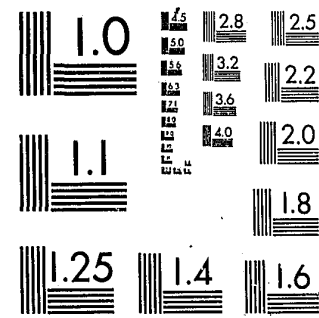


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12/01/81



THE CRIMINAL JUSTICE SYSTEM

FINLAND

Background Report No. 4

STRATEGIC PLANNING COMMITTEE

An Advisory Group to
The Correctional Service of Canada

76673



Correctional Service
Canada

Service correctionnel
Canada

AN ADVISORY GROUP TO THE CORRECTIONAL SERVICE OF CANADA

U.S. Department of Justice
National Institute of Justice

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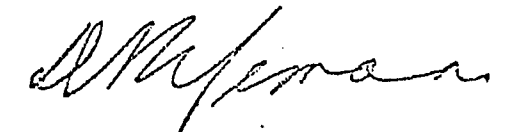
APR 3 1981

ACQUISITIONS

April 1980

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

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



D.R. Yeomans
Commissioner

MEMBERS

Dr. Jim Vantour
Chairman

Dr. Marie Andrée Bertrand

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Mr. Allen Breed

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Judge René Marin

Mr. Bill McGrath

Mr. Tony Sheridan

Mr. Syd Shoom

Research Assistant: Cathy J. Gillis

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

We are grateful to Professor Inkeri Antilla,
Director, Institute of Criminological Research,
Ministry of Justice, Finland,
and to Professor Lahti,
Professor of Criminal Law and Criminology
at the University of Helsinki
for their critical comments on this report.

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I CRIMINAL JUSTICE SYSTEM

A) Philosophy

- neo-classical ideology premise of law in the Scandinavian context (i.e. punishment is to serve as authoritative reproach), emphasis is on the symbolic value, the act of being punished, not necessarily in the enforcement of punishment (i.e. severity of sentences) as such punishment should be used sparingly;
- emphasis on general prevention through criminal law;
- justice must be uniform and predictable;
- punishment expresses public condemnation of anti-social acts;
- recognition that the criminal justice system is a limited instrument of social control;
- pragmatic approach to criminal law operation based on efficient expenditure of penal and social resources;
- recent reform proposals aim at abolition of the special legal status of young offenders.

B) Administration

- Ministry of Justice responsible for courts and correctional operations;
- centralized bureaucracy;
- Ministry of the Interior responsible for policy administration and operations.

C) Operations

- police and prosecution have limited discretionary power; waiving of measures (via police, prosecution or court similar to diversion without intervention)
- court waiving of measures a rare practice; more common at pre-trial stage;
- accused may be brought to court by individual or prosecutor, in most cases it is the prosecutor;
- a person may be detained for 3 days to 2 weeks, arrested offender must be brought before the court within eight days (one month for rural regions);
- no bail system;
- no jury system;
- emphasis on investigatory work done before trial;
- no plea bargaining;
- no pre-trial hearings;
- trial relatively informal; focus on intent and pre-meditation;
- Scandinavian cooperation in adoption of penal legislation; innovations shared;

- Scandanavian agreements regarding enforcement of sentences;
- proposals for lay judges not enacted, although rural courts utilize a lay board of 5-7 laymen, whose unanimous collective vote may overrule the judge on any matter in the case.

D) Sentencing

- principles of proportionality, equality and uniformity main aims of sentencing (i.e. punishment in proportion of damage done and dangerousness of act);
- judicial discretion regulated; specific criteria for increasing and decreasing normal sentence;
- 2 categories of offences - (1) offences subject to public prosecution (the majority located here), (2) offences initiating with the complainant (i.e. rape, minor assault, libel, etc.);
- 1975 legislation attempts to induce uniformity in sentencing;
- minimum and maximum sentences set out in criminal code; (14 days present minimum; 12 years - maximum), several sentences may be compounded up to fifteen years; except life (usually in the event of murder);
- age of criminal responsibility is fifteen;
- offenders 15 - 20 tried in adult court, (offenders under 18 tried in camera) - prosecutor may dismiss case if maximum sentence under three months imprisonment, usually given to Social Welfare Board;
- Capital Punishment totally abolished in 1972;
- non-prosecution of offences before court can be an exercise of police, prosecution or judicial discretion, where the offence is minimal and does not demand public prosecution.

