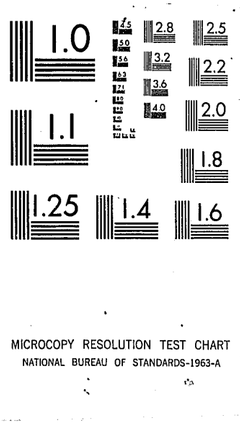

THE CRIMINAL JUSTICE SYSTEM

SWEDEN

Background Report No. 1

STRATEGIC PLANNING COMMITTEE

An Advisory Group to
The Correctional Service of Canada

Correctional Service Canada
Service correctionnel Canada

AN ADVISORY GROUP TO THE CORRECTIONAL SERVICE OF CANADA

THE CRIMINAL JUSTICE SYSTEM

SWEDEN

Background Report No. 1

Strategic Planning Committee

January, 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

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

We are grateful to Professor H. Thornsted, Dean of Law, University of Stockholm, Sweden, for his critical comments on this report.

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I CRIMINAL JUSTICE SYSTEM

A) Philosophy

- based on social welfare ideology;
- emphasis on homogeneity of society and collective/ community responsibility;
- egalitarian principle of law applied;
- criminality viewed as social problem.

B) Administration

- Ministry of Justice responsible for all criminal justice operations (police; courts; corrections);
- centralized bureaucracy with each sub-system autonomous (police; courts; corrections - both institutional and non-institutional care);
- no juvenile justice system per se. Child Welfare Board has jurisdiction over youths under 15.

C) Operations

- wide discretionary powers given to police, prosecution and judiciary;
- no bail system - majority of accused released on own recognizance;
- plea bargaining non-existent;
- accused has the right to self representation at trial;
- legal aid available regardless of income bracket;
- jury system non-existent;
- technical rules of evidence absent;
- insanity defence repealed. The question of insanity is relevant to disposition;
- majority of pleas registered are guilty;
- high conviction rate;
- trial process is rapid.

D) Sentencing

- penal code implies the purpose of criminal sanctions as the maintainance of general obedience to the law. i.e. general prevention and specific deterrence; courts consider value of sanction to individual need for social adjustment;
- code gives descriptions of offences and the possible punishment;
- adherence to the principle of the least deprivation of liberty possible;

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- wide discretionary powers given to the courts in the application of sanctions;
- sentences are generally lenient and uniform; the exception is for crimes of violence where severe sanctions are seen as necessary to assure peace in society and attain a general deterrent measure.

E) Sanctions

- Penal code divides punishment into general punishments (i.e. fines/imprisonment) and conditional sentences, probation and special sanctions;
- Capital punishment abolished in 1922;
- fifteen is the age of criminal responsibility, offenders aged 18-20 are referred to welfare agencies where possible; recent trend to refer to adult court;
- offenders under the age of 21 cannot be given life sentences.

i) fines

- most widely used sanction;
- failute to pay results in term of imprisonment;

a) DAY FINE - most common;
- may be imposed by prosecutors;
- amount paid is based on gravity of offence and offender's ability to pay (upper limit set in law).

b) "MONETARY" FINES - specified amount for certain offences.

ii) conditional sentences

- applicable for offences in lieu of imprisonment;
- utilized for 'assessed' non-recidivists;
- may be combined with a fine;
- essentially a warning, no supervision ordered;
- offenders receive no other sanction if they remain crime-free for two years;
- 1980 amendment - may be combined with short-term imprisonment (1-3 months).

iii) probation

- applicable for offences which are punishable by imprisonment;
- maximum supervision time is 3 years; usually discontinued after 2 years;

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- few conditions stipulated in orders;
- may be combined with a fine or institutional care condition;
- high utilization of volunteer workers who are paid a nominal fee of $24/month per client;
- treatment-intervention oriented sanction.

iv) imprisonment

- sentences to imprisonment are definite terms ranging from one month to ten years (the exceptions being consecutive sentences for multiple offences and life terms);
- prison sanction seen as last resort, reserved for serious/violent crimes (i.e. murder; drunk driving) and for persistent offenders;
- life sentences must be converted into definite sentences before parole can be considered. Life sentences rare; usually converted to 15 years, of which 7 must be served before parole.*

v) internment

- utilized for serious recedivists and violent offenders;
- the equivalent of the indeterminate sentence; minimum custody period from 1-12 years;
- applicable for offences punishable by imprisonment;
- extra-institutional care and sentence in effect until offenders remains crime free for three consecutive years;
- government preparing a bill for abolition of this sanction (1980).

vi) youth prison

- this sanction to be abolished in 1980;
- was reserved for 18-20 year old offenders.

vii) commitment for specialized care

- the court may, if appropriate, commit the offender to the care of a specialized agency outside the correctional system;
- 4 types of care - child welfare, temperance care, open and closed psychiatric care.

