

BRIEF on the WOMAN OFFENDER

*This is an official statement of policy
of the Canadian Corrections Association*

Introduction Although comparisons are often offensive, it will be necessary in this brief to compare women offenders to the male offenders in order to describe them as a group. It is recognized that there is danger these comparisons will introduce some distortion into the picture. Finding that women offenders are different in their criminality from the male offenders might too easily suggest that they are not normal, they are inferior, they are subject to discrimination, they are less immoral, etc. The purpose of the brief is to present some facts with which to support recommendations.

In the circumstances, the starting point should probably be the acceptance of the finding by many criminologists that the sex of the person is the single most important characteristic which distinguishes between criminals and non-criminals. In all countries, chances of being a criminal are considerably greater if a person is male; in some countries, the ratio of male offenders to female offenders is more than 2,500 to 1¹. In Canada, the ratio of male to female offenders convicted of indictable offences was approximately 14 to 1 for the years 1951 to 1961² and 7 to 1 in 1966. In the case of offences punishable on summary conviction, there were nearly 4,000,000 such convictions recorded in 1966. In this category, the ratio of male to female offenders is 13.7 to 1³.

Haslam⁴ has noted that, in comparison to male criminals, female offenders are sentenced to Canadian penal institutions for fewer kinds of offences. The 1966 statistics concerning convictions for offences against property without violence illustrate to some extent this difference between the male and the female offender. Forty-eight per cent of the convictions for indictable offences committed by males involved offences against property without violence while, in this same category, fall seventy-nine per cent of the convictions of the female offenders. Of the many other indictable offences in the Criminal Code, it may be significant to note that, in 1966, only four were committed by women more often than men: abortion or attempting abortion, neglect in child birth and concealing body of a child, infanticide, and keeping a bawdy-house⁵.

Terms of Reference The above information, although incomplete, is meant as an introduction to the three items to be delineated in this brief. It is proposed

1. to examine and make recommendations concerning some types of criminal behaviour most commonly associated with women offenders in order to determine whether they should still be considered criminal matters or whether other

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legislative provisions, such as health legislation, would adequately describe the behaviour, establish statutory controls, and, at the same time, improve chances of rehabilitation and avoid the stigma of a criminal record. This involves offences under the Criminal Code such as Vagrancy (A & C) and attempted suicide, breaches of provincial, federal⁶ and territorial liquor laws such as public intoxication and similar abuse of chemical substances, such as narcotics and barbiturates.

2. to examine what special problems women offenders encounter at various stages of the law enforcement, judicial and correctional processes and make recommendations thereon. This would include: arrest, search, interrogation, transportation, bail, trial, sentencing, probation and restitution, prison, parole and after-care.
3. to examine the matter of detention facilities for women and the inmate population of some of these facilities with a view to making recommendations thereon.

Part I

Offences Usually Committed by Women

1. Vagrancy "A"

(Punishable on Summary Conviction)

Section 164 of the Criminal Code reads as follows:

Every one commits vagrancy who (a) not having any apparent means of support is found wandering abroad or trespassing and does not, when required, justify his presence in the place where he is found;

This section is usually directed at the homeless and transient populations found wandering about. Both males and females can be prosecuted under this section. It is relatively easy for homeless men to find shelter in hostels practically anywhere in the country but such services for women are rare. Consequently, women and young girls are at a disadvantage. Since they usually cannot be referred to such shelters "for their own protection", they are arrested and charged as vagrants. In the process they acquire a criminal record. The Elizabeth Fry Society of Toronto has considered this problem in the Metropolitan Toronto area and concludes that sending vagrants to jail generally worsens the conditions of the persons charged and very often is the first step into a life of crime⁷. Further evidence of the disadvantage to which the female offenders are exposed is provided in Table 1. The figures show that forty-two per cent of the males convicted of Vagrancy "A" went to jail in 1966 while forty-eight per cent of the females convicted for the same offence were

jailed. In total convictions, the male/female ratio is 8.0 to 1 but in the jailed offenders population the male/female ratio increases to 7.2 to 1.

TABLE 1
Convictions and Sentences for Vagrancy "A"
in Canada in 1966

| Total Convictions | | Type of Sentence | | | | | | Jail | |
|-------------------|-----|--------------------|----|----------------|----|-------------------|----|-------|-----|
| | | Suspended Sentence | | | | | | | |
| | | No. of Fines | | With Probation | | Without Probation | | | |
| M | F | M | F | M | F | M | F | M | F |
| 3,601 | 449 | 955 | 89 | 101 | 56 | 1,077 | 93 | 1,528 | 211 |

Source: Special tabulation done by Dominion Bureau of Statistics from *Statistics of Criminal and Other Offences 1966*.

Vagrancy legislation to control poor migrant populations is a hold-over from the Poor Laws of England and a XIXth century approach to poverty. It has been called "the un-constitutional law yet lingering on the Statute Book" and is most unworthy of a country with resources to handle its problems in other ways. The experience of law enforcement officers and administrators seems to be that this section of the Criminal Code is used, in some areas, as a "catch-all" when no more specific offence can be used. This seems to be inappropriate use of the law conducive to bad enforcement practices.

Recommendation 1 *That Section 164 (a) of the Criminal Code be repealed.*

The Vagrancy "A" provision of the Criminal Code seems to be an inappropriate and singularly harsh way of dealing with vagrants. Our society, which is becoming increasingly urbanized, will have to provide a great many more services that are required for people who are not able to cope with urban life's complexities. However, the following recommendation is not meant to suggest that vagrants should be compelled to accept shelter or assistance.

Recommendation 2 *That provincial and municipal social welfare programs provide finances, personnel and other needed resources for hostels and other care for those persons now being handled as vagrants under the Criminal Code.*

2. Vagrancy "C"

(Punishable on Summary Conviction)

Section 164 (c) of the Criminal Code reads as follows:

Every one commits vagrancy who . . . (c) being a common prostitute or night walker is found in a public place and does not, when required, give a good account of herself;

This section of the Code is generally the one used to charge prostitutes who ply their trade on the street. It is assumed, wrongfully, that women are the only ones who solicit on the street or are unable to give a good account of themselves in these circumstances. The manner in which the statute is worded suggests that prostituting one's self is not prohibited but, once the fact is established that one is a prostitute, to be found in a public place and to be unable to give a good account of one's self is prohibited and punishable. It would require a long and detailed review of how the law has been applied by the police and the courts to know what the words mean in practice. This would appear to be beyond the scope of this study. Nevertheless, a brief review of what some authors and the writers of an official report have said about prostitution would help situate the problem. This will not be a study of case law.

Kinsey⁸ and other writers have described the phenomenon and arrived at the conclusion that prostitution, no matter what repressive measures are taken, has not changed much over the centuries. Limoges⁹ arrives at the same conclusions in her study of Montreal prostitution and it is implied in the Wolfenden Report.

In short, therefore, we feel that the possible consequences of clearing the streets are less harmful than the constant public parading of the prostitute's wares. We do not feel that it is "mere hypocrisy" to say this. It would be if we were avowedly trying to extinguish prostitution, for in that case the less open carrying on of the trade would be as objectionable as the more overt. But having taken into account the dangers which we have proposed, we think that they would be less injurious to the community in general than the present state of affairs¹⁰.

Since centuries of various legal measures and their enforcement by the authorities has merely changed the mode of operation of the prostitutes and not the extent of prostitution, it would appear beyond the scope of this brief to attempt any more than defining the aspect of prostitution which is the most socially unacceptable. Some would likely want to stamp out every manifestation of prostitution and imprison every prostitute in the land but this has been tried in other countries and at other times, and it has not changed the situation substantially. Others take what they call a more practical attitude that prostitution should be state regulated and medically controlled. This, also, has been found wanting as a means of living with the situation because it creates a steady demand for recruits which is easily exploited by racketeers.

In the circumstances, the two above-mentioned positions have been rejected as impractical. It is also felt that *being* a prostitute found in a public place is also to be rejected as a punishable offence but rather that the *soliciting in a public place for the purpose of prostitution* is a more reasonable manner of describing the behaviour which is socially unacceptable. To some extent, this is the position taken by the Street Offences

Committee of the British Parliament responsible for the present British statutes on this matter and by the Wolfenden Committee. The following quotation from the Wolfenden Report summarizes the position taken in the recommendations on prostitution made in this brief:

We are concerned not with prostitution itself but with the manner in which the activities of prostitutes and those associated with them offend against public order and decency, expose the ordinary citizen to what is offensive or injurious, or involve the exploitation of others¹¹.

