. Involvement of the Native Sector

The Federal Advisory Council on Native Peoples and the Criminal Justice System is comprised of the six National Native Associations. Consultation by the Ministry with this group has increased noticeably this year. Mr. Allmand has met with the Council on several occasions on such issues as gun control, and Prince Albert Penitentiary. The Commissioners and the Chairman of the Parole Board and their staff have held discussions with the Council to review progress and tackle problem areas.

This consultation has created a positive attitude within the National Native groups that our Ministry is interested and committed to improving the lot of Native people within the Justice System with the aid of Native people.

2. Expansion of Programs

The RCMP is in the process of expanding the Special Constable program as recommended by the conference delegates (see Appendix C, part 1 for details).

The Native Liaison Program in Penitentiary Service has been enlarged to encompass more institutions. Two Native Alcohol Abuse programs have been funded by the CPS to service Native inmates in Kingston and Alberta. A Native cultural program will soon be underway in Kingston (see Appendix C, part 2).

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The National Parole Service has increased its Native CRC program and is utilizing Native volunteer parole officers to a greater degree. Supervision by Native organizations has been expanded (see Appendix C, part 3).

3. Ministry Committee on Natives and the Law

This Committee is now being chaired by the Consultation Centre its focus having changed from policy development, to implementation. The Committee will be presenting slightly modified terms of reference and a plan of action to SPAC in early fall (see Appendix C, part 4). This strategy should allow for a more coordinated effort in the Ministry on this issue, as well as providing a vehicle for monitoring progress.

APPENDIX C

PART 1

Prepared by
J.R. Gilholme, Insp.
Officer in Charge
Native Policing Branch

EMPLOYMENT OF NATIVE PEOPLES - R.C.M.P.

In an effort to promote better understanding and communication between its members and the Native community, the R.C.M.P. has established a Native Policing Branch at Headquarters in Ottawa with Co-ordinators in each province and territory except Ontario and Quebec. The Branch will be responsible for the examination of the whole spectrum of Native policing and its problems. Improved selection and training programs should ensure a better standard of policing is afforded Native peoples.

In cooperation with Professor Bruce Sealy of the University of Manitoba, we have developed a new training package for all recruits designed to develop awareness, sensitivity, understanding and knowledge needed to work with minority groups, with emphasis on Canada's Native peoples. This package will replace our previous sensitizing training course in October of this year.

A Special Constable Program for policing Native communities has been developed in consultation with Indian Affairs and Northern Development, the provincial governments and the R.C.M.P. This program is known as Option 3B. In this program members of the Native Community are recruited, trained and employed by the Force as Special Constables under the dire supervision of an experienced member responsible for policing

reserves. The Force has hired Native peoples under the L.E.S. classification for many years and we now employ a total of 66 for both programs with representation in each province and territory where the Force provides policing services under contract, the only exception being in the province of Nova Scotia where negotiations are underway. We anticipate conservatively that this total will increase to 100 Special Constables by 1977/78.

These Special Constables are easily identified as Native peoples as they are recruited to perform specific functions within the Force. We are unable to determine with any degree of accuracy the number of regular members of Native ancestry employed since Section 5 of the Canada Labour Code prohibits the request of information concerning one's race, religion or ethnic origin on application forms. Therefore, the total Native employment by the Force is unknown.

The Force is endeavouring to locate and hire Native people. In this respect, the Native Policing Branch is liaising with the Task Force in the Office of Native Employment. Also, all Operational Division personnel are required to attempt recruitment of Natives suitable for employment in the Force. This system provides a Canada-wide recruiting program involving considerably more members than if recruiting were left entirely to a recruiting section. It is impossible to estimate the

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total cost of this type of recruiting; however, it is proving quite effective.

We are confident that the concept of Native peoples policing Native peoples will provide the basis for an improved service by this Force.

APPENDIX C

PART 2

Prepared by
P. Fisher
Chief, Special Programs
CPS

FUNDING

Org/Activity	Year 76/77	Year 77/
Liaison		
AIMS (B.C.)	60,248.00	60,248.00
Native Counselling Services of Alberta	66,336.30	66,336.30
Natonum College, Prince Albert	13,800.00	30,000.00
Native Clan Organization	31,878.00	33,000.00
AIMS (Ontario)	16,000.00	18,000.00
Alcohol & Drugs		
AIMS (Ontario)	40,000.00	40,000.00
Nechi Institute of Alberta	75,000.00	75,000.00
Socio Cultural		
NACO	40,000.00	40,000.00
	343,262.30	362,584.30
Employment		
Study (travel)	3,000.00	-
Pilot Project (staff/travel)	-	25,000.00
	346,262.30	387,584.30

COMMUNITY RELATIONS AND SPECIAL PROGRAMS - NATIVE PROGRAMMING FOR 1976 - 77

The following is a very brief description of existing and planned native programs, services to be delivered, and cost:

1. Native Liaison Programs - these programs are standardized, in that common terms of reference are employed, a similar type of service is provided in all cases, i.e., counselling, liaison and referral services involving native inmates, administration of the respective institutions, and the native community:

a. Allied Indian and Metis Society - B.C.:

A new proposal for three workers to service the Pacific region with a total native population of approximately 162. Suggested budget - $60,248.00*

b. Native Counselling Services of Alberta - contract renewal for three liaison workers to service institutions in Alberta, with a total native inmate population of approximately 135. Suggested annual budget - $66,336.30*

c. Macdonnum College, Prince Albert - modified proposal to provide one liaison worker to service Saskatchewan Penitentiary and Annex, with suggested inmate population of 243. Suggested annual budget $15,500.00.

d. Native Clan Organization of Winnipeg - contract renewal to provide two liaison workers to service institutions in Winnipeg area, with native inmate population of 173. Suggested annual budget - $31,878.00*

e. Allied Indian Metis Society - Ontario - existing contract for one liaison worker to service institutions in Kingston area with native inmate population of 113. Annual budget - $16,000.00.

* - There is a possibility that National Parole Service will contribute toward funding of native liaison programs, corresponding to the community-based elements of the liaison programs. NPS is presently planning to contribute over $19,000.00 for a community worker in the Winnipeg area, with a resulting reduction in the cost to CPS, to the amount noted above.

Alcohol and Drug Programs

a. Allied Indian and Metis Society - Ontario - new program to service institutions in the Kingston area with an approximate native population of 113. Program would involve two field workers who will receive extensive training before commencing the program. Suggested budget, including start-up costs - $40,000.00.

b. Nechi Institute of Alberta - Nechi had received a contract for the pilot project in Alberta and Saskatchewan, with a six month budget of $58,805.00, to service major institutions in Alberta and Saskatchewan. Early reports indicate that the program was successful; a decision must now be made to replicate the previous program in the prairie region, or develop smaller, local programs with Nechi as the training base. A contract renewal with Nechi, for the development of several smaller programs, could easily cost up to $75,000.00.

3. Socio-cultural Programs

a. Native Arts Cultural Organization (through St. Lawrence College, Kingston) - modification of a program which had previously (1975) been run by St. Lawrence Coll[illegible]. This program would provide two field workers, plus [illegible] resource persons and material. Annual budget - $40,000.00.

Total Annual Budget for Native Programs - $343,262.30.

APPENDIX C

PART 3

Prepared by
L. Zeltoun
Director, Community Resources
NPS

MINISTRY OBJECTIVES