E) Sanctions

i) fines

- most common sanction (particularly for drunken driving) - 270,000 imposed per year;
- day fine system;
- fines regulated according to gravity of offence and offender's financial situation;
- recent amendments increased amount of fines to serve as an alternative to imprisonment and to provide deterrent effect;
- may be in addition to a conditional imprisonment sentence, used in this instance mainly for drunken driving.

ii) conditional sentence

- used for offence where punishment is a fine or imprisonment is two years or less; prison term set;
- only juveniles (15-20 years old) are subject to supervision order; supervision for 1-3 years;
- warning type of sanction;
- wide use for young offenders, not recidivists;
- 15,000/year receive conditional imprisonment - may be combined with a fine (1976 amendment).

iii) absolute discharge

- judicial discretionary alternative;
- no sentences passed, trial seen as adequate punishment.

iv) imprisonment

- open/closed;
- traditional imprisonment (hard labour for long sentences - abolished 1972);
- 15,000/year receive this type of sentence.

v) special sentences

- preventive detention for dangerous recidivists (placed in special security units of a specified prison) - rarely used (10 as of 1979); control oriented sanction;
- juvenile offenders sent to either juvenile or adult institution, adults up to 23 years old are eligible to serve their time in juvenile prisons (Prison Board decision).

F) Trends

- depenalization of offences (i.e. direct fees for certain violations) as well as decriminalization;
- increased use of alternative sanctions to imprisonment;
- increased use in shorter prison sentences;
- rapid increase in crime rate in 1960's; 1970's experienced increase in property offences, trend levelled off in mid 70's;
- crimes of violence related to alcohol use;
- increase in "professional" crime;
- incorporation of young offender (15 and over) into the adult criminal justice system.

II CORRECTIONAL SYSTEM

A) Philosophy

- general deterrence seen as aim of imprisonment, imprisonment seen as having a symbolic value, thus short prison sentences can be substituted for long ones with no detrimental effect to general preventive philosophy;
- prison is viewed as a coercive control measure more detrimental than beneficial; treatment and social service function is left to community agencies;
- execution of sentence should facilitate re-integration;
- normal living conditions should be emphasized, individual self-esteem should be retained;
- imprisonment uniform punishment; to remove dangerous offender from society, not for rehabilitation;
- detrimental effects of imprisonments should be kept to a minimum (seen in use of open labour colonies).

B) Policy

- normalization of prison conditions;
- work is essential to prison regime;
- outside contacts maintained; seen as important for re-integration function.

C) Administration

- Prison Administration Service - responsible for prisons and aftercare, (aftercare responsibility of Criminal Welfare Association - independent unit in Prison Administration organization of volunteer agencies, subsidized by national assistance);
- PAS - responsible for juvenile and adult systems (central, provincial, reserve, youth and psychiatric prisons/labour camps);
- centralized bureaucracy;
- General Directorate - governing board of each institution, function to resolve internal problems, discipline hearings and make parole decisions. Composition - administrative institutional personnel, 1 lay member.

D) Conditions

- open and closed facilities;
- low emphasis on security;
- closed prisons generally overcrowded;
- liberal regimes, especially in open prisons;

- limited number of spaces in open prisons; two-thirds of prison population serve sentence in closed institutions;
- archaic buildings; cellular construction in closed facilities;
- 4,600 total bed capacity.