There are persons who believe that the present Vagrancy "C" provision should be maintained since it is "useful" to law enforcement agencies as a "connection" with the underworld. The Wolfenden Committee objected to this argument by stating it had no evidence that more than a small proportion of the prostitutes give information about underworld activities and it did not accept the proposition that legislation in one field should be determined "by its consequences in another"¹². Another argument put forward for retaining the Vagrancy "C" provision concerns the prostitute's need for protection. As it is now written, the law is apparently easily used by the prostitute as a means of getting into jail to, amongst other reasons, avoid a beating by her "pimp" or even other members of the crime fraternity. The answer to the argument seems to be the same as in the previous one: It is an offence to threaten, to assault or to live off the avails of prostitution and lack of enforcement in this area should not determine what should be legislated in another area.

It seems unlikely that any suggestion could remove the apparent unequal situation which occurs in relation to street walkers as compared to call-girls and other types of prostitutes who do not go down to the street for their trade, and, consequently, are infrequently arrested.

It is common knowledge that many males have turned to prostituting themselves. In most Canadian cities there are clubs and "hang outs" patronized by such homosexuals and many police authorities are aware of male prostitutes plying their trade in public places. Although their activities may be just as objectionable to the honest citizen who uses the city streets to go about his business, the Criminal Code does not provide authority to arrest a male prostitute who may be soliciting. The police have to charge such an offender with another offence such as loitering, creating a disturbance or some other type of behaviour prohibited by local ordinances. It is not reasonable to consider prostitution to be an activity limited to females only, and it should not be assumed that male prostitution is non-existent. Otherwise there are two kinds of justice: one for males and one for females.

Recommendation 3 *That the present Criminal Code provisions regarding prostitution in Section 164 (c) be amended to prohibit only "a male or female from soliciting a male or female in a public place for purposes of prostitution".*

The matter of penalties imposed for breaches of the law should be thoroughly re-examined. The imposition of progressively larger fines is inappropriate and looks very much like taxing a prostitute's earnings. It has never been demonstrated that such a system has ever "rehabilitated" the offender. Prison alone also appears an inadequate measure to cope with this problem.

Recommendation 4 *That research into the best methods of dealing with the prostitute be undertaken and that statutory provisions for rehabilitation be formulated accordingly.*

3. *Bawdy-House, Found-in or Inmate*
(Punishable on Summary Conviction)
Procuring, Living off the Avails of Prostitution and Keeping a Bawdy-House
(Indictable Offences)

It is suggested that the prostitution exploiters (keepers, procurers and pimps) continue to be subject to legal sanctions but that the prostitute not be automatically charged and convicted. Private sexual intercourse between two consenting adults should not be subject to prosecution. Only in cases where the prostitute offends as defined in recommendation 3 should there be prosecution.

Recommendation 5 *That the Criminal Code be amended to define all prostitution related offences in terms of both male and female prostitution.*

4. *Attempted Suicide*
(Punishable on Summary Conviction)

In 1964, there were approximately 300 people charged and convicted of attempted suicide in Canada. Women accounted for thirty-seven per cent of these offenders although they represent less than ten per cent of all the offenders. In 1966, 275 men and 139 women were convicted for this offence, of which fifty-nine males and fifteen females were sent to jail¹³. Women appear to be overly represented if the matter is considered just another criminal matter. Perhaps on the other hand, they are not overly represented if attempting suicide is considered to be a mental health problem. Whether males or females are involved, an attempted suicide appears to be a manifestation of serious emotional or mental disturbance which is properly the responsibility of health authorities. This view is now quite generally held and should be incorporated in the legislation. Jail punishment seems singularly inappropriate and appears to have very little deterrent effect.

Recommendation 6 a) *That Section 213 of the Criminal Code be repealed.*
b) *That provision be made in health legislation for holding and treating persons who have attempted to commit suicide.*

Although attempting to commit suicide would cease to be an offence under the Criminal Code if the above recommendation were incorporated into legislation, counselling or aiding someone to commit suicide should continue to be a punishable offence. Also, legal authority to "arrest" or "pick up" a person who is about to commit suicide is provided in Section 435 of the Criminal Code and there appears to be no reason to remove that provision in order to incorporate it in health legislation. In fact, it would be advantageous to retain this provision. What may appear to be attempted suicide may, in fact, be attempted murder. There should be an obligation on the part of police to investigate and, when it is established to be a matter of attempted suicide, it should be closed as far as the police are concerned. There should be no stigma of a criminal record attached to the person involved.

What should the police do with one who attempts to commit suicide? Since legislation, if enacted as recommended, would define it as a health problem, it would be up to the health authorities to establish whatever facilities are needed in hospitals, clinics and treatment centres.

- Recommendation 7**
- a) *That legal authority to take into custody a person about to commit suicide remain in the Criminal Code.*
 - b) *That the police be required to investigate and establish that no collateral criminal offence was involved.*
 - c) *That the suicidal person be taken to health authorities as soon as may be possible and that these authorities be obligated to receive such a person for assessment and such disposition as may be determined.*

5. Intoxication and Drug Abuse

It is generally agreed that addiction to a narcotic or to alcohol should not constitute a crime. It is becoming increasingly accepted that the mere fact one is found under the influence of alcohol or of a narcotic should not be punishable under criminal or quasi-criminal laws. On the other hand, committing offences while under the influence of drugs or of alcohol is not considered excusable and it is not suggested that this be changed. What needs changing is the manner in which persons found intoxicated in public places are treated. They now must be processed through the court and correctional services although such treatment does not reflect informed attitudes now prevalent about addiction and intoxication. In recent years, these matters have increasingly become accepted as medical and social problems best handled under public health auspices.

There is no need to examine how addiction or intoxication are defined in the statutes, nor is it necessary to know what chemical substances offer "comfort" to their users. This brief does not propose to describe how the "drunk tanks" of our police lock-ups and jails are emptied every

Monday or other day which happens to follow a "feast" day. Reports produced by alcoholism and drug addiction researchers already describe what is the "revolving door" and "drug withdrawal" and this need not be documented here. The hopelessness of the jail treatment of alcoholism is recorded in many research reports and, some day, the same may be asserted as vigorously about drug addiction.

A. Intoxication

(Punishable on Summary Conviction)

What is the situation of the female "offender" in matters of intoxication? For Canada, in 1965, there were somewhat more than 143,000 convictions for intoxication, of which 13,417 were convictions for females. In that year, approximately ten per cent of the convictions involved a jail sentence¹⁴. However, it is not the number of persons involved which matters but it seems more important to consider what society does to prevent or treat.

- Recommendation 8**
- a) *That governmental authorities develop a health and social welfare policy which would remove handling of persons found apparently intoxicated from penal settings and assign the responsibility of diagnosis and treatment to health and welfare administrations.*
 - b) *That governmental authorities ensure such new programs and facilities for alcoholics include female alcoholics.*
 - c) *That, for alcoholics being detained in penal settings for criminal offences, treatment programs for alcoholism be established in cooperation with health and welfare authorities where they do not exist at present.*

The problem of legal authority to detain for the purpose of treatment is a difficult one to solve. No doubt, a period of trial and error will be needed to help establish what is the best way to retain patients for treatment. Perhaps legislation similar to that provided for treatment of venereal diseases would be required.

B. Drug Abuse

The drug abuse problem is so complex that it is not possible to adequately describe it in the short statement which is proposed in this brief. The statement will only attempt to

- 1) show to what extent women offenders in Canada are involved, as compared to men
- 2) mention some treatment methods now used, and
- 3) make recommendations.

(1) The number of women convicted of breaches of federal statutes relating to drugs is greater in proportion to the number they represent in

the general category of offenders convicted of indictable offences. They usually are represented on a ratio of approximately 8 to 1 in the category of indictable offences, but in the drug offences category the ratio was approximately 2 to 1 in 1965 and 3 to 1 in 1966¹⁵.

The statistics established from the data submitted by approximately ninety-two per cent of the police forces in Canada show there is a constant increase in the number of reported breaches of the Narcotic Control Act for the last three years. Breaches of the Food and Drug Act provisions concerning controlled drugs have also increased steadily during this period of time. In Table 2, the 1967 figures show that the reported offences under the Narcotic Control Act have doubled since 1966 and, according to departmental officials, the increase is due mainly to the rapidly spreading use of marijuana.

TABLE 2
Number of Drug Offences Reported* by Police
in Canada for 1965, 1966 and 1967

| Year | Number of Reported Offences | |
|------|-----------------------------|-------------------|
| | Narcotic Control Act | Food and Drug Act |
| 1965 | 655 | 113 |
| 1966 | 1,184 | 241 |
| 1967 | 2,585 | 281 |

* These figures do not indicate the number of persons charged or convicted but merely the offences reported to police and recorded as prescribed by the Dominion Bureau of Statistics and the Canadian Association of Chiefs of Police.

