

INTERMITTENT SENTENCE

PROCESS AND PROBLEMS

BY
**LEONARD CRISPINO
AND
CATHERINE CAREY**



Ontario

**Ministry of
Correctional
Services**

**Honourable
Gordon Walker
Minister
Glenn R. Thompson
Deputy Minister**

64812

MINISTRY OF CORRECTIONAL SERVICES

PROVINCE OF ONTARIO

PLANNING AND SUPPORT SERVICES DIVISION

**M. J. Algar,
Assistant Deputy Minister**

PLANNING AND RESEARCH BRANCH

**James J. Hug, Ph.D.
Director**

**A. C. Birkenmayer
Chief, Research Services**

December, 1978

Fold



Ontario

Ministry of
Correctional
Services

With the compliments of

Research Services
Planning and Research Branch
2001 Eglinton Avenue East
Scarborough, Ontario M1L 4P1
Phone (416) 750-3350

NCJRS

FEB 12 1980

ACQUISITIONS

Form No. 020-002 (11/77)

ACKNOWLEDGEMENTS

Sincere appreciation is extended to those individuals who have assisted in this study at its various stages. Particular thanks go to the superintendents and records personnel of the thirteen institutions included in the sample and the numerous correctional officers who assisted with scheduling of inmate interviews. Their cooperation greatly facilitated the study objectives.

A note of thanks is also due to several people who have assisted with the interviews. These include: P.G. Madden; M.L. Polonoski; J. Roberts; A. Ross.

Other individuals offered necessary background information, opinions and suggestions. These include: J. Ripsher, T.A.P. Supervisor, Toronto Jail; G.G. McFarlane, Coordinator T.A.P.; A.S. Nuttall, C.R.C. Coordinator; D.E. Taylor, Director, Probation/Parole Services; J.E. Spriggs, Regional Administrator, Probation/Parole Services; R.J. Porter, Supervising Probation and Parole Officer; J.M. Walker, Probation/Parole Officer; G. Simpson, Chief Provincial Bailiff; C.F. Dombek, Director, Legal Services; D. Simmons, Assistant Director, Inspections and Investigations Branch; Corporal R.T. Green, Director, Central Records and Communications Branch, Ontario Provincial Police; Sergeant J. Pateman, 21 Division, Metropolitan Toronto Police Department; Judge C.P. Oppen, Provincial Court Judge; Judge E.F. Wren, County Court Judge; S.G. Leggett, Deputy Crown Attorney; J.F. Wiley, Assistant Crown Attorney; W. Dunfield, Assistant Crown Attorney.

The credit for the typing and arrangement of this report goes to Mrs. R. Christensen and Mrs. E. Chapman.

NCJRS

FEB 12 1980

ACQUISITIONS

TABLE OF CONTENTS

LIST OF TABLES	i
LIST OF FIGURES	ii
NOTES TO AID THE READER	ii
SUMMARY AND RECOMMENDATIONS	1
RESEARCH METHODOLOGY	5
Context of Study	5
What are the Information Needs?	6
How is the Study Conducted?	7
INTERMITTENT SENTENCE: ADMISSION & DISCHARGE	9
DEMOGRAPHIC CHARACTERISTICS	11
CURRENT CONVICTIONS	14
AGGREGATE SENTENCE	17
Previous Criminal History	18
Outstanding Charges	20
THE USE OF PROBATION ORDERS	22
The Presence of Probation Orders by Courts	24
EMPLOYMENT STATUS	26
INSTITUTIONAL REACTIONS TO INTERMITTENT SENTENCE	30
Superintendents' Suggestions for Changes	33
UNLAWFULLY AT LARGE PROCEDURES & PROBLEMS	35
GENERAL PERCEPTIONS OF INMATES	37

LIST OF TABLES

<u>TABLE</u>		Page
1	Completed Questionnaire Per Institution	8
2	Demographic Characteristics of I.S. Inmates	12
3	Current Convictions	14
4	Current Convictions for Mimico & Non-Mimico I.S. Inmates	16
5	Prior Convictions	18
6	Offences Leading to Past Incarceration(s)	19
7	Presence of Probation Orders	25
8	Employment Status of People Serving Intermittent Sentence by Institution ..	29
9	Superintendents' Suggested Selection Criteria for Intermittent Sentence	30
10	Additional Problems Posed by Intermittent Sentence	31
11	Superintendents' Suggestions for Changes	34
12	Inmates' Perceived Advantages and Disadvantages	37

LIST OF FIGURES

	Page
1 The Flow of I.S. Inmates	9
2 Length of Sentences	17
3 Presence of Probation Orders and Specific Conditions	23
4 Employment Status of I.S. Inmates	27

NOTES TO AID THE READER

NOTE: In those cases where a statistical test is applied, p (probability) indicates the statistical reliability, or degree of confidence one can have in the results. A ($p < .05$) indicates that 5 times out of 100, such a statistic will achieve that value by chance and chance alone. Similarly, a ($p < 0.01$) indicates that the event will occur once in a hundred times by chance and chance alone. If the difference has a chance of occurring less than five times in a hundred, the observed difference is judged as being a real difference.