* Government (Executive) alters terms by way of pardon.

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F) Trends

- rising crime rate;
- increased number of property offenders; violent crime constant over last 2 decades;
- move to shorter sentences;
- increased use of fines as sanction in wide variety of crimes;
- decreased use of imprisonment;
- criminalization of economic offences with increase in penalties, specifically criminalization of tax evasion
- drug misuse recognized as an increasing social/penal problem.

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II CORRECTIONAL SYSTEM

A) Philosophy

- primary aim of imprisonment is the deprivation of liberty; re-integration is viewed as a related function;
- place the offender in the least restrictive environment possible;
- the offender is in need of practical assistance (via social services) not therapeutic treatment;
- imprisonment should be as humane as possible;
- minimal intervention principle - non-institutional care is seen as the natural form of corrections;
- offender remains a citizen of the state regardless of incarceration, therefore is eligible for welfare/social assistance and state opportunities as offered to other Swedish citizens;
- inmates are treated with consideration of their human dignity.

B) Policy

- presently Sweden is undertaking a long term program of correctional reform;
- institutional and non-institutional care integration;
- emphasis on maintenance and re-enforcement of community contacts, primarily due to brevity of sentence;
- several institutions maintain specialized aims (i.e. Gavle - therapeutic; Studiegarden - educative; Tillberga - prison factory; Gruvberget - pre-release adjustment/mid-sentence 'vacation');
- maximum utilization of extra-institutional social/educative services;
- institutional placement guidelines;

1) sentence of 1 year or less placed in local prisons; 1 year or more placed in national prisons;

2) placement of offender in or near home community where possible;

3) placement of offenders in open institution if possible;

4) separation of youthful and adult offenders;

5) sentences of two years or more usually sent to closed institutions.

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C) Administration

- National Correction Administration - central authority responsible for all aspects of correctional care (i.e. probation, prisons, remand centers, parole);
- System administered by Regions (14), known as Correctional Care Regions incorporating 46 non-institutional organizations and Remand centers. National prisons under the authority of the NCA. (see Appendix I);
- all governors (directors) are professional social workers or have a legal background.

D) Conditions

- prisons designated as either closed or open - infers security mechanisms (i.e. open prisons - inmates free to come and go at will);
- security relatively lax in comparison to other Western Nations;
- majority of prisons rurally situated;
- prisons divided on national/local basis;
- 19 remand prisons; 72 prisons (52 local/20 national);
- remand prisons, 1,100 bed capacity - presently under review;
- placement considerations - age
  - sentence length
  - security requirement
  - special program needs;
- conditions vary among institutions;
- generally open institutions hold a small inmate population (20-60 bed capacity; larger closed institution house 200-240 inmates), the 240 capacity is considered unsatisfactory; ideal institution is 40 inmates: 30 staff;
- high staff to inmate ratio (2:1 up to 3:1);
- privacy respected; individual rooms; little or no mail censorship;
- little prison violence;
- essentially institutions provide a humane, personal and manageable environment;
- solitary confinement limited to a maximum of seven days, discipline measures usually take the form of delaying release date;
- "prison democracy" (i.e. inmate participation on institutional councils) operative in some institutions;
- one women's prison, with a capacity for 100 inmates, coed institutions also utilized.

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E) Operations

i) local prisons

- utilized for inmates sentenced to less than one year;
- majority are open prisons (32 - open; 20 - closed);
- used to attain 'local placement' principle and gradual release function;
- inmates may leave prison for work or study;
- utilization of community resources when possible (i.e. educative, medical facilities, etc.).

ii) national prisons

- utilized for offenders sentenced to one year or more, and for dangerous offenders;
- majority are closed prisons (15 - closed; 5 - open);
- approximately 2,800 bed capacity;
- more restrictions on inmates than in local prisons;
- moratorium on further construction of national prisons;
- greater demand on institutional resources with a heavier concentration of professional staff, than in local prisons;
- 4 super maximum security units used for dangerous inmates, drug dealers and escape-prone inmates.

iii) operations - general

- mandatory employment of all inmates in either meaningful work or study, however there is a shortage of opportunities;
- inmates paid for work/study; some work wages are on union-based rates;
- conjugal visiting system operative;
- frequent use of weekend 'short furlough' used for home/employment contacts;
- 'Release furloughs' allow early release before parole;
- furlough eligibility - local prisons after serving one month; national prisons after serving 6 months, inmates sentenced to 2 years or more are eligible for 'vacation' at Gruvberget after successfully completing a furlough;
- roughly 42,000 furloughs granted a year; abuse rate roughly 10% (roughly 4,500 fail to return each year).