Source: Canada. *Crime Statistics (Police) 1965, 1966 and 1967*. Ottawa: Queen's Printer.

Since women offenders constitute from one-quarter to one-third of the offenders in the drug offences category, there is no doubt that any changes made regarding law enforcement, prosecution and treatment will affect an increasingly large number.

(2) Treatment for drug abuse is also a many-sided problem which cannot possibly be covered adequately in a short statement. It is significant to note that the United States President's Commission on Law Enforcement and Administration of Justice¹⁶, which reviewed the literature and the reports on this subject, arrived at the conclusion that the public's concern about drug abusers committing offences while "under the influence", though very real, is unfounded. The popular belief that a drug "crazed" individual will commit aggressive crimes whilst "hopped up" is erroneous. On the other hand, it is recognized that addicts commit some types of crimes to raise money. In the case of women, shoplifting and prostitution are the main sources. They also write cheques or pass counterfeit money. Confirmed drug abusers become so dependent on chemical comforts, whether they are drugs or alcohol, that they cannot

function physically or mentally. Such serious dysfunctioning needs treatment. It should be noted that drug abusers are not all the same since they use different types of drugs or else they have come by their habit in different ways. Doctors or nurses, for instance, usually become abusers through their professional activities and, in many instances, never come to the attention of the police. Others become abusers from exposure to the criminal environment. Consequently, treatment requirements may not be the same for all types of abusers nor would treatment likely be the same for the beginner as opposed to the user of longstanding.

The low success rate of drug abuse treatment is well known and disappointing, but it should be recognized that, generally speaking, treatment programs and legislation were not developed with the built-in expectation of abusers relapsing in the course of treatment. Most treatment programs for mental illness and alcoholism are based on the possibility of a relapse and the recognition that readjustment of the individual treatment program may then be necessary. Unfortunately, narcotic control laws have not allowed, and still do not allow, continuing treatment after a relapse since the possession of drugs by a user is subject to further prosecution as a *new offence*.

Types of treatment programs for drug abuse can be discussed under the four following headings:

Prison. It is generally recognized that prison does not effect any basic change in the abuser's need for drugs except to delay until his release his return to using them. Myrl Alexander, Director of the United States Bureau of Prisons, has publicly indicated on several occasions that mere detention has no positive effect on abusers.

Prison-Hospital. The Lexington and Fort Worth Hospitals in the United States have been running treatment programs for narcotic addicts only and they report a disappointingly low success rate.

Synanon - Daytop Lodge. These organizations are based on the group therapy principle, similar in some respects to Alcoholics Anonymous. Synanon is a private organization run by ex-addicts while Daytop Lodge is sponsored by official agencies. The former claims several hundred drug-free persons affiliated to the agency and Daytop Lodge has only recently been in operation. There is criticism that few abusers from Synanon ever become integrated into society. However, involvement in an ex-abuser society is better than being an abuser.

Methadone and Cyclazocine Treatments. Methadone is a synthetic and addicting narcotic which seems to offer hope of some abusers functioning well in society. This drug, if given in sufficient quantities, blocks the euphoria of heroin. It does not seem to have any serious abuse effects if taken over a period of years. It has been tested in New York at Beth Israel, Rockefeller University, Manhattan General and Harlem Hospitals.

Patients are "stabilized" in a hospital setting — the dose varies from 15 milligrams to 180 milligrams.

The Foundations in Vancouver and Toronto use methadone, but the usual maximum is forty milligrams. This is unlikely to block the euphoria of heroin in an abuser of many years' standing. However, it is known that some patients, maintained for up to three years, are working and refraining from criminal activity.

Cyclazocine. This drug is also an opiate antagonist which blocks the effects of heroin. Experimentation with this drug is still in the pilot project stage in New York.

(3) *Recommendations.* There are two types of persons involved with drugs: the traffickers and the users. It is recognized that the users sometimes also do some trafficking but the question that should be determined in those cases is whether the trafficking is their main activity or whether it is done to supply a drug habit.

Recommendation 9 Traffickers:

That the manufacture, distribution, trafficking, transportation and importing of narcotic and controlled drugs continue to be subject to legal controls and sanctions.

Recommendation 10 Users:

- a) *That the possession of drugs be subject to legal controls, that drug addiction and dependency be recognized as a social and medical problem and that the user be recognized as a person in need of treatment.*
- b) *That the law provide alternatives outside the criminal law for the control and treatment of the user.*

Recommendation 11 Treatment Facilities:

- a) *That the federal and provincial governments develop the treatment facilities needed for all addictions to and dependency on drugs.*
- b) *That a full range of facilities for treatment be provided within the framework of health and welfare services.*

Recommendation 12 Research:

That research in the area of drug abuse and treatment of addiction be stepped up in order to provide the information necessary for enlightened legislation and better treatment methods.

Recommendation 13 Public Education:

- a) *That educational programs be established or enlarged to inform and interpret research findings about drug*

abuse and treatment, similar to the programs established for alcoholism.

- b) *That the federal and provincial governments establish a national conference on drug problems where all those concerned with drug legislation, enforcement, detention and treatment can exchange information. It is also recommended that such a conference be called regularly to assess what changes are taking place in the extent of drug abuse and the improvements in treatment methods.*

Part II

Special Problems of Women Offenders in Relation to Law Enforcement, Court Proceedings and Correctional Treatment

This part of the brief must deal with a very different and somewhat intangible aspect of how the whole penal and correctional processes affect women offenders. To describe, with supporting evidence, what social problems are created for the female offender by arrest, court procedures or correctional treatment of various types is a most difficult task. Listing the articles a woman may take along with her to her cell is easy but to describe the emotional damage caused by exposure to the inmate culture and to recommend measures to improve the situation is a very different and complicated exercise. That, in substance, is what this part of the brief is about.

Traditional Role of the Female A Canadian Congress of Corrections (1967) Workgroup considered the same matter and reported some of its findings. These correctional workers were of the opinion that female offenders tend to resort to chemical comforts as substitutes to normal ways of satisfying needs¹⁷. In the same report, the absence of aggressive crimes of violence amongst the offences committed by women was noted but, more important, it was generally accepted by this Workgroup that more women offenders are "emotionally disturbed" than men. Their concerns centre on their mental health, love, affection and having a home. Also, the woman's emotionality tends to create problems in prison management. Many women will be affected when one woman is upset. As an ex-inmate, the life of the woman offender tends to be complicated by non-acceptance by society, her emphasis on social relationships and the few opportunities she has to develop new ones, and greater requirements in clothing. What appeared to be at the core of the concerns of the Workgroup participants was the confusion, and often the injustice, which occurs when society judges the women offenders according to their refusal to play the traditional female role expected of them rather than, like the men, according to the transgression of the criminal law itself.

In a report to the United States President's Commission on Law Enforcement and Administration of Justice, Barbara Kay* takes up the same idea:

... although the female offender is not significantly different from the male inherently, her violational behaviour is defined, and she is treated and/or penalized, when she belies the traditional expectations for females ... this to the extent that it is recognized that she has behaved in a way that is symbolically characteristic of the traditional male role.

Reckless¹⁸ and Gialombardo¹⁹ also refer to this aspect of female criminality and the importance it has in explaining it.

Despite the changing roles of women, it is still evident that society expects a woman to be a mother and it endeavours to have her assume this role in society. Unfortunately, society's treatment of the transgressor does not facilitate her return to assuming the assigned role or to adopting a different but law-abiding role. In the subsequent paragraphs, several stages of the law enforcement, court and correctional processes will be examined, having in mind the role of the woman in society and the difficulties created by the traditional expectations of society. Therefore, since most women accept the traditional role, it is important that, at every stage of the penal and correctional processes, she be treated in such a way that she is not irrevocably separated from this role.

Process of Selection Writers and researchers in the field of criminology and, especially, in the area of female criminal behaviour have described a process of selection which favours the female offender²⁰. Briefly, it involves toleration and special treatment of female criminal activities which results in delaying the use of penalties and making it possible for female offenders to avoid temporarily the consequences of their behaviour. The process has been observed by workers at every level of the administration of justice and correctional treatment.

It is not rare for law enforcement officers to see a complainant drop charges when he finds out the person who victimized him is a woman. The police official may himself be less than zealous to pursue investigation in a minor matter when a woman offender is involved. He may use his discretion and give a warning rather than ask the prosecuting attorney to take the matter to the court. Should the case get to the prosecuting attorney level, the same hesitation about applying the full force of the law against a woman is present. Charges are often dropped. Courts are often more favourably disposed towards women offenders and usually do not send them to jail until they have offended several times or very seriously.