(The notation N.S. is used to indicate non-significance)

NOTE: Unless otherwise specified the statistical test used in this report is the t -test between proportions. Essentially, the test indicates whether the difference between proportions (i.e. percentages) is statistically reliable.

NOTE: The letters I.S. will be used interchangeably with intermittent sentence throughout this report. Similarly, U.A.L. will be used interchangeably with unlawfully at large.

NOTE: Reference to "Non-Mimico" institutions is defined as including: Camp Hillisdale (Barrie Jail); Guelph Jail; Milton Jail; Niagara D.C.; Ottawa-Carleton D.C.; Sault Ste. Marie Jail; Sudbury Jail; Thunder Bay Jail; Toronto West D.C.; Whitby Jail; Windsor Jail; Elgin-Middlesex D.C.

SUMMARY AND RECOMMENDATIONS

The recommendations have been proposed within the general view that the concept of intermittent sentence is a viable one. Furthermore, it provides the courts with a sentencing option which is unique*.

The specific recommendations are directed at rectifying the problems and improving the procedures and enforcement measures of intermittent sentence. The benefits from such actions would be accrued not only by Correctional Services but the entire Criminal Justice System.

The data clearly indicate that the implicit and explicit goals of I.S., for the major part, are not being realized. The major concerns which the authors perceive are in relation to the selection of individuals for intermittent sentence as well as procedural difficulties. An abridged version of the key findings (more fully explained in the body of this report) is presented below:

- a) The selection of offenders to serve Intermittent Sentences is less than optimal. One quarter (24.7%) are neither employed nor going to school. It was also found that almost one-third had outstanding charges at the commencement of their I.S. Moreover, these inmates do not differ in terms of criminality, age, employment history or family situation, from the general jail population. These results would indicate that the courts are not provided with sufficient information at the time of sentencing. The general expectation that all I.S. inmates are better educated, more skilled, and have financial and family responsibilities has not been substantiated.
- b) In a significant number of cases (28.0%), there was no probation order accompanying the intermittent sentence. When there were probation orders, a large proportion (21.5%) had no conditions attached to the order. In only 56% of the cases was the I.S. accompanied by a probation order with any form of conditions.

* This view is consistent with the Report of the Canadian Committee on Corrections (Queen's Printers, Ottawa, 1969) in which it is emphasized that "....A wide range [of dispositions] is necessary if there is to be proper opportunity for just individualization of sentences." (page 193)

Most legal authorities are of the strong opinion that subsection 663 (1)(c) of the Criminal Code of Canada is unambiguous with respect to the requirement that a probation order accompany all intermittent sentences. The data in this study clearly attest to the fact that in practice, this is not always so. In view of the enforcement problems caused by the absence of probation orders, as outlined in this report, it is urged that the courts maintain the provisions as clearly stipulated in subsection 663(1)(c).

- c) Unlawfully at large (U.A.L.) intermittent cases pose serious procedural and enforcement problems. An enormous amount of resources are expended by Corrections, the court and police, when processing an inmate U.A.L. In many cases, charges of U.A.L. are withdrawn by the crown prior to consideration by the court. The ramifications of this are rather serious. People so charged can potentially adopt the attitude that being U.A.L. is only a minor infraction which is treated leniently by the courts. In some cases the evidence provided for an U.A.L. case is either insufficient or improperly prepared.
- d) Alcohol and drugs can pose serious problems to the institutions. Intoxication upon admission, as well as the presence of contraband, are two major concerns.
- e) The institutions face serious problems in the administration of intermittent sentences. Additional workload and staff, result in disruption of institutional routine and additional overtime. I.S. inmates cause overcrowding in the institutions, therefore a compromise in security.

The following recommendations are proposed as some of the means by which problems, as identified in this study, can be dealt with:

RECOMMENDATION 1

- a) The courts should be provided with complete information about the accused regarding his/her criminal history, employment (or educational) status and family circumstances.
- b) In particular, it should be incumbent on the defense counsel to provide proof of gainful employment or educational involvement. The crown should ensure that such information is provided.

RECOMMENDATION 2

It is recommended that the courts give serious consideration to the imposition of conditions in a probation order which will facilitate both monitoring and enforcement functions (abstaining from alcohol prior to admission and maintaining gainful employment).

RECOMMENDATION 3

It seems imperative for the integrity of the intermittent sentence, that charges be pursued in such a way that an attitudinal change take place in the minds of inmates. A higher priority given to occurrences of U.A.L. by some crowns would alleviate present difficulties for institutional personnel.

RECOMMENDATION 4

To clarify the legal requirements and expectations by all Criminal Justice components regarding intermittent sentence, it is suggested that local, periodic seminars take place. Participants to these seminars would include judges, crown attorneys, police officers and correctional personnel.

RECOMMENDATION 5

It is recommended that greater liaison between the courts, crown and correctional institutions be developed in order to increase the flow of information to the courts regarding space availability within correctional facilities.

RECOMMENDATION 6

It is recommended that subsection 663 (1)(c) of the Criminal Code of Canada be amended to specify that in the event of loss of employment

(or cessation of educational pursuits) while on intermittent sentence, the balance of the sentence be served on a continuous (i.e. straight) basis.