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iv) inmate profile

- majority of inmates between 25 - 30;
- inmates usually from the lower economic strata;
- inmate population is ethnically homogeneous; 20% of inmate population are foreigners, usually convicted of drug offences;
- few violent inmates;
- 60-70% of murderers sent to mental hospitals.

v) inmate rights

- inmates retain all their civil rights upon incarceration - right to vote; freedom of speech, freedom of association; right to receive securities; full access to the ombudsman; right to stand for elected office;
- citizenship retained by all inmates.

vi) parole

- eligibility date at two-thirds of sentences; inmates must serve at least 3 months (majority of inmates released at two-thirds of sentence);
- Local Probation/Parole Boards responsible for sentences of one year or less; National Board decides on sentences of greater than one year;
- supervision time is specified from 4 months to remainder of sentence, whichever is greater;
- factors influencing parole - suitability for supervision; family ties; job situation. Behaviour in prison not a consideration in parole decision.

F) Evaluation Research

- there is little correctional research or systematic evaluation of measures/methods in Swedish corrections;
- there is some evidence that humane environment reduces the psychological destructive effects of prisons;
- institutional experiments aim at the reduction of alienation and aid in re-integration; not necessarily reduction in recidivism;
- non-institutional experiments suggest little difference between probation and imprisonment recidivism rates;
- some research suggest negative labelling effect of imprisonment operative in affluent Swedish society;
- recidivism rates high; particularly for youth prisons, and internees, around 80%.

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G) Trends

- expansion of probation supervision as alternative to incarceration;
- increased unrest in prisons, specifically national closed institutions (grievances concern visiting privileges, furlough restriction and censorship);
- increased use of furloughs;
- moratorium on large institutional construction.

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III CONCLUSION ON SYSTEM'S OPERATION

The Swedish Penal system is said to be a reflection of Swedish society; both in regards to values and philosophy. Political, cultural, socio-economic and historical factors contribute to what many cite as a more humane, more lenient, tolerant system then exists in many western nations. These influences combined with a realistic approach of what prisons can and cannot do has placed Sweden's penal system as a world model for correctional innovation and reform. However, Sweden did not achieve this position without political and public pressure nor is the system necessarily a model of perfection.

Concern over the efficiency of the rehabilitative model of corrections, as well as its abuse and misuse, led to an abandonment of this model as a base for corrections. A move to a more realistic view of corrections (i.e. punishment/general deterrant aims) developed along-side strikes, and a prison reform (KRUM) movement calling for the abolition of prisons or at least re-organization of the system. After a series of government inquiries in the 1960's which increased public awareness and sympathy for KRUM's objective, the Reform Act of 1974 was implemented, which re-organized the system and incorporated many of the present programs and operations as well as effecting overall policy. These changes produced an enlightened system within a generally supportive community, especially in regards to social and educative agencies. Specific operational problems still remain in long waiting lists for popular programs, staff relocation with a prison shut down scheme and conflicting aims of specialized institutions (treatment versus control) which tax the staff.

The gray areas of the Swedish penal system and the areas that must be viewed within the cultural climate relate to offender rights; closed prisons, crimes punishable by imprisonment and cost factors. The focus of those who applaud the enlightened and benevolent Swedish system is the open prison; little is said of the closed lock-up facilities. Questions regarding treatment of 'dangerous' inmates arise and answers are rarely found in the literature. The use of indefinite sentences and psychiatric facilities suggests that the Swedes have their problem inmates and rely on practices found in other western nations. The whole area of offender rights, those accused and committed, is rather vague. The question of the due process of law can be raised in regards to the powers of the police and prosecution to impose sanctions without judicial referral. However, the necessary