* Copy of this Report was made available on a private basis to a member of the Committee preparing this brief.

At the court level, the screening process has serious effects on the use of probation and detention facilities. When a woman offender is placed on probation, she usually has offended many times and is more deeply involved in criminal activity than a man who has committed the same offence. At this point, the woman offender is more solidly committed to the criminal subculture and presents case management problems not usually present in male probation caseloads. The effect of the selection process on correctional institution management is also serious. It presents the most important challenge of all. When the woman is finally sent to detention, she is usually very seriously disturbed socially, emotionally, mentally, and very often in very poor physical condition.

It is important to keep in mind the effect of this process of selection when considering what problems the woman offender encounters at the arrest, prosecution and correctional treatment levels to be described in this part of the brief. On the other hand, if the woman offender benefits, it is not all due to the generosity of others. The female herself uses successfully her female deceptions on male officials in police, court and correctional services. It is the view of workers in this field that female offenders should be dealt with by specially trained personnel. This would reduce the effects of manipulation by female offenders.

1. *Arrest, Search, Interrogation
and Transportation*

Law enforcement agencies are faced with a serious problem of finding enough personnel to do the job of policing our cities and towns and female offenders are contributing to these difficulties. While male adult offenders charged in 1962 numbered over 300,000 for a rate of 5,690 per 100,000, they had increased to a rate of 6,786 per 100,000 in 1966. Taking the year 1962 as equal to 100, it means that the index of adult males charged had reached 119.2 in 1966. On this basis, for adult women the rate would be 132.2; for male juveniles, 145; and for female juveniles, 203.1²¹. Not only are more women becoming involved in crime but they start earlier. This phenomenon has been observed in many jurisdictions and appears to be a sign of our times. Taken over a longer period of time, the index figures would probably show a greater increase.

In view of the importance, delicacy and complexity of police work, police administration should develop clear policies aimed at guiding police officers in the treatment of female offenders. Most law enforcement agencies already agree that all persons being placed in custody after arrest should be searched for:

- 1) property unlawfully in their possession or required as evidence
- 2) property dangerous to life
- 3) property that would assist in escape

- 4) property capable of damaging or defacing cells, etc.
- 5) all personal property, including nylons, scarves, belts, etc., if the prisoner is drunk or ill.

If these points are accepted as basic fundamentals in police work, it follows that to do the job properly policewomen should deal with female offenders and should also be present in the following instances:

- 1) during the search of the female offender's person, property and home
- 2) during the investigation
- 3) during the interrogation and taking of statements
- 4) during transportation.

It is a well known fact that most policemen do not particularly like the responsibility of arresting women offenders. They are faced with a dilemma. Either they do not search the woman thoroughly and hope she has not concealed anything dangerous to herself or others on her person or they do effect a thorough search and expose themselves to charges of indecently assaulting a woman.

A consistent and often repeated complaint made to prison staff by women inmates has to do with the handling received from policemen while going through the investigation procedures. Apparently this complaint is not made about policewomen. The women offenders' attitudes seem to be quite consistent in this respect and the hostility and bitterness are long lasting. It appears that arrests and searches should be effected by policewomen.

Police administration statistics²² on employment of policewomen in Canada suggest that care is not taken to treat women offenders with the attention they appear to require. In all, there were 198 female police officers in Canadian police forces in 1966, only twenty-one more than were employed in 1960. The Royal Canadian Mounted Police cover eight provinces and the territories but does not have a female on the force, nor does the Ontario Provincial Police with a force almost one-half the size of the Royal Canadian Mounted Police. The Quebec Provincial Police employ eleven females and the Canadian National Railways, six. All the other female police in Canada are employed by municipal police forces. Some sizeable metropolitan areas, such as London, have none and Metropolitan Montreal Area is without female police, except for the City of Montreal itself. The twenty-five cities or municipalities surrounding Montreal on the same island have none.

There exists, in some Canadian social institutions, a certain amount of resistance to, and even prejudice concerning, employment of women. An example of this is the case of a policewoman suing a police commission, the local police association and her local city administration and

charging discrimination. A news report indicates that the judge hearing the matter dismissed the case and ruled . . .

. . . common sense dictates policewomen should be paid less than male officers. The judge said lower pay for women is in accord with every rule of economics, civilization and family life, and is not discriminatory.²³

- Recommendation 14**
- a) *That female criminality be recognized by police and correctional administrators as presenting special problems of delinquent and criminal behaviour.*
 - b) *That the number of women offenders warrants increasing the employment of more trained policewomen on all police forces.*
 - c) *That special training be provided to police officers assigned to working with women offenders.*
 - d) *That, wherever possible, policewomen, instead of policemen, be assigned to dealing with women offenders.*

2. Court Appearance and Sentencing

Do women offenders have special problems in connection with judicial proceedings such as obtaining bail, remands or counsel, appealing convictions or sentences, etc.? Perhaps the problems do not arise from the procedures themselves so much as in the lack of attention given to permitting the woman offender who is awaiting trial in the jail cells to maintain her dignity as a person and her identity as a woman. To place the woman offender in some of the police lock-ups and detention cells now used by our justice administrations is thoroughly degrading to the woman and unacceptable for a country as prosperous as Canada. Every effort should be made to enable the woman offender to maintain her identity as a woman and anything that prevents this should be removed. For example, no woman offender should have to appear in court without a chance to wash, comb her hair and apply the cosmetics she wants in complete privacy. Women offenders should not be herded like livestock (nor should any kind of offender for that matter) into pen-like cells or court docks, without chairs or facilities to provide elementary comfort. Again it is suggested that the treatment of the offender should avoid giving the woman involved the impression she is no longer a woman.

At the sentencing level, the selection process again operates in favour of women offenders. The court seems more favourably disposed towards women offenders and usually does not send them to jail until they have offended several times. In 1966, in Canada, only sixty per cent of the young (16 to 24 years of age) males convicted of indictable offences were fined or given suspended sentences, with or without probation, while the percentage of the women offenders in the same age category was eighty per cent. In the 25 years of age and over category, forty-eight per cent of

the males as compared to eighty-two per cent of the females were given such sentences²⁴. This is likely due, in part, to the type of offences usually committed by women for which the courts seem to hesitate to impose jail sentences, but it appears to be due also to the sex of the offender. It is not suggested that this attitude of the courts be changed since it appears to be based on a desire to afford greater chances of rehabilitation. If anything, perhaps male offenders should benefit from similar treatment.

The above mentioned selection process has been observed by many workers in the field. In Canada, this process may also be due in part to the "special status" the Criminal Code creates for women. Certain sections of the Criminal Code, Canada Evidence Act and other statutes, give certain rights, privileges and immunities to women not given to men. Many of these provisions appear to be outdated in the light of changes in the status of women in modern society. It is important that the special circumstances of the offender should be taken into consideration by the court at the time of sentencing rather than that the statute provide a rigid framework which binds the court to a definite type of action.

Recommendation 15 a) *That all federal and provincial penal legislation which discriminates on the basis of sex should be reviewed and obsolete sections abolished.*

b) *That accused female persons be dealt with, from arrest to sentencing, in such a way that they can maintain their dignity as persons and their identity as women.*

3. Probation

i) Pre-sentence Reports

Preparing pre-sentence reports on women offenders does not present any particular difficulty. It is suggested, however, that certain measures could be taken to improve the potential value for treatment of the pre-sentence report. Also, proper use of this report could facilitate the flow of communication about the offender from one correctional service to another. Suggestions in this regard have already been made by the Canadian Corrections Association²⁵ and need not be repeated here.

ii) On Probation

Caseloads. The view that probationers should be matched with appropriate probation officers is quite generally held but the caseloads that probation officers generally have to carry make it impossible to achieve this goal. This works a hardship on women offenders on probation because their emotionality and tendency to verbalize as well as to submit more problems to the probation officer for assistance in finding solutions require more time than that required for men and this cannot be given to them in the present circumstances. Male offenders can easily accept

only one contact per month with the probation officer but female offenders generally demand many more because of their special characteristics. It has been suggested that a caseload of female offenders should be approximately one-half as large as a caseload of male offenders.

Services. Some probationers do not need more than very minimal supervision; some do not require any and their cases could have been handled by way of fines or merely as suspended sentences without any conditions. On the other hand, it is reasonable to assume that for some probationers intensive care can be effective. Indeed, some offenders who now go to jail could be handled successfully under an intensive supervision program. For these cases of intensive care, there is need for a full range of supporting services. In the case of women offenders, the supporting services should include hostels where necessary.