RECOMMENDATION 7

It is recommended that the Regulations made under the Ministry of Correctional Services Act, March, 1976 be clarified concerning:

- a) the status of I.S. inmates at all phases of their involvement with the Ministry
- b) the powers of sanction available to the Superintendents in dealing with infractions by I.S. inmates.

RECOMMENDATION 8

One of the complaints voiced by I.S. inmates was the lack of activities while in the institution. In view of this, it is recommended that inmates, on a selective basis, be engaged in work activities or programmes in and around the institution.

RECOMMENDATION 9

It is recommended that, where appropriate and/or feasible, selected I.S. inmates be allowed to serve the term of their sentence within Community Resource Centres (C.R.C.). Several advantages for this can be cited:

- i) The per diem costs for such individuals would be lower.
- ii) For some, the environment in a C.R.C. would have less "institutionalizing effects".
- iii) Some relief would be experienced by overcrowded institutional facilities.
- iv) The potential for engagement in programmes are greater in a C.R.C. For example, people with alcohol-related problems might be able to obtain A.A. or other forms of assistance.

It may, for example, be possible to assign a certain number of beds within selected C.R.C.s for inmates serving intermittent sentence.

RESEARCH METHODOLOGY

CONTEXT OF STUDY

In situations where the sentence imposed does not exceed 90 days, the Criminal Code (Section 663(1) (c)) provides for the use of intermittent incarceration. As some offences are of a less serious nature and the accused is not judged as a high risk to society, an intermittent sentence (usually recommended to the court by the defence counsel) is sometimes used in lieu of continuous incarceration. This form of incarceration presumably allows the accused the opportunity for continuity of employment or education and financial support for his/her family. This implies that the courts will have regard to the age and character of the accused, the nature of the offence and the circumstances surrounding its commission. Furthermore, the Criminal Code specifies that the accused must "... at all times when he is not in confinement pursuant to such order, comply with the conditions prescribed in a probation order".

It would be misleading to view the use of intermittent sentence as a simple practice. On closer scrutiny, intermittent sentences have very broad implications for different Ministry components as well as the wider Criminal Justice System.

The use of intermittent sentences as a form of sentencing has been increasing over the past several years. The vast majority of intermittent sentences are served from Friday evenings until Monday mornings. At the present time, at peak volume (Saturdays), the Ministry of Correctional Services houses an average of approximately 425 I.S. individuals. This represents over 11% of all admissions to the 30 or so institutions which on a regular basis house I.S. inmates.

Given the fact that most Ministry institutions are currently operating at over capacity, the additional numbers to be housed during weekends can cause major institutional disruptions and increased workloads. A very serious concern voiced by many institutional officials is the suspicion that many of the individuals on intermittent sentences are not necessarily in a low risk category, do not necessarily hold jobs while not in confinement and do not necessarily have dependents or a family for whom they have financial responsibility. Although there is much discussion and speculation, very little systematic information has been collected to date. Furthermore, the protracted nature of serving an inter-

mittent sentence may, for some, become a much harsher punishment than its intent.

WHAT ARE THE INFORMATION NEEDS?

The first phase of this study involved lengthy discussions with Main Office senior staff, institutional staff, judges and police. The purpose of these discussions was to attain a greater system-wide perspective of intermittent sentence. More specifically, the intent of the discussions with Ministry staff was to delineate management's information needs. It was felt that this approach would ensure a greater fit between the data collected and the needs of those utilizing the findings. Although staff placed different emphases on the information needs, several commonalities were identified and became the foci of study. These are:

1. What are the characteristics of people on intermittent sentence (e.g. age, marital status, criminal history, current convictions, etc.)? It was felt that the answer to the above question would assist in the evaluation of whether those individuals on intermittent sentence are appropriate or inappropriate candidates in light of the essential purpose of I.S. as implied in the spirit of the Criminal Code provisions.
2. Because employment continuity is viewed as an important criterion for the use of intermittent sentence, it is significant to determine the level of employment involvement (if any) on the part of those serving time on an intermittent basis.
3. What is the role of probation orders in conjunction with the use of intermittent sentences? The specific issues are:
a) the extent to which probation orders are present, b) the nature of the conditions set forth in these orders.
4. Although various components of the Criminal Justice System are affected by (intermittent sentence), from an operational point of view, the institutions housing I.S. people are probably the most affected. Therefore, in order to attain a greater understanding of the impact of I.S. on Ministry institutions, superintendents' perceptions are seen as invaluable.

5. In connection with #4, what is the incidence of unlawfully at large and misconducts among inmates on I.S.? What are the implications of this?
6. What are the perceptions of inmates on I.S. of the advantages and disadvantages of I.S.?

HOW IS THE STUDY CONDUCTED?

In order to elicit the information previously identified, short structured questionnaires were administered to a sample of 243 inmates on I.S. from thirteen institutions (See Table 1 for a breakdown by institution).

The institutions were selected on the basis of their regular frequency of I.S. admissions as well as their being representative of all Ministry geographical regions. Based on the above criteria, 7 jails, 1 correctional centre, 4 detention centres and 1 forestry camp comprised the sample of institutions. These institutions represent the bulk of where I.S. people are housed.