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agreement of the offender regarding the decision to and amount of fine does not realistically impede on due process. Some observers contend that the high number of guilty pleas and rapid trials raise doubts about fair trial procedure. However rapid trials can be attributed to the simplicity of procedures, and not necessarily to evasion of due process. Further, a guilty plea does not mean a special trial procedure. The Swedish courts must ascertain whether the defendent really has committed the crime of which he is accused, regardless of the plea entered. Unique to Sweden, and many Nordic countries, is the imprisonment for offences that Canadian society would view as not necessarily calling for incarceration; especially in regards to drunk driving and many white collar offences. Since there is so little violent crime (reasons for which are not really known) one would expect that using prisons as the last resort for threats to the public order would produce a low incarceration rate. Granted Sweden has one of the lowest prison population in the world, only 12% are for crimes of violence, a large number (40%) are drunk drivers. This serves to point out the social and cultural variations of society's reaction to crime and its gravity. A further, perhaps major, consideration of the Swedish system lies in the cost factor. It is an expensive system to operate. The Swedes readily admit this and again this assertation is a general reflection of Swedish society and the value it places on collective responsibility in assisting and respecting all citizens, free or otherwise.

If many of the Swedish correctional operations are geographically bound, there are a few general insights which can be considered in the development of Canadian penal policy. The Swedes have found that regardless of the goals and structure of the penal system, the negative influences of prisons (i.e. criminalization; alienation; stigmalization) outweigh the positive gains of programs. Further that humane conditions possibly reduce psychological destructive effects of prison but there are limits to the extent that improved prison conditions can create positive attitudes. Finally, the Swedes have a very humane and lenient system, in all aspects, in comparison to most western nations; yet their crime rate remains unaffected and recidivism high. This leads the Swedes and most observers to question the relation and proper role of prison in regards to reducing crime.

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IV APPENDICES

A) Statistics

Figures refer to the number of newcomers	1869 M	1869 F*	1894 M	1894 F	1919 M	1919 F	1944 M	1944 F	1969 M	1969 F
Institutions:										
Penal servitude	2,400	479	1,530	242	3,000	271	2,313	106	-	-
Imprisonment	571	142	855	81	1,046	45	2,328	48	10,014	273
Imprisonment for non payment of fines	7,724	992	14,580	1,079	2,851	153	306	7	204	1
Youth imprisonment	-	-	-	-	-	-	223	39	263	3
Internment	-	-	-	-	-	-	76	2	108	2
Probation	-	-	-	-	-	-	-	-	639	49
Life prisoners remaining	812	131	162	36	40	4	11	-	19	-
Supervision:										
Conditional release	-	-	-	-	95	14	205	23	3,273	
Non-institutional care:										
(a) youth imprisonment	-	-	-	-	-	-	308	56	402	9
(b) internment	-	-	-	-	-	-	49	-	-	2
Conditional sentence (with supervision)	-	-	-	-	1,099	231	2,862	739	-	-
Probation	-	-	-	-	-	-	-	-	ca8,500	

* M - MALE F - FEMALE

Source: Criminal Law Education and Research Center "Response to Crime" Monograph #6, 1972

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DISPOSITION

	1974	1975	1976
FINE			
Number Sentenced	-	296,900	437,511
CONDITIONAL SENTENCE			
Number Sentenced	-	4,400	5,231
Combined with Fine	-	-	2,551
PROBATION			
Number Sentenced	6,900	5,500	6,300
Combined with Fine	-	370	1,453
Average Number under Sentence	-	-	13,158
IMPRISONMENT			
Number Sentenced	9,263	11,113	11,643
Daily Average	2,808	2,615	2,806
INTERNMENT			
Number Sentenced	250	-	220
Re-Admission	213	-	187
Daily Average	-	307	269
YOUTH PRISON			
Number Sentenced	187	-	150
Re-Admission	89	-	60
Daily Average	-	238	210
COMMITTMENT FOR SPECIAL CARE			
Child Welfare	-	740	692
Temperance	-	280	289
Open Psychiatric	-	370	325
Closed Psychiatric	-	15	14

Sources: Corrections in Sweden, Information Unit, December 1977
Statiscal Report, 1974.

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	1869	1894	1919	1944	1969	1970
Number of convicted individuals						
Crimes against the Penal Codes of 1864 and 1962 (except for drunkenness, etc.)						
(A) Against the persons	-	-	2,542	4,506	6,629	7,016
(B) Against property	13,244	13,350	13,302	26,929	37,780	40,347
(C) Against the state	-	-	6,548	17,265	26,141	27,795
(D) Against the public	-	-	4,212	5,168	5,010	5,536
Drunkeness and disorderly conduct	8,215	26,559	41,881	43,701	76,034	65,338
Violations of Freedom of the Press Act	8	14	12	31	23	17
Violation of other statutes	14,189	21,034	47,596	125,283	157,987	150,338

Source: Criminal Law Education and Research Center "Response to Crime" Monograph Series #6, 1972.