Restitution. Except for single women who have jobs, women offenders are generally at a disadvantage when a probation order involves restitution. The needy mother with children is practically incapable of making restitution unless she leaves her home and goes to work. This creates an undesirable situation in her home which is often more harmful than the amount of money involved really justifies²⁶.

iii) Research

Law enforcement, court and correctional agencies in Canada generally fail to research and evaluate their own programs for their own benefit, as well as for other agencies. Of the total expenditures by federal and provincial governments for agencies dealing with crime and criminals, approximately one-third of one per cent goes into research and evaluation. Of this, the largest part is used for gathering statistics for administrative purposes²⁷. Proper research in probation could provide facts and guidelines for courts that would facilitate more judicious use of probation.

iv) Probation Personnel

A casual glance at the management levels of the various probation services in Canada reveals that very few, if any, women have access to policy formulation in the field of probation.

- Recommendation 16**
- a) That female probation officers be more adequately represented in policy making and administration of probation services.*
 - b) That the size and management of caseloads with female probationers take into account the special needs of female probationers.*
 - c) That the ordering of restitution by female offenders take into consideration the ability of the female offender to do so. Restitution by a married woman offender should not force her to leave her family to go to work.*

4. Prisons

i) First Offenders

In the case of these offenders, at least three situations arise which are most damaging to them.

(a) Prison detention "depersonalizes". For a woman to have her clothes, her cosmetics and her privacy taken away is possibly the most traumatizing of all. She usually has to wear prison clothing, is often not allowed cosmetics, and, because of open cells and proximity to others, she has little privacy.

(b) The criminal subculture and its code of behaviour also damages the offenders in this group and too often attracts some to a life of crime and desolation.

(c) *Homosexuality*. Prison breeds lesbian relationships which are constantly in a state of flux, thus increasing the tension and damaging the first offender.

ii) Recidivists

Some of the most serious problems facing women recidivist offenders are connected with homosexuality in much the same way as for first offenders. Since the recidivist has experienced detention before with the constant pressure to join in lesbian relationships, she is more likely to give up resisting and accept them as part of the inevitable circumstances of detention and, perhaps, even of her life outside prison after her sentence has expired. This attitude, adopted in despair, further binds the recidivist to the criminal environment.

Another area of difficulty, especially for those who would like to get out of the criminal rut, is the strong identification to the inmate "code" usually developed by women offenders. Women hold to this more than men. It has been observed that they take very seriously the "code's" requirement that a "con" does not "rat" on another "con". Women prefer to go to jail alone rather than to implicate an accomplice. This faithfulness to the code makes the links to criminal behaviour much stronger and makes it more difficult to break the pattern of behaviour.

The selection process described in the introduction to this section may be one of many reasons that fewer women than men are in correctional care. It appears that such a selection process also creates what seems to be a more disturbed (socially, emotionally and mentally) inmate population in a prison for women than in a male institution. In the circumstances, prisons for women should not be patterned on male institutions but rather be planned on the basis of the special needs of women.

There is evidence that women do not easily fit into groups and that, consequently, prison life is more upsetting for them than for men. The experience in the armed services seems to demonstrate that regimentation and group living are upsetting to women.

- Recommendation 17**
- a) *That prisons for women be planned to provide for the special needs of women offenders²⁸.*
 - b) *That a prison system for women offenders provide a complete range of institutions required by the various types of female offenders²⁹.*
 - c) *That personnel working in female prisons receive special training in dealing with problems of female offenders.*

5. Parole and After-Care

Comments made about probation apply generally to the parole situation of female offenders. There are also special problems which arise as a result of the prison experience.

When leaving the institution, it is extremely difficult for a woman to find suitable employment and to establish new social relationships. She cannot easily approach a male in her new environment without appearing suspect or sexually forward. This is even true when trying to find a female friend. Very often she has had to break lesbian relationships formed in prison and is still under strain and confused. She continues to be unsure of herself and very lonely. This loneliness is accentuated by the difficulty of establishing new social contacts. The result is to further damage the already impaired image she has of herself.

- Recommendation 18**
- a) *That policy and administration take into account the special problems of female offenders.*
 - b) *That the management of caseloads with female parolees take into account the special needs of the female parolees.*

Part III

Detention Facilities for Women

In Canada, there exists a federal system of prisons for women comprising the Kingston Prison for Women and the Matsqui Unit for female drug addicts in British Columbia. The federal system accommodates only the offenders sentenced to two years or more in detention. The detention institutions for women serving sentences of less than two years are operated by provincial authorities. The smaller provinces have none or very rudimentary facilities and the bigger ones, with a relatively large number of women offenders, operate a system with several units. The question to be considered in this part of the brief is whether the present division in jurisdictions and responsibilities should continue. The question has to be asked because the present allocation of responsibilities does not appear to be advantageous to the woman offender. If anything, it is unjust and, in some respects, harsher than in the case of male offenders.

To examine the question, it is necessary to establish basic statements about women offenders which would provide the necessary guidelines to make suggestions. First, it is postulated that the criminality of women presents special problems of delinquent and criminal behaviour. This has been documented by various writers and researchers and has been the experience of many correctional workers. Furthermore, it should be noted that some jurisdictions have provided correctional services closely geared to the special characteristics of women offenders, viz "open" institutions and community-centred hostels which recognize that women offenders are generally not dangerous or "organized" criminals. Another aspect of female criminality on which the views in this brief are based is that women offenders who finally must be sent to detention usually arrive in a more emotionally disturbed condition than men. Also, the female offenders do not constitute a homogeneous group but there is evidence that certain main groupings are identifiable on the basis of behaviour and attitudes³⁰.

Another assumption upon which the recommendations in this part of the brief are based has little or nothing to do with women offenders specifically. It is postulated that a detention system should be operated by the governmental authority responsible for most of the supporting services: i.e. clinics, technical and vocational training, health, welfare, probation, after-care and law enforcement. It, therefore, follows that the provincial authorities have the primary responsibility to care for offenders in detention and that the role of the federal authority should perhaps be one of consultation and financial support.

Study of Sample Population In order to look at detention facilities for women offenders with some care, it appeared necessary to gather information on the inmates in the institutions to see if any basic differences exist between the group detained in federal institutions and those held in provincial facilities. The information is provided in detail in Appendix "A" but it is proposed here to review very briefly some of the findings. The sample involved 365 female inmates from one federal and six provincial institutions. The conclusions that can be drawn from the material gathered are:

- 1) There is a lack of any distinguishable pattern which would be relevant to the main problems under study.
- 2) *Ethnic Origin and Language*
 - a) *Indians and Métis*. The Indian and Métis inmates represent more than twenty-five per cent of the sample. This is totally out of proportion to the number of Indians in the general population.
 - b) *French Speaking Inmates*. Twenty-five per cent of the inmates in the federal institution were listed as being of French origin, although there are no

treatment and training programs available in French.

- 3) Only eighteen per cent of the sample were under 21 years of age. This proportion is similar to the proportion of women who were incarcerated for indictable offences in Canada in 1966 (19.8 per cent in that instance). The proportion in the case of male offenders incarcerated for indictable offences in 1966 was 24.9 per cent³¹.
- 4) *Previous Convictions*
 - a) Length of sentence is not related to the number of previous convictions.
 - b) There is little relation between the number of previous convictions and the type of institution to which a person is sent.
- 5) All institutions held persons with or without previous convictions.
- 6) The range in length of sentences is great in each institution even when specific offences are considered separately.

Size of Federal Prison System for Women Offenders The Kingston Prison for Women has a capacity of approximately one hundred inmates and, over the years, the inmate population has never reached a maximum very much over the one hundred inmate capacity. The Matsqui Unit in British Columbia has a capacity of approximately 150 inmates but its purpose is to accommodate only female drug abusers from the Western Provinces. Generally, the other abusers still are detained in the Kingston Prison for Women. At the time of the survey described in the Appendix, the latter institution had eighty-one inmates. Although Matsqui was not included in the survey, a recent check shows that it had less than forty inmates, of whom the great majority were arrested and convicted in British Columbia.

Size of Provincial Prison Systems for Women Offenders Since provincial prison systems must hold any female offender sentenced to a period in detention of less than two years and there are a great many short sentences imposed by the courts, the provincial prisons for women tend to be "holding" institutions with very few treatment or training programs. There are exceptions where the number of inmates is large and there are enough relatively long sentences to justify a more complete prison system with facilities for treatment and training. In the smaller provinces there are no prisons or only very rudimentary facilities holding a few inmates serving very short terms. In the larger provinces, the prison system can accommodate up to two or three hundred inmates.