Once the institutions were selected, all possible I.S. inmates available on predetermined weekends in February 1978 were administered questionnaires. For reasons of statistical and economical efficiency, the selection of inmates from Mimico C.C. was by necessity different. As an alternative to administering questionnaires to all inmates, approximately 250 on any one weekend, every second inmate was systematically selected from available admission lists. Even so, the 113 questionnaires completed by Mimico inmates required four weekends of questionnaire administration.

In most instances the questionnaires were administered to manageable-sized groups of 3 to 4 inmates. All inmates complied with the instructions to complete the questionnaires on their own.

General inmate background information was extracted from institutional inmate records. The main sources of data were the Adult Information Sheet, the committal warrant and the probation order (if present). This data collection phase usually took place immediately after inmate questionnaires were completed.

In addition to the above sources of data, an open-ended questionnaire was mailed to all institutional superintendents. This questionnaire focused on questions concerning the impact of I.S. and recommendations for change. A letter of introduction was

sent to superintendents explaining the nature of the study and major issues under examination. A total of 44 completed questionnaires were returned and form the basis upon which data regarding I.S. impact is presented.

It will be noted that throughout this report,, special analyses involving data collected at Mimico C.C. have been conducted. These analyses are warranted because Mimico C.C. serves as the major housing facility for inmates on intermittent sentence. For this reason there was an interest in knowing if Mimico C.C. showed any differences.

TABLE 1

COMPLETED QUESTIONNAIRES PER INSTITUTION

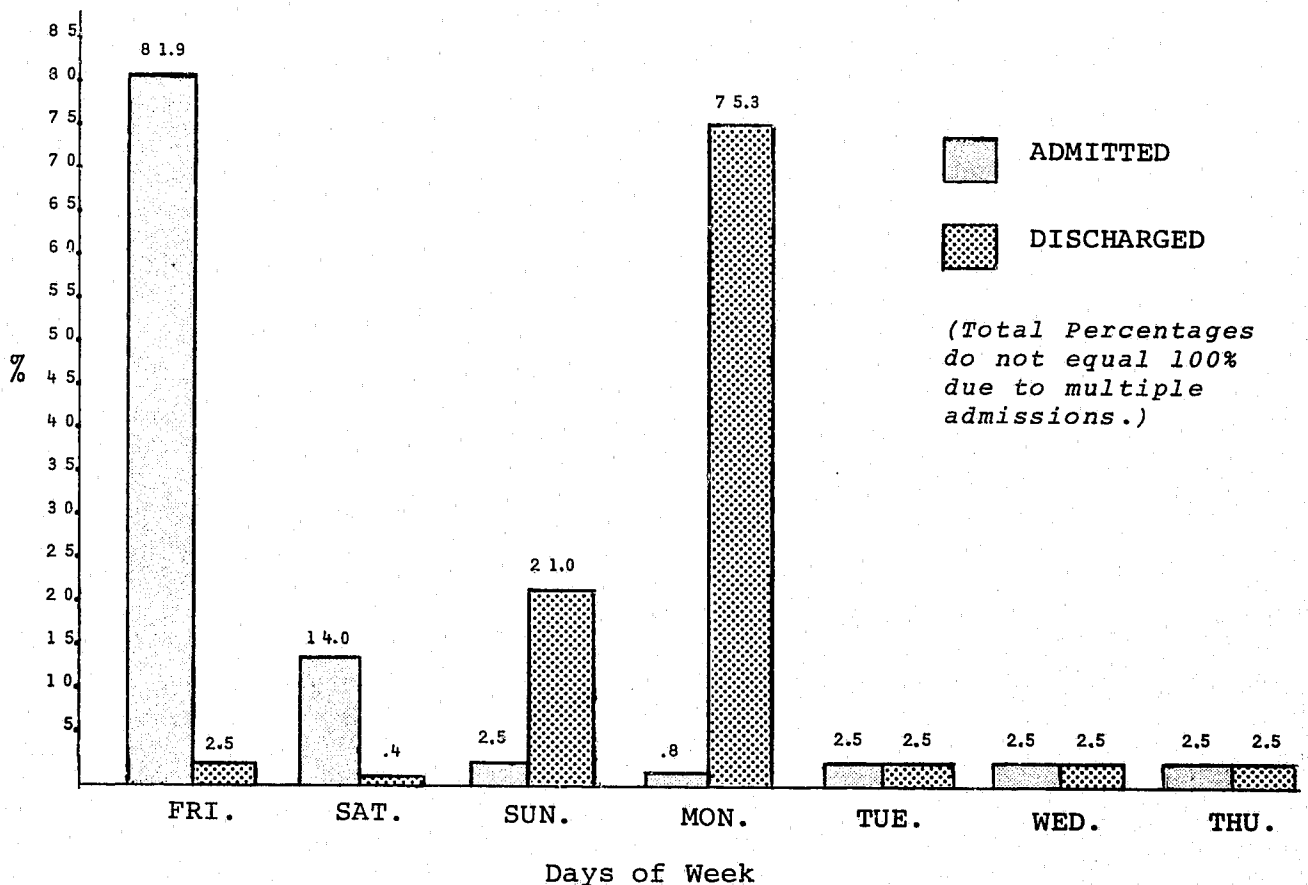
Institution	N=243	%=100
Camp Hillsdale (Barrie Jail)	8	3.3%
Milton Jail	11	4.5%
Mimico C.C.	113	46.5%
Toronto West D.C.	7	2.9%
Sault Ste. Marie Jail	12	4.9%
Sudbury Jail	6	2.5%
Thunder Bay Jail	21	8.6%
Ottawa-Carleton D.C.	24	9.9%
Whitby Jail	5	2.1%
Elgin-Middlesex D.C.	11	4.5%
Niagara D.C.	16	6.6%
Guelph Jail	5	2.1%
Windsor Jail	4	1.6%