E) Operations

i) open prisons

- 800 bed capacity (goal 2,300);
- liberal regime;
- no physical security;
- reserve prisons and penal colonies classified as open;
- higher wages paid for inmate employment than closed institutions;
- usually reserved for offenders with families;
- offenders must have sentence of 2 years or less.

ii) prison colonies

- open regime for long-term offenders;
- seen as conditional release, last 6 months of sentence transferred from closed prison;
- similar to labour colony except lower wages.

iii) labour colonies

- liberal regime, for short-term offenders/first time offenders (sentences less than 2 years);
- few custodial staff;
- paid market based wages; contractual labour;
- barrack houses;
- no external (static) security;
- good order and discipline only rules enforced.

iv) work camps (temporarily not in use)

- reserved for maximum security releases, principally jobless/homeless offender;
- paid civil wages;
- liberal regime;
- maximum stay usually 3 months.

v) classification

- based on age, length of sentence;
- escape record/risk; work ability;

- sentences of less than 2 years eligible for open prisons;
- offenders under 20 sent to juvenile institutions (95% of youthful offenders serve sentence in closed facilities), usually only a minority of youthful offenders sent to prison, most are fined;
- recent legislation to restrict classification of recidivists - must have previous violent history; special security units for dangerous offenders declining in use with new restrictions (1979 - 10 classified as dangerous offenders);
- frequent visits - no set limits;
- conjugal visits if possible;
- little censorship;
- access to telephone;
- personal property retained.

vi) institutional programs

- industrial basis in open and closed institutions (metal works; pre-fab homes);
- market wages paid in open prisons;
- educational programs available - especially in the youth prison;
- pay used as motivation/incentive device (for both work/study);
- labour regulations in effect - 40 hr. work week, overtime pay; one month vacation 1 year.

vii) grievance procedure

- legal framework;
- appeals to Prison Administration; Ombudsman; civil law suit against employee - procedures rarely used.

viii) discipline measures

- warning;
- loss of privileges;
- solitary confinement up to 20 days;
- loss of served time;
- mandatory written procedure for disciplinary action.

ix) furloughs

- based on length of sentence; sentences greater than 2 months eligible, less than 2 months furloughs granted only in exceptional circumstances;
- liberal use;
- 9,985 granted in 1978 of which 95% successfully completed.

x) parole

- sentences longer than 3 months always entail conditional release under supervision;
- eligible for release at two-thirds of sentence, must serve at least 3 months;
- if offender is a first incarcerate, parole is usually granted after one-half of sentence;
- parole is usually automatic;
- parole with/without supervision;
- supervision usually by police;
- control-oriented operation;
- supervision until remainder of sentence or up to 3 years.

xi) inmate profile/rights*

F) Evaluation Research

- Research Institute of Legal Policy (Helsinki) - major government research unit in criminal justice;
- evaluative studies done on crime rates; legal policy; etc.;
- Finnish Research Study comparison of closed institutions and open labour colonies found no differences in recidivism outcome (1972).

G) Trends

- increased use of open prisons;
- high rate of imprisonment;
- hardening of the prison population, with a decrease in first-time offenders and lengthier sentences for repeaters;
- increase in the speed of recidivism;
- more industrial work in prisons;
- increased contacts with free society.

* no information

III CONCLUSION ON SYSTEM'S OPERATION

A return to the neo-classical scheme of general prevention through criminal law can be seen in the development and current state of the Finnish criminal justice system. The focus of punishment is on the offense, away from the offender. However, the emphasis is on the symbolic value of punishment and certainty in sanctions, not in the severity of punishments meted out.

Finland has the highest rate of imprisonment (103/100,000) and a more violent society in the sense of high homicide rate than evidenced in other Nordic countries. In light of this state, Finnish Penal reform focuses on the development of less restrictive prison regimes, principally open prisons, and normalization of institutions. Further there are attempts to minimize the number of prisoners via traditional and novel non-institutional sentences.

With the demise of the rehabilitation philosophy emphasis has been placed on deterrence and uniformity of sentencing.

Resource limitations plague the Finnish correctional system, and overcrowding is estimated at 50% in closed institutions, due to slow construction or conversion of open institutions.