*Responsibility for
Providing Correctional
Institutions for
Female Offenders*

Earlier in this brief, suggestions have been made to remove vagrants, suicidal and intoxicated persons, and drug abusers from the court and/or penal settings. The effect of such measures on the prison population in the provincial systems would be to reduce it to a very small number of inmates. Consequently, it would be relatively easy for provincial administrations to take on the financial responsibility of caring for all women offenders they now direct to the federal prison system. It is recognized that transferring the responsibility for the above mentioned groups of persons now dealt with as offenders from the penal to the health and welfare departments of government would mean increased administration costs in the latter department. Nevertheless, the concurrent reduction in costs in the penal area would be sizeable. Furthermore, the provinces have to maintain all the supporting health and welfare services in any case and arguments to justify the duplication at the federal level are not convincing. That the two-year limit on the length of sentence determines whether an offender is detained in a federal institution or in a provincial institution is entirely artificial and is not based on the needs and behaviour of the offenders.

There are two points which tend to justify the maintaining of a federal prison system for women offenders. The first is that some provinces cannot afford to build the facilities for so few inmates. In some provinces, as few as five or six women offenders need to be sent to the federal institution in one year. In some cases no female offender has been sent to the Kingston Prison for Women for several years. To build a facility which would be empty most of the time is not feasible. Nor is it feasible to build such a small facility that no treatment and training programs could be operated. The answer seems to be to pool resources on a regional basis. There could be six regions in Canada, i.e. the Atlantic Provinces, Quebec, Ontario, the Prairies, British Columbia and the Northern Territories. The purpose of such a suggestion is to avoid the kind of "exile" it is necessary to impose on most of the female inmates under present conditions. Male offenders are not under the same handicap because they can be detained closer to home. This is not possible for women offenders detained in federal institutions.

It is important here to underline the effect of distance away from home on the inmate. For the woman offender detained in Kingston, the distance to Nova Scotia or Northern Alberta is an enormous one which makes the tasks of maintaining contact with the community, relatives, husband and children almost impossible. Of necessity, this contact will be more difficult to maintain than for the other inmate who happens to be close to home and can receive visits. The situation is unjust and damaging.

The cultural differences for the French-speaking, the Indian and Métis, and Doukhobor female inmates when they are detained in an environment different from their own create social as well as psychological

obstacles which would be more easily overcome if they were at least detained closer to home where relatives and friends would be nearby to assist. For all practical purposes, closer to home means detention in provincially or regionally operated institutions with the supporting services close at hand.

The second instance in which there is some validity to the suggestion that the federal prison system for women should be continued is that mixing offenders serving long sentences with those serving short sentences might be inadvisable. It is agreed that persons serving long sentences perhaps should not be exposed to seeing the short term offenders come and go. This would likely have a demoralizing effect on them. Should recommendations in this brief regarding vagrants, intoxicated and suicidal persons, and drug abusers be put into effect, the number of short term offenders would be greatly reduced. Furthermore, it is not suggested that "long term" offenders and "short term" offenders be detained in the same institutions. Treatment and training facilities for women offenders serving long sentences (perhaps six months or more) possibly should continue to be separate from the others where only short terms are served and where little more than custody and keep-busy maintenance programs can be operated. Again, it is suggested that pooling resources on a regional basis might be required for women offenders serving the longer terms. The range of facilities required for a female correctional plan are outlined in a brief prepared by the Elizabeth Fry Society²². A section of this brief is contained in Appendix "B".

Another suggestion has been made that the federal prison system provide benefits not presently available in provincial systems. These benefits include better pay and clothing, remission and leaves of absence for humanitarian reasons, transportation, etc. It is certainly not proposed that these be curtailed by any change of jurisdiction. If anything, efforts should be made to seek out what is still lacking and provide for it. There is no reason to believe that the same benefits could not be provided by provincial or regionally operated prison systems.

It should be made clear that the suggested reallocation of responsibility for detention of female offenders is also based on the premise that an inmate in Canada has the right to receive treatment, training, counseling and guidance in either French or English. A system providing this would have to be organized on a regional basis. A basic vocabulary may be sufficient for basic needs, but if an institution is to rehabilitate, academic, vocational and therapeutic activities must be provided in the mother tongue. Across Canada, French speaking inmates who do not speak English are unable to benefit from instruction and therapy provided. The inmate concerned is relegated to second class status, irrespective of her potential for rehabilitation. Inmates unable to communicate in the operational language of the institution should have the right to request transfer,

at the expense of the Crown, to the nearest institution in which their language is operational.

Statistics During the preparation of this brief, numerous reports were consulted in order to find specific information about female offenders. The Dominion Bureau of Statistics reports, in particular, were carefully scanned for the kind of detailed information needed to describe the woman offender and her specific problems. The task of finding the data was difficult because the statistical reports are incomplete in the sense that the breakdowns of the male and female offenders and their offences are rare.

Although general statements have been made about women offenders, when attempts were made to describe more specifically through the use of statistics, two particular problems arose distinct from the problems of the reliability and validity of the statistics available for male offenders. The first problem as indicated above, is that many of the published statistics do not include separate breakdowns of male and female offences or offenders. This information is usually provided in a few tables specifically concerned with the sex of the offender, but figures are often combined when other characteristics are considered. This problem could be overcome if the importance of such a distinction was stressed as an important factor in data collection. The second problem is in the small number of women offenders and is particularly relevant to the smaller proportion of these women who are incarcerated. Planning of institutions and programs allows for a margin of error in the statistical estimates provided. Where the over-all numbers are large, even a sizeable margin of error need not radically affect the suitability of the planning. However, with small numbers, a sizeable margin of error can alter estimates radically.

- Recommendation 19**
- a) *That detention of female offenders in Canada become the responsibility of provincial authorities.*
 - b) *That the federal and provincial governments enter into financial and other agreements to make the transfer of responsibility.*
 - c) *That, where it is not feasible for a province to establish an adequate system for the care of female inmates, arrangements be entered into with other governmental authorities to provide such a system on a regional basis.*
 - d) *That any change in jurisdiction ensure that the benefits now provided by the federal system be incorporated in the provincial or regional systems.*
 - e) *That collection, compiling and publication of statistical data on offenders provide more complete information on women offenders.*

RJ:ad
June 1968

Réal Jubinville
Associate Executive Secretary
Canadian Corrections Association

APPENDIX "A"

The following information about women incarcerated in certain federal and provincial prisons and reformatories was gathered on the basis of a one-day sample, except in the Province of Quebec where a full month's admissions are recorded for two institutions. It is not proposed to examine these populations in any great depth but rather to attempt to see whether any patterns or groupings evolve. The provincial institutions concerned are: Oakalla Prison Farm for Women, Portage La Prairie and The Pas Prisons for Women in Manitoba, Mercer Reformatory in Ontario, and Montreal and Quebec Jails for Women. The federal institution is Kingston Prison for Women. The total sample involves 365 female inmates.

The headings under which information was provided were: length of sentence, place of residence, type of offence, language (English/-French), ethnic origin, age, number of previous convictions, offence in previous convictions, number of sentences to penitentiary, drug addict or not. This data is analyzed in Tables 3 to 13 in this Appendix.

Indian and Métis Female Offenders. The breakdown of the numbers of inmates in the following table was made by institution and by only one specially chosen ethnic grouping. The Indian and Métis inmates represent 25.5 per cent of the total sample. Oakalla and Manitoba have very high percentages, 28 and 84 respectively, of inmates with Indian background. Such figures are out of proportion with the number of Indians in the general population. This disproportion was also a finding of the study *Indians and the Law* published recently³³. This study did not make any specific recommendations about women offenders but the general recommendations would appear applicable here. Except for the Quebec institutions, Indians seem to be overrepresented on a scale that requires very thorough examination and revision of law enforcement, sentencing and correctional treatment as suggested by the *Indians and the Law* study.

TABLE 3
Number and Percentage Distribution of Female Inmates by Institution and by Indian or Métis and Other Origin in Some Correctional Institutions in Canada

| Institution | Ethnic Origin | | | | Total | |
|-------------|-------------------|------|--------|------|-------|-----|
| | Indians and Métis | | Others | | No. | % |
| | No. | % | No. | % | | |
| Kingston | 10 | 12 | 71 | 88 | 81 | 100 |
| Mercer | 14 | 15 | 79 | 85 | 93 | 100 |
| Oakalla | 24 | 28 | 62 | 72 | 86 | 100 |
| Manitoba | 43 | 84 | 8 | 16 | 51 | 100 |
| Quebec | 2 | 4 | 52 | 96 | 54 | 100 |
| Total | 93 | 25.5 | 272 | 74.5 | 365 | 100 |

Table 4 provides a distribution by province of the Kingston Prison for Women Indian inmates. The unusual feature of this distribution is that more than one-half of the Indian inmates are from Alberta, approximately 2,000 miles away. For persons who are usually from rural areas, economically deprived and unaccustomed to large metropolitan centres, it seems unjust to "exile" them in this manner. Another feature is the large group of inmates from the Province of Ontario. This table also shows the provincial origin of the French Canadian inmates. It is assumed that they are also French speaking but this is not necessarily so since almost two-thirds come from provinces other than Quebec.