INTERMITTENT SENTENCE: ADMISSION & DISCHARGE

The flow of inmates serving intermittent sentences from the various Ontario correctional institutions is concentrated on certain days of the week (See Figure 1). The vast majority of admissions (81.9%) occur on Friday evenings, usually between 1800 and 2100 hours. Another 14.0% report to the institution on Saturdays. The flow of discharge occurs on Mondays (75.3%) and Sundays (21.0%). Over two-thirds (67.5%) of all individuals in the sample typically report to the institution on Friday evenings and are discharged early Monday mornings.

FIGURE 1

THE FLOW OF I.S. INMATES



For institutions which house I.S. inmates, the workload on those admission and discharge days can be quite heavy often requiring additional staff on duty, as well as readjustment of the normal operating routine of the institutions. (For a more detailed analysis of these problems, please refer to the section on "Institutional Reactions to Intermittent Sentence".)

As a general rule, an intermittent sentence is given by the judge upon the recommendation of the defence counsel. In fact 93 (38.2%) of the people in the study sample reported that the idea for an intermittent sentence originated with their lawyer. A similar proportion (35.8%) saw the motivating force as primarily their own. For approximately one-quarter of the individuals, their intermittent sentence was perceived as primarily the outcome of the sentencing judge's disposition devoid of prior recommendations. The authors suspect, however, that the proportion of cases where the defence lawyer recommends or initiates the idea of I.S. is higher than actually reported. It is quite conceivable that in some situations, the accused may have been unaware of his/her lawyer's efforts in procuring an intermittent sentence disposition. In some cases, respondents may have been reticent to admit that it was in fact their lawyer who actively sought such a disposition or that they themselves had very little knowledge of what intermittent sentence entailed.

DEMOGRAPHIC CHARACTERISTICS

If there is one central message or theme which the demographic data (as well as other data to be presented later) point to, is the finding that people on intermittent sentence are not necessarily the "cream of the crop". Simply stated, the data dispel the myth that I.S. people are necessarily highly educated, older, predominantly married with dependents and have white collar, skilled jobs.

The demographic characteristics of those people serving intermittent sentences are presented in Table 2. As expected the vast majority (96.7%) of people on intermittent sentence are male which reflects quite closely the proportion of males to females within the general inmate population.

Although the age range of I.S. inmates is quite large, i.e. from 16 to 62, the group as a whole is a relatively young one. The median age (the age at which 50.0% of the cases are below and 50.0% are above) is only 24.6. For the majority, a firm employment pattern will have been established. The question is particularly relevant for those under the age of 21, who represent one-quarter (24.6%) of I.S. inmates. Their prior availability to the labour market will have been, by virtue of their age, very limited. This fact is significant in the sense that intermittent sentence may not be as viable an option for younger candidates as may be the case for older ones who tend to have more established jobs or careers.

Very much related to the issue of age is the question of whether people on I.S. have responsibilities for other family members. It was found that of the entire group, slightly over one-third (36.9%) were married or living common-law. While a small proportion were divorced, separated or widowed, over one half (53.1%) were single. Although the proportion of single people in the I.S. sample is somewhat lower than the general inmate population, it is almost identical to that found in a recent sample* of correctional centre inmates.

* *Study of Adult Training Centres (Maplehurst sub-study) by Tony Tam and Sally Rogers, Ministry of Correctional Services (in preparation).*

TABLE 2

DEMOGRAPHIC CHARACTERISTICS OF I.S. INMATES

AGE:

	NO.	%
16 - 19	41	17.1
20 - 23	65	27.1
24 - 27	47	19.6
28 - 31	31	12.9
32 +	56	23.3
Total	240	100.0
Median	(24.6)	

MARITAL STATUS:

Single	128	53.1
Married/Common-law	89	36.9
Divorced/Separated/Widowed	24	10.0
Total	241	100.0

NUMBER OF DEPENDENTS:

No Dependents	161	66.8
One or more	80	33.2
Total	241	100.0

GRADE COMPLETED:

Less than grade 9	35	17.2
9 - 10	65	31.9
11 - 13	87	42.6
Beyond grade 13	17	8.3
Total	204	100.0
Median	(10.6)	

OCCUPATION:

Managerial/Professional	13	6.3
Craftsmen	58	27.9
Services/Sales	14	6.7
Labourer	123	59.1
Total	208	100.0

Even though these findings are not entirely surprising in view of the age distribution, they are nevertheless in contrast to commonly held expectations. These expectations are based on the belief that intermittent sentence should be predominantly a disposition used on a selective basis for those individuals, who among other things, have financial and family responsibilities. When asked whether they had dependents, over two-thirds (66.8%) indicated that they had no dependents.