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OFFENSE TYPE (% of prison population)

	1974	1976
Drunk Driving	37	32
Unlawful Appropriation	13	17
Crimes of Violence	13	12
Draft Evasion	7	9
Drug Offences	3	3
Other	27	27
TOTAL	100	100

SENTENCE LENGTH OF INCARCERATED PERSONS (%)

	1975	1976
≤ 4 Months	76	75
4 Months < 1 Year	15	20
> 1 Year	5	9

Sources: Corrections Magazine, 3/2, June 1977
Corrections in Sweden, Information Unit, Dec. 1977
Statistical Report, 1974.

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RECIDIVISM DURING A PERIOD OF THREE YEARS FOR PERSONS SENTENCED IN 1968 TO SERIOUS PENALTIES

Sentenced 1968 to	First-time offenders		With previous convictions		All sentenced	
	N	% recidivists	N	% recidivists	N	% recidivists
Conditional sentence	2,703	9	579	13	3,282	10
Probation	2,883	32	3,949	49	6,832	42
Imprisonment 1-4 months	2,499	13	3,463	46	5,962	32
Imprisonment ≥ 5 months	210	24	2,316	69	2,526	65
Youth imprisonment	12	50	295	83	307	82
Internment imprisonment	-	-	614	79	614	79
Care in accordance with the Child Welfare Act	478	47	316	72	794	57
Other serious sentences	156	13	554	40	710	34
All serious sentences	8,941	20	12,086	53	21,027	39

Source: The National Swedish Council for Crime Prevention, Report #1, April 1975
S-10360 Stockholm

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General Statistics

Population: 8.3 million

Costs (1977)

- operating costs (NCA) - $160 million;
- cost/inmate - daily $75, yearly $27,000.

Staff (1975)

- 5,100 (NCA) - 4,150 institutional (7,000 in 1979);
- 10,000 correctional volunteers.

Prison Statistics

- 4,000 inmates as of August 1979 (including remand);
- average sentence length is three months;
- 90% of prison population serve less than one year;
- 10% of prison population escape yearly;
- average 70-80 murders/year;
- as of August, 1979 there were 862 inmates serving over two years (590 in 1976);
- 2,500 escapes in 1977;
- incarceration rate - 34/100,000.

Recidivism

- first offenders have a lower recidivism rate than previously sentenced offenders for all sanctions;
- recidivism rate for previously incarcerated offenders is roughly 70%, 16% for 1st offenders serving 1-4 months.

SOURCES: Corrections Magazine, 3/2, June 1977
Corrections in Sweden, Information Unit, Dec. 1977
Statistical Report, 1974

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B) External Factors

Political

- Social Democracy for past two generations has provided a fairly stable political base conducive to penal reform and innovation;
- constitutional guarantees regarding individual freedoms and liberties;
- Ombudsman, as the public's watchdog, has wide powers and a high profile.
- lobby/reform group (KRUM).

Economic

- Sweden is a prosperous affluent society, with little severe economic desparity;
- Welfare state with a high standard of living and with dependent people assisted by the state, via an expensive social welfare system;
- no poverty as known in other western nations.

Social

- the idea of society's responsible for and to its members permeates Swedish society;
- social injustice is not an inevitable consequence of economic prosperity;
- free educational system, up through university level, available to all citizens;
- authorities contend social and family conditions affect crime more so than economic status.

Cultural/Historical

- Sweden has a history of non-violent culture; gun legislation/ownership strict;
- strong respect for individual rights;
- strong Temperance Movement; seen in the severe sentences for drunk drivers;
- the psychological impact of World War II and the atrocities seen in Nazi operations is one reason for the humane and lenient use of imprisonment.