TABLE 4
Provincial Distribution of All Inmates and of Those of Indian and of French Canadian Origin in the Kingston Prison for Women on December 14, 1967

| Province | Number of Inmates | Indian | French Canadian |
|------------------|-------------------|--------|-----------------|
| Ontario | 42 | 1 | 8 |
| Quebec | 11 | 1 | 8 |
| British Columbia | 7 | 1 | — |
| Alberta | 13 | 6 | 1 |
| Saskatchewan | 1 | — | — |
| Manitoba | 1 | 1 | — |
| New Brunswick | 4 | — | 4 |
| Nova Scotia | 1 | — | — |
| Newfoundland | 1 | — | — |
| Total | 81 | 10 | 21 |
| Percentage | 100 | 12.4 | 26 |

TABLE 5
Number and Percentage of Female Inmates in Specific Age Ranges in Some Canadian Correctional Institutions

| Age Range | Institutions | | | | | | | | | | Total | |
|-----------|--------------|------|--------|-----|---------|-----|----------|-----|--------|-----|-------|-----|
| | Kingston | | Mercer | | Oakalla | | Manitoba | | Quebec | | No. | % |
| | No. | % | No. | % | No. | % | No. | % | No. | % | | |
| Under 21 | 5 | 6.1 | 33 | 35 | 12 | 14 | 11 | 22 | 6 | 11 | 67 | 18 |
| 21-25 | 21 | 26 | 25 | 27 | 29 | 34 | 10 | 20 | 10 | 19 | 95 | 26 |
| 26-35 | 36 | 44.5 | 25 | 27 | 24 | 28 | 21 | 41 | 14 | 26 | 120 | 33 |
| Over 35 | 19 | 23.4 | 10 | 11 | 21 | 24 | 9 | 18 | 24 | 44 | 83 | 23 |
| Total | 81 | 100 | 93 | 100 | 86 | 100 | 51 | 100 | 54 | 100 | 365 | 100 |

Age Ranges and Drug Addiction. The age distribution of the 365 female inmates in the sample in Table 5 shows there are relatively few inmates in the Penitentiary in Kingston who are under 21 years of age. This also seems to be the case in the Quebec institutions. The difference, however, is not very great in view of the small numbers involved. In the

above 35 years of age category, Mercer shows a below average percentage of inmates while the Quebec institutions have a higher than average proportion of their inmates in this age range. Such inconsistent results may be due to the kind of institutions which are included in the sample and the selection policies of some of the institutions, but definite conclusions cannot be reached easily in this respect. The only general observation which can be made is that, in the sample, the women inmates under 21 years of age are represented in approximately the same proportion as the women who were incarcerated for indictable offences in Canada in 1966³⁴.

In the matter of age ranges for the addicts detained in Kingston, Mercer and Oakalla, most of them (i.e. seventy-nine per cent) are between 21 and 35 years old. Very few are very young or old. The non-addicts are evenly distributed over the four age ranges. Here again, conclusions are not easily reached on the basis of the information provided by the sample used.

TABLE 6
Percentage of Female Addicts and Non-Addicts by Age Range
in Some Canadian Correctional Institutions

| Age Range | Institutions | | | | | | Total | |
|-----------|--------------|-------|--------|-------|---------|-------|-------|-------|
| | Kingston | | Mercer | | Oakalla | | A | Non-A |
| | A | Non-A | A | Non-A | A | Non-A | | |
| Under 21 | — | 9 | 16 | 45 | 14 | 14 | 11 | 24 |
| 21-25 | 26 | 26 | 42 | 19 | 31 | 36 | 33 | 26 |
| 26-35 | 65 | 36 | 39 | 21 | 39 | 20 | 46 | 26 |
| Over 35 | 9 | 29 | 3 | 15 | 17 | 30 | 10 | 24 |

A — Addict
Non-A — Non-Addict

Length of Sentence and Previous Convictions. The fact that an inmate has no previous convictions does not mean a more lenient or shorter sentence. The next two tables demonstrate this. In the sentencing, the

TABLE 7
Length of Sentence and Previous Convictions of
Kingston Prison for Women Inmates on December 14, 1967

| Length of Sentence | No Previous Convictions | Previous Convictions | Not Known | Total |
|--------------------|-------------------------|----------------------|-----------|-------|
| Less than 5 years | 6 | 44 | 6 | 56 |
| 5 years or more | 11 | 14 | — | 25 |
| Total | 17 | 58 | 6 | 81 |

previous record of those who have offended before apparently has little bearing since a higher proportion of those with records receive short sentences than those with no previous convictions. In Kingston, of the

seventeen with no records, eleven inmates were serving sentences of five years or more while only fourteen out of fifty-eight with a previous record were serving similar offences. Table 8 shows the same type of phenomenon, except for Mercer in Ontario, whereby those with no previous convictions were proportionately less numerous than the others in the six-month sentence or less category.

TABLE 8
Number and Percentages of Female Inmates with Varying Length of Sentences as Related to Number of Previous Convictions in Some Provincial Correctional Institutions

| Institutions | Convictions | Length of Sentence | | | | | | Total | |
|------------------------|-------------|--------------------|----|-----|----|-----|----|-------|-----|
| | | 1* | | 2* | | 3* | | No. | % |
| | | No. | % | No. | % | No. | % | | |
| Mercer | No Previous | — | | 7 | | 8 | | 15 | |
| | Previous | 3 | | 22 | | 52 | | 77 | |
| | Not Known | — | | — | | 1 | | 1 | |
| | Total | 3 | 3 | 29 | 31 | 61 | 66 | 93 | 100 |
| Oakalla | No Previous | 3 | | 9 | | 8 | | 20 | |
| | Previous | 6 | | 38 | | 22 | | 66 | |
| | Total | 9 | 10 | 47 | 55 | 30 | 35 | 86 | 100 |
| Manitoba | No Previous | 4 | | 4 | | 5 | | 13 | |
| | Previous | 13 | | 25 | | — | | 38 | |
| | Total | 17 | 33 | 29 | 57 | 5 | 10 | 51 | 100 |
| Quebec | No Previous | 10 | | 6 | | 5 | | 21 | |
| | Previous | 11 | | 19 | | 3 | | 33 | |
| | Total | 21 | 39 | 25 | 46 | 8 | 15 | 54 | 100 |
| Total All Institutions | | 50 | 18 | 130 | 46 | 104 | 36 | 284 | 100 |

Length of Sentences: 1* — Up to 30 days
2* — Over 1 month and up to 6 months
3* — Over 6 months

Length of Sentences and Addiction. Unfortunately, it was not possible to break down the information in this category for the provincial institutions. Furthermore, conclusions are not easy to arrive at, even in the case of the Kingston Prison for Women, because of the difficulty of

TABLE 9
Length of Sentence for Addict and Non-Addict Inmates of Kingston Prison for Women on December 14, 1967

| Length of Sentence | Addicts | | Non-Addicts | |
|--------------------|---------|------------|-------------|------------|
| | Number | Percentage | Number | Percentage |
| Remainet of Parole | 1 | 4.3 | 3 | 5.2 |
| Less than 5 years | 17 | 74 | 36 | 62.2 |
| 5 years and over | 5 | 21.7 | 19 | 32.6 |
| Total | 23 | 100 | 58 | 100 |

defining what is an addict. It seems that even those using marijuana or barbiturates were listed as addicts and it is not known to what extent the inmates were categorized as addicts on the basis of "once an addict, always an addict". The main feature of Table 9 is that proportionately more non-addicts than addicts are serving longer terms.

Distribution of Inmates with Previous Convictions and of Those with Previous Penitentiary Sentences. Of the 365 inmates in the sample, a high proportion have been convicted before they were sentenced to the term they were serving at the time of the survey. There is no appreciable difference between the federal institution and all the other provincial correctional institutions. Table 10 shows that Kingston Prison for Women inmates are about average in this respect. On the other hand, they have been in penitentiary before more often than is the case for inmates of provincial institutions. This information is provided in Table 11. Nearly thirty per cent have already been in penitentiary before returning there to serve the sentence they were serving at the time of the survey. This is a much higher proportion than is the case for all the other provincial institutions.