The educational background as measured by the last grade completed indicates a median grade level of approximately 10.6. While this is higher than the general inmate population, it is certainly not high enough to suggest that inmates on I.S. are highly educated.

Of the 208 people who were not students or housewives and for whom information was available, nearly three out of five (59.1%) held jobs, previous to their current incarceration, which were classified in the "labourer" category. Only a small proportion (6.3%), held jobs which were of a managerial or professional kind. The jobs of the remaining two categories (34.6%) were considered semi-skilled. These findings further negate the idea that the inmate on an I.S. is typically a white collar/professional person. In reality, the I.S. population is comprised predominantly of people whose occupations are of an unskilled or semi-skilled nature.

It appears that the general inmate population statistics are very similar to those pointed out in this chapter. The conclusion may be drawn that there is no difference between the two groups.

CURRENT CONVICTIONS

The average number of convictions per inmate leading to their current incarceration is 1.33. Some individuals had convictions of a multiple nature across offence categories. The proportion of people within the various offence categories is presented in Table 3. Since one of the objectives of this study is to present a description of inmates serving time on an intermittent basis, a reference point to which comparisons can be made seems most appropriate. To this end, the data of people with sentences of 90 days and less were extracted from a larger study of the Ontario jail population*. These data are particularly useful because their collection coincided almost perfectly with the collection of data for the intermittent sentence study.

TABLE 3

CURRENT CONVICTIONS

	I.S. Population (N=241)	General Inmate Population (N=574)	"t"
Against Person	9.5%	7.3%	N.S.
Against Property	23.7%	26.3%	N.S.
Against Morals & Decency	0.8%	1.7%	N.S.
Against Order and Peace	16.2%	24.2%	N.S.
Liquor	39.0%	48.8%	p<.05
Drugs	16.2%	5.2%	p<.05
Traffic	13.3%	17.4%	N.S.
"Seriousness Index"	8.3%	7.0%	N.S.

* Study of Ontario jail population, by P.G. Madden, Ministry of Correctional Services (in preparation).

The comparison between the two sets of data is surprising and once again suggests that people serving sentences on an intermittent basis are not substantially different from people serving "straight time". It is worthy to note that for convictions in the category "against person" which is viewed by many as the most serious in nature, the proportions are quite similar (9.5% for people on I.S. and 7.3% for people serving "straight time"). Where statistically reliable differences do occur, they would seem to the authors to be counterintuitive. For example, it would be expected that more people on I.S. be convicted of minor liquor offences such as refusing a breatherlizer test, blood/alcohol content over .80 mg., public drunkenness offences, etc. While the proportion (39.0%) is not very large, it is significantly less than what one would find in a group of regularly sentenced short term (90 days and less) people. The claim, therefore, that one of the distinguishing features of people serving I.S. is that they are predominantly convicted of liquor offences is not correct. The data just presented suggest that while the large number of I.S. people have been convicted of liquor offences, this proportion is significantly lower than that found in the general inmate population. (Differences among institutions regarding the incidence of people with liquor offences will be described later in this section.)

It is also counterintuitive that when compared to the general inmate population, there were significantly more I.S. inmates (16.2%) with drug convictions. The proportion of people with drug offences in the former group is only 5.2%. It should be noted that while several specific offences comprise the general "drug offences" category, a large proportion of this included trafficking in drugs and not just simple possession. Because of the drug involvement of some inmates there is a greater potential for these same individuals to be "carriers" of such contraband into the institutions. Inmate peer culture can sometimes exert strong pressure to succumb to requests.

It should be noted that the proportion of people with traffic-related offences was only 13.3%. In view of the goals of Intermittent Sentence, a much larger proportion would be expected. Reference to Table 3 will reveal the category "Seriousness Index". This category is comprised of the following offences: abduction; kidnapping; assault; assault police officer; murder; manslaughter; attempted murder; conspiracy to commit murder and robbery. These offences were perceived by the authors as more serious in nature. It is quite possible that other offences could have logically been added. The result of this analysis demonstrated that similar proportions of people from the I.S. group and the general inmate population had offences grouped in the "Seriousness Index" (8.3% and 7.0% respectively).

In comparing current convictions of Mimico and non-Mimico I.S. inmates it was noted that nearly half (47.7%) of the Mimico inmates had liquor offences (See Table 4). Only one-third (31.5%) of the inmates from the remaining institutions displayed the same pattern.

TABLE 4

CURRENT CONVICTIONS FOR MIMICO AND NON-MIMICO I.S. INMATES

	Mimico (N=111)	Non-Mimico (N=130)	"t"
Against Person	9.9%	9.2%	N.S.
Against Property	22.5%	24.6%	N.S.
Against Morals & Decency	0.9%	0.8%	N.S.
Against Order & Peace	17.1%	15.4%	N.S.
Liquor	47.7%	31.5%	p<.05
Drugs	11.7%	20.0%	N.S.
Traffic	15.3%	11.5%	N.S.
"Seriousness Index"	9.9%	6.9%	N.S.