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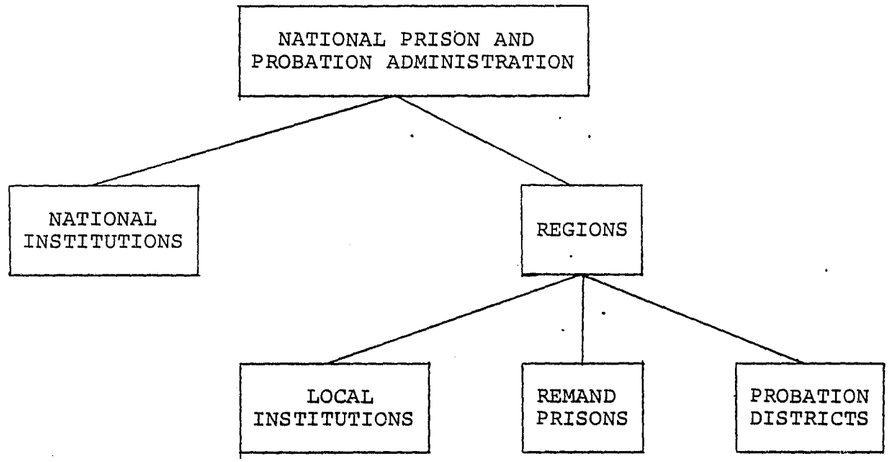
C) Organizational Charts

ORGANISATION OF THE NATIONAL PRISON AND PROBATION ADMINISTRATION



Source: Corrections in Sweden, Information Unit, December 1977.

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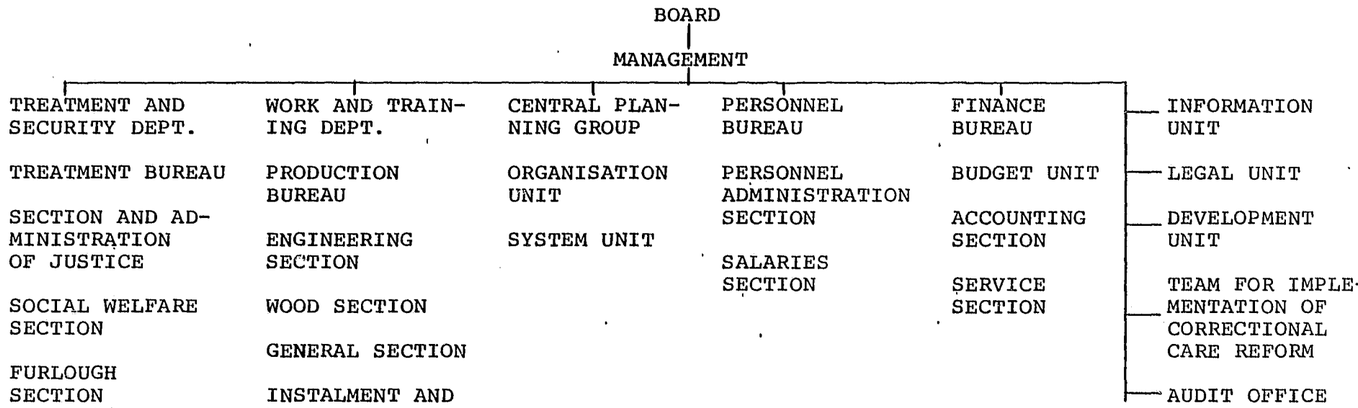
ORGANISATION OF THE NATIONAL PRISON AND PROBATION ADMINISTRATION



Source: Corrections in Sweden, Information Unit, December 1977.

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D) Reform Proposals

Reform Proposals

- Two committees appointed by the Minister of Justice to:

  1. Search for viable alternatives to imprisonment;

  2. Examine non-institutional sanctions re: expanded/improved usage.

Government/Interest Groups Proposals

1. Abolish youth imprisonment (effective January 1980).
2. Abolish internment sanction.
3. Lower minimum term of imprisonment.
4. Shorter prison sentences in general.
5. Revise to abolish parole.
6. Search for alternative sanctions - i.e. semi-detention (night/weekend prison).
7. Increase use of probation/conditional sentences.

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E) Update

Government Committees set up to examine/review following areas:

- remand in custody practices (1977)
- sexual offences (1977)
- mentally abnormal offenders (1977)
- prison organizational arrangements (1977)
- non-custodial sanctions (1976/77)
- the drug problem (1978)
- new penal philosophy (1978)

Tillberga

- the factory prison, has a 120 bed capacity (open institution). Open market wages are paid, the equivalent of $550 (U.S.)/month.
  Evaluation indicates that inmates released from Tillberga are financially stable, further the factory prison is capable of producing a productive work environment.
  Current discussion of introducing the concept of factory prison to closed institutions.

Increase in long-term inmates

- steady, from 600 in 1976 to 860 in 1978 (30% increase.

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