TABLE 10
Percentage Distribution of Female Inmates with or without Previous Convictions in Some Canadian Correctional Institutions

| Convictions | Institutions | | | | | Total |
|-------------|--------------|--------|---------|----------|--------|-------|
| | Kingston | Mercer | Oakalla | Manitoba | Quebec | |
| No Previous | 21 | 16 | 23 | 25 | 39 | 24 |
| Previous | 72 | 83 | 77 | 75 | 61 | 75 |
| Not Known | 7 | 1 | — | — | — | 2 |
| Total | 100 | 100 | 100 | 100 | 100 | 101 |

TABLE 11
Number of Female Inmates with or without Previous Penitentiary Sentences in Some Correctional Institutions in Canada

| Penitentiary Sentences | Institutions | | | | | Total |
|------------------------|--------------|--------|---------|----------|--------|-------|
| | Kingston | Mercer | Oakalla | Manitoba | Quebec | |
| No Previous | 57 | 84 | 81 | 51 | 51 | 324 |
| Previous | 24 | 9 | 5 | — | 3 | 41 |
| Total | 81 | 93 | 86 | 51 | 54 | 365 |

Offences and Length of Sentences. The next two tables (Tables 12 and 13) were established to find out if there is any pattern in the sentencing for specific offences. The variations from institution to institution is such that no clear pattern evolves. In each offence category it is possible to find offenders who received sentences as short as six months

and as long as five years, or slightly less in Kingston Prison for Women. Some offence categories are not found in the table on the latter institution. These offences usually do not require heavy penalties. Nevertheless, in both tables, murder and manslaughter usually involve longer terms. On the other hand, theft and frauds carry anywhere from a few days to more than five-year sentences. Breaches of the Narcotic Control Act also have very wide spectrum of sentences from a few months to more than five years.

TABLE 12
Distribution of Female Inmates by Length of Sentences and Type of Offence
in Kingston Prison for Women on December 14, 1967

| Offences | Length of Sentences | | Total |
|--|---------------------|------------------|-------|
| | Less than 5 years | 5 years and over | |
| Murder, Manslaughter | 1 | 12 | 13 |
| Wounding, Assaults, Procure Miscarriage, Criminal Negligence | 6 | 4 | 10 |
| Robbery | 7 | 1 | 8 |
| Break and Enter | 4 | — | 4 |
| Theft, Having in Possession | 6 | 1 | 7 |
| Fraud and Currency Offences | 10 | 2 | 12 |
| Narcotic Control | 14 | 5 | 19 |
| Arson | — | 1 | 1 |
| Unrelated Offences (Parole Violation, Skip Bail, Carry Offensive Weapon, etc.) | 7 | — | 7 |
| Total | 55 | 26 | 81 |

TABLE 13
Distribution of Female Inmates by Length of Sentence and Type of Offence
in Some Provincial Correctional Institutions

| Offences | Provincial Institutions | | | | | | | | Total |
|--|-------------------------|----|---------|----|----------|---|--------|---|-------|
| | Mercer | | Oakalla | | Manitoba | | Quebec | | |
| | *1 | 2 | 1 | 2 | 1 | 2 | 1 | 2 | |
| Murder, Manslaughter | — | 1 | — | — | — | 1 | — | 1 | 3 |
| Wounding, Assaults | 2 | 1 | 1 | 2 | — | 1 | 2 | — | 9 |
| Robbery | 1 | 1 | 1 | 1 | 1 | 1 | — | — | 6 |
| Break and Enter | 2 | 4 | 1 | 2 | — | — | — | — | 9 |
| Theft, Having in Poss. | 2 | 12 | 6 | 2 | 2 | 1 | 6 | 2 | 33 |
| Frauds | 6 | 8 | 9 | 8 | 2 | — | 1 | 2 | 36 |
| †Narcotic Control | 1 | 13 | 10 | 12 | — | 1 | — | 2 | 39 |
| ‡Prostitution | 3 | 1 | 11 | 1 | 5 | — | 5 | — | 26 |
| Intox. Public Place | — | — | 2 | — | 15 | — | 10 | — | 27 |
| Intox. Other | 4 | — | 7 | — | 11 | — | — | — | 22 |
| Cause a Disturbance | 2 | — | 1 | — | 1 | — | 6 | — | 10 |
| Impaired Driving | — | — | 2 | — | 3 | — | 1 | — | 6 |
| Combination of Un- related Offences (one or more indictable) | 4 | 16 | 1 | 1 | — | — | 1 | — | 23 |
| Combination (Summary) | 3 | 1 | — | — | 3 | — | — | — | 7 |
| §Other | 2 | 3 | 4 | 1 | 3 | — | 14 | 1 | 28 |
| Sub-totals | 32 | 61 | 56 | 30 | 46 | 5 | 46 | 8 | 284 |
| Total | 93 | | 86 | | 51 | | 54 | | |

* 1 and 2 represent lengths of sentences:

1 = six months or less; 2 = over six months.

† Listed here even when other "unrelated" offences occur.

‡ Prostitution includes Vag. C, bawdy-house keepers, inmates of bawdy-house, soliciting, Health Act (Manitoba).

§ "Other" includes mischief, wilful damage, 2 offensive weapons, Child Welfare Act, etc.

APPENDIX "B"

PILOT PROJECT — FEMALE CORRECTIONAL PLAN

The pilot project would consist of:

- A. The Diagnostic and Research Centre
- B. The Hospital and Psychiatric Centre
- C. The Therapeutic Centre
- D. The Custodial Centre
- E. Hostels

The success of the plan would depend upon a high quality of staff effectively used.

Two principles would characterize the project:

- i. there would be a progression and regression of inmates from one centre to another
- ii. the number of inmates residing in any unit of each centre would be kept small

A. THE DIAGNOSTIC AND RESEARCH CENTRE would be the core of the system and would require a variety of professional staff to fulfill its functions.

1. This Centre would provide a thorough assessment of newly committed inmates, a process which might take one to six weeks. As a result of this assessment, inmates would be placed in the Hospital and Psychiatric Centre, the Therapeutic Centre, or the Custodial Centre.

2. This Centre would re-conference and re-transfer inmates from one centre to another as they progress or regress in the system.

3. This Centre would formulate and direct research projects aimed at a better understanding of the female offender and the development of effective treatment methods. Out of such research might come ideas for effective preventive measures aimed at adolescent girls whose lack of adjustment to society might lead them into crime.

4. This Centre would actively encourage the participation of university and hospital personnel who could contribute to the treatment and research program.

5. This Centre would provide field work opportunities for post-graduate students in psychology, social work and psychiatry, in cooperation with universities.

6. This Centre would provide learning opportunities for all levels of staff employed in the female correctional system.

B. THE HOSPITAL AND PSYCHIATRIC CENTRE would be staffed by personnel qualified to treat physically and mentally ill patients. A physiotherapy and occupational therapy program would be provided. The aim of this Centre would be to assist patients to move as quickly as possible to the Therapeutic or Custodial Centre.

C. THE THERAPEUTIC CENTRE would receive the majority of inmates from the Diagnostic and Research Centre — the young, the

first offenders, the inmates with a motivation and capacity for normal living. The aim of this Centre would be to increase their motivation and to re-educate these inmates in socially acceptable behaviour, so that they might move on as quickly as possible to the community hostels. This Centre would have a high ratio of staff to inmates and a concentration of professional services. The senior staff, trained in the behavioural sciences, would work closely with the ancillary staff to provide an atmosphere in which inmates could grow toward self-direction and self-dependence. Individual and group counselling would be an important aspect of the program. Opportunities would be provided for schooling and vocational training. Community groups and individuals would be encouraged to come into the Centre to assist with program and recreation.

Inmates who failed to make positive use of the Therapeutic Centre would be transferred to the Custodial Centre. Inmates showing satisfactory attitudes and progress would be transferred to a community hostel as soon as they were judged by the staff to be ready for the move.

D. THE CUSTODIAL CENTRE would receive from the other Centres those inmates who are content with criminal life. An active program of work, education and vocational training would be provided. Psychiatric, psychological and social work services would be made available to these difficult inmates. The aim of the staff would be to encourage inmates to work for admission to the therapeutic unit. If no change of attitude were evident, inmates would remain in the Custodial Centre throughout their sentence. For the best protection of society, such inmates would be released from the Custodial Centre on Mandatory Parole, a system not yet in effect in Canada but proven effective in other countries. The Custodial Centre would be completely self-efficient and geographically separated from the Therapeutic Centre.

E. COMMUNITY HOSTELS would be opened as required in cities across Canada. Each hostel would house no more than fifteen inmates who had graduated from the Therapeutic Centre. Using the full resources of the community, inmates would attend school, take vocational training, or go daily to work. If satisfactory adjustment were achieved in the community hostel, release on parole would be recommended. Failure to adjust would result in a return to the appropriate centre.

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