One plausible explanation for the varying proportions may be a function of the manner in which the different courts view the purpose and use of the intermittent sentence option. Furthermore, it may also be a function of the level of pre-sentence screening which may take place.

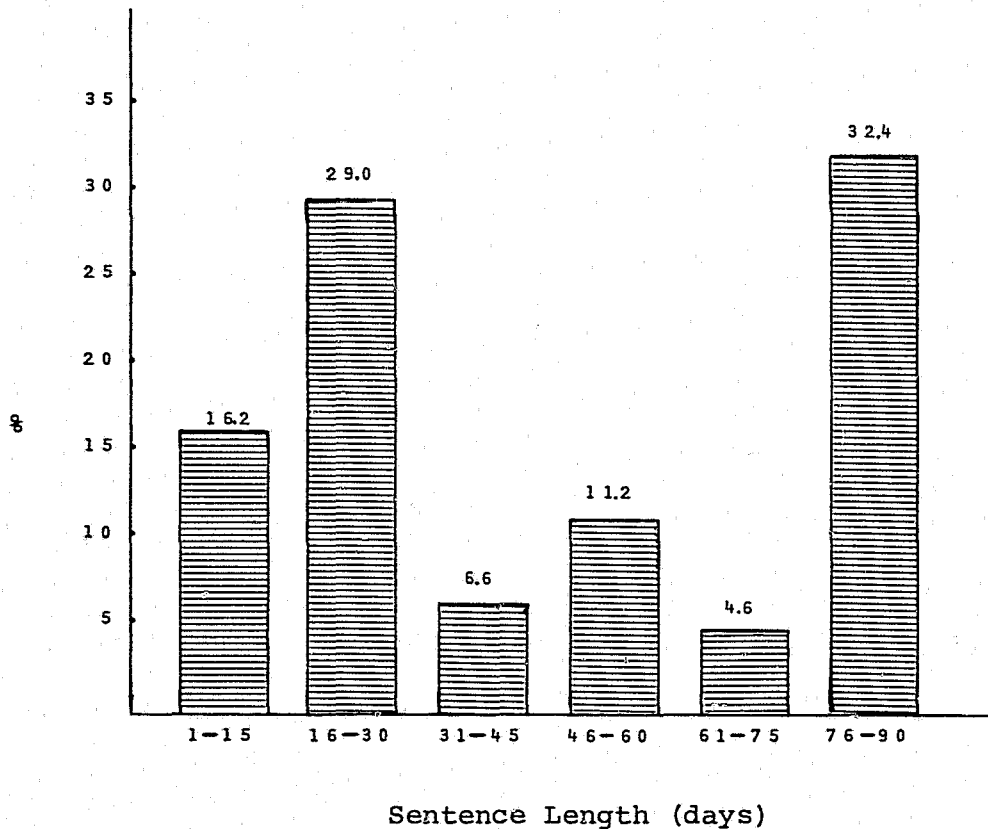
Although there is a tendency for the Non-Mimico institutions to have more inmates with drug offences, the difference falls short of being statistically significant at conventional levels.

AGGREGATE SENTENCE

Fifty percent of the inmates included in the study had aggregate sentences of less than 44.9 days while the other 50% had sentences of 45 to 90 days. (There were 4 individuals who had sentences of greater than 90 days. However, these cases were under adjudication at the time.) Figure 2 represents the proportion of people serving aggregate sentences corresponding to one of the major time categories (categories were arbitrarily divided into 15 day intervals).

FIGURE 2

LENGTH OF SENTENCES



It is misleading to simply accept aggregate sentence length as actual time served. Beyond the routine one-third reduction due to remissions there are further reductions caused by the credit procedures used in calculating time served. For example, a person who serves an intermittent sentence from Friday evenings to Monday mornings is allowed credit for 4 days served, although he/she may have only served the equivalent of two and one half days. Therefore, a ninety day sentence will mean that, all things being equal, individuals actually serve the equivalent of 37.5 days (41.7% of the original 90 days). Further reductions of one to two days can result when on the last weekend, the person reports to the institution on the Friday evening and is released one minute after midnight. These procedures become a necessity for some institutions in order to relieve overcrowding.

PREVIOUS CRIMINAL HISTORY

From the institutional inmate records, it was found that nearly three-fifths (57.6%) of the inmates included in this study, had prior criminal convictions (See Table 5). This proportion was comprised of 16.8% with only one prior conviction, 21.9% with two or three convictions and 18.9% with four or more prior convictions. No significant variation occurs in this pattern when the Mimico and non-Mimico groups are analyzed separately.