KRIM, Finland's penal reform group, is not a significant force in Finnish Reform movement.

In essence the Finnish criminal justice system, with resource restrictions, was forced to adopt a pragmatic approach, principally reflected in a cost/benefit analysis of efficient expenditure of penal and social resources. The logical approach has humanitarian concerns built in, apparently seen in the normalization concept, with the status of inmate rights placed on a high level. Finland, perhaps more than other Scandinavian countries, attempts uniformity and equality under the law with their emphasis on consistency in sentencing policy, considering the gravity of offence and premeditation as essential elements in sentencing. Under this scheme, offenders, at least in theory, receive similar consideration for similar offences, aligning aims and philosophies of criminal law to punishment of the offender.

IV APPENDICES

A) Statistics

OFFENCES KNOWN TO THE POLICE BY GROUP OF OFFENCE IN 1970-75*

GROUP OF OFFENCE	YEAR					
	1970	1971	1972	1973	1974	1975
Manslaughter, murder, infanticide.....	64	105	126	109	105	148
Assault and batter (including brawl).....	11,230	11,858	12,527	13,183	13,680	13,138
Larcenies.....	57,510	70,366	81,048	88,399	89,442	101,079
Embezzlement.....	1,610	1,453	1,316	1,214	1,216	1,288
Robbery.....	947	1,204	1,372	1,886	1,839	1,968
Fraud.....	10,874	10,565	9,766	8,527	9,515	9,088
Forgery of documents.....	3,841	4,331	6,523	6,879	5,944	6,706
Offences against the Law on Alcoholic Beverages	9,764	11,282	10,982	15,562	19,897	24,554
Driving a motor vehicle when intoxicated etc....	9,289	10,118	11,462	13,631	16,558	17,918
Other motor vehicle traffic offences.....	179,796	151,081	168,617	204,223	241,587	261,788

* During this period there has been several amendments of penal provisions, and this has been reflected in the development of the amount of the offences.

Source: Living Conditions, 1950-1975. Statistical information on the quality of life in Finland and factors influencing it. Statistical surveys No. 58. Central Statistical Office of Finland. Helsinki, 1977, pp. 158 ff.

SENTENCED IN COURTS OF FIRST INSTANCE PER 1,000 PERSONS OVER 15 YEARS OF AGE BY OFFENCE CATEGORY
IN 1950, 1960, 1970 AND 1974

GROUP OF OFFENCE	YEAR ¹⁾			
	1950	1960	1970	1974
Offences against property.....	2.6	2.4	3.6	7.1
Violence against person.....	1.1	0.9	1.5	2.1
Sex offences.....	0.2	0.2	0.1	0.1
Other offences against the criminal law Alcoholic offences ²⁾	22.7	22.5	0.5 ²⁾	0.5 ²⁾
Traffic offences ³⁾	10.2	31.1	44.8	68.9
Other offences.....	5.9	4.5	6.3	11.6
TOTAL.....	45.5	64.1	59.7	94.8

1) The 1950, 1960 and 1970 data cover lower courts of first instances only. The figures for 1974 also include the Courts of Appeal when they serve as a court of first instance, as well as military courts.

2) Includes drunkenness in public, illegal distillation of alcohol and the illegal sale of alcohol. The Decriminalization of Drunkenness Act and the Pardoning of Persons Sentenced for Drunkenness Act came into force on January 1, 1969.

3) Includes drunken driving.

Source: Living Conditions, 1950-1975. Statistical information on the quality of life in Finland and factors influencing it. Statistical surveys No. 58. Central Statistical Office of Finland. Helsinki, 1977, pp. 158 ff.

ACCUSED IN COURTS OF FIRST INSTANCE PER 1,000 OF SAME AGE GROUP BY GROUP OF MAIN OFFENCE IN 1973

GROUP OF MAIN OFFENCE	AGE GROUP, YEARS							
	15-17	18-20	21-24	25-29	30-39	40-49	50-59	60-
Offences against property...	18.0	16.7	13.0	8.3	5.4	4.6	2.5	0.7
Violence against person.....	3.3	6.1	5.0	2.9	1.6	1.1	0.5	0.2
Traffic offences ¹⁾	78.0	107.0	102.3	80.2	64.6	41.0	21.8	6.2
All offences.....	121.0	164.4	145.6	106.3	82.2	55.0	29.5	8.5

1) Includes drunken driving.

PERCENTAGE OF 1974 INMATE POPULATION; BY OFFENCE

Property offences	50.8 %
Crimes of violence	11.5 %
Driving w. impaired	23.4 %
Other	<u>14.3 %</u>
	100.0 %

COMPARISON OF THE PERCENTAGES OF INMATES
IN CLOSED (NOT REPRESENTED HEREIN) AND OPEN PRISONS

Year	Percentages	
	Open	Labor Colonies
1965	14.2	26.8
1966	25.2	31.8
1967	11.1	30.8
1968	11.0	22.8
1969	10.3	21.4
1970	10.8	23.9

SENTENCE LENGTH (1973)

	<3 mos.	3-6 mos.	6 mos. - 1 yr.	1-2 yrs.	2-4 yrs.	>4 yrs.
Men	3401	1933	1803	1023	228	66
Women	41	29	45	26	5	4
Total	3442	1962	1848	1049	233	70

Source: New England Journal on Prison Law, Volume 3:2, 1977.

PRISON POPULATION (1979)

	<u>MEN</u>	<u>WOMEN</u>	<u>TOTAL</u>
Prisoners serving a sentence	2870	77	2947
Prisoners serving a conversion sentence for unpaid fines	148	6	154
Prisoners classified as "dangerous recidivists"	6	-	6
Juvenile prisoners	76	3	79
Remanded for trial	585	36	621
Under suspicion of vagrancy	3	2	5
Total	3688	124	3812

Source: The Prison Administration Department

TIME SERVED OF 1976 RELEASES (1979)

<u>Length of Stay</u>	<u>MEN</u>	<u>WOMEN</u>	<u>TOTAL</u>	
			<u>NUMBER</u>	<u>%</u>
Up to 3 months	4,875	47	4,922	49
Over 3 - up to 6 months	2,372	54	2,426	24
Over 6 months - up to 1 year	1,703	59	1,762	17
Over 1 year - up to 2 years	793	19	812	8
Over 2 years - up to 4 years	189	5	194	2
Over 4 years	30	-	30	0
Total	9,962	184	10,146	100

Source: The Prison Administration Department

General Statistics

Population: 4.7 million

Sanctions

- fine dispositions average about 270,000/year, this comprises 90% of criminal sanctions.
- Rate of Imprisonment is 103/100,000.
- average sentence length - 5.1 months.

Recidivism

- follow-up over a ten year time period indicates a low recidivism rate of 30%.

Source: New England Journal on Prison Law, Volume
3:2, 1977.

B) External Factors

Political

- constitutional republic;
- 59% of population - urban; high population mobility into urban centers;
- geographically isolated country.

Economic

- industrial based economy;
- welfare state, with a good standard of living;
- currently suffering a recession (1979);
- unemployment - 8%;
- three-quarters of industry privately owned.

Social

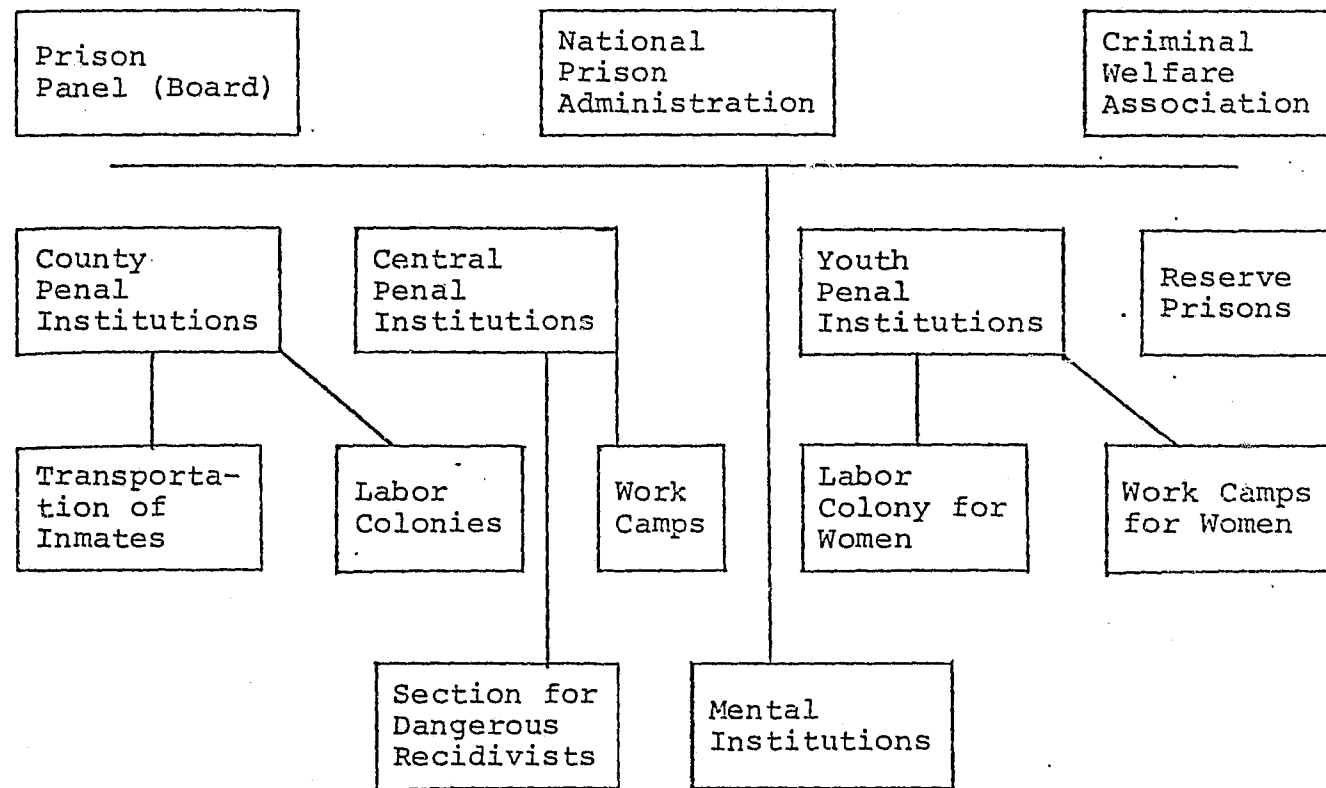
- expensive and extensive social welfare system;
- high rate of alcoholism, violent crime and suicide;
- limited social reform movements.

Cultural/Historical

- religiously and ethnically homogeneous people;
- heavy influence from Sweden;
- relatively violent society in comparison to other Nordic countries.

C) Organizational Chart

ORGANIZATION OF THE FINNISH PENAL SYSTEM



Source: New England Journal on Prison Law, Volume 3:2, 1977.

D) Reform Proposals

Reform Proposals

Ministry of Justice Proposals

1. Reduction of minimum imprisonment sentence from 14 days to 6 days.
2. Reduction of the statutory maximum from 12 years to 10 years.
3. Increase release on parole.
4. All prisoners be mandatorily released at one-half of their sentence.
5. Only return offenders to prison for new offences (i.e. not for technical violations).
6. Introduce stiffer sentences for professional crime.
7. All offenders over 15 years old be treated as adults, that is, receive applicable punitive sanctions.
8. Increase use of conditional sentences.
9. All indeterminate sanctions (principally, preventive detention) be abolished.

E) Update

Updates

New system of sanctions proposed by the Penal Law Committee (1977) calls for a simple and clear system of sanctions. New alternatives to imprisonment are emphasized, such as mandatory reporting and punitive warnings (as a replacement for absolute discharge).

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