TABLE 5

PRIOR CONVICTIONS

	NO.	%
No Prior Convictions	101	42.4%
1 Prior Conviction	40	16.8%
2 - 3 Prior Convictions	52	21.9%
4 or more Prior Convictions	45	18.9%
Total	238	100.0%

One of the questions asked of inmates while serving an intermittent sentence was whether they had been previously incarcerated. Although some error may exist in the self reporting, from all other indications, the authors do not feel that it is significant. Whatever error may exist will probably be in the direction of underestimating the proportion of people previously incarcerated. Over two-fifths (42.4%) of the people in the sample indicated that they had previous incarcerations. The offences which led to past incarcerations are presented in Table 6. The data were based on the 102 individuals who had prior incarcerations and who provided complete information. In the same table, the Mimico and non-Mimico groups were analyzed separately. The only differences between the two groups were property and traffic offences. While there were significantly more people from the Mimico group with crimes against property, the presence of traffic offences was significantly greater for the non-Mimico group.

TABLE 6

OFFENCES LEADING TO PAST INCARCERATION(S)

	Total Sample (N=102)	Mimico (N=43)	Non- Mimico (N=59)	"t"
Against Person	14.7%	9.3%	18.6%	N.S.
Against Property	49.0%	65.1%	37.3%	p<.05
Against Public Morals/Decency	1.0%	-	1.7%	N.S.
Against Public Order/Peace	15.7%	9.3%	20.3%	N.S.
Liquor	25.5%	32.6%	20.3%	N.S.
Drug Offences	11.8%	14.0%	10.2%	N.S.
Traffic Offences	15.7%	7.0%	22.0%	p<.05
Other	2.0%	-	3.4%	N.S.

In addition to gathering information concerning the nature of the offences leading to past incarcerations, data were also collected to ascertain the total time actually served in such incarcerations. This analysis revealed that the average total time for all those with previous incarcerations is approximately 13 months. The median is slightly over 3 months. The comparable statistics for the Mimico group are 16 months (average) and 4 months (median). For those people from institutions other than Mimico, the average and median are only 10.6 months and 2 months respectively. These results flow logically from the findings regarding severity of past offences for the two institutional groups.

Of the total group for whom information was available (239), 11 (4.6%) indicated that they had "spent time" in a federal penitentiary. The average length of time served was approximately 2.5 years.

OUTSTANDING CHARGES

Through a detailed examination of information provided by the Ontario Provincial Police* via the Canadian Police Information Centre (CPIC) it was possible to determine whether any of the people in the study had any outstanding charges. In some cases this became a tedious process since several pieces of information were necessary before positive identification could be made. Notwithstanding, the process was successful in yielding valid information for 202 of the 243 possible cases. Only those charges resulting in a "wanted" status entered prior to the admission date for intermittent sentence, were considered as "outstanding charges". It was somewhat alarming to learn that of the 202 inmates serving intermittent sentences, 65 (32.2%) had outstanding charges at the commencement of their I.S. Some dated as far back as three years, others were as recent as one month.

In many instances the outstanding charges were not serious in nature and often involved offences such as speeding, impaired driving, parking violations, etc. However, in some instances, the charges were unlawfully at large, auto thefts, mischief, false pretenses and similar offences.

* The assistance provided by Cpl. R.T. Green, Director, Central Records & Communications Branch, Ontario Provincial Police, is gratefully acknowledged. In order to ensure the confidentiality of criminal records, Cpl. Green devoted some of his valuable time in the distillation of much of the information provided.

As a result of these outstanding charges, correctional institutional authorities are placed at a great disadvantage in dealing with the inmate as a total individual because of incomplete information. The need for current inmate information becomes critical because of the close connection between the output of the court system and the input for the Ministry of Correctional Services. For a variety of reasons (e.g. time pressures, unavailable evidence and/or documents, etc.) there is a dearth of information which is brought to the attention of the court for its consideration prior to sentencing. For example, in only 32 (14.2%) out of 226 cases did the sentencing judge have a current pre-sentence report*. It would seem reasonable and desirable for the sentencing judge, the crown counsel and the defence counsel to have at their disposal all or any pertinent, up-to-date information regarding individuals who are being considered for intermittent sentence.

When the Mimico and non-Mimico groups were compared, it was noted that a significantly higher proportion of Mimico inmates had outstanding charges (39.6%) while the proportion of the latter group was 23.9%.

* This information was obtained from the Adult Information System, Ministry of Correctional Services.

THE USE OF PROBATION ORDERS

A very thorny legal issue which arises in connection with intermittent sentence is the inconsistent use of probation orders. The Ministry of Correctional Services has taken the position that Subsection 663 (1) (c) C.C.C. specifically and clearly dictates that a probation order must accompany all intermittent sentences. Dombek* points out that the "... wording of the subsection is quite specific. If the learned judge does not give probation along with an intermittent sentence, he has erred at law. Furthermore, he has placed the jail staff and probation officer at a disadvantage". Similarly, C.C. Barnett**, Judge of the Provincial Court of British Columbia is of the opinion that a person who is required to serve an intermittent sentence must be placed on probation. In a recent examination*** of the probation legislation, Dunfield arrives at the same conclusion.

The data presented in Figure 3, clearly attest that these conditions are not being met. Of the 239 cases for whom complete information was available, only 172 (72.0%) were given a probation order as part of the intermittent sentence. Furthermore, of those who were issued a probation order, only 135 (78.5%) were required to fulfill any condition specified in a probation order. The only implicit condition for the remaining 21.5% was that they "... keep the peace and be of good behaviour and shall appear before the court when required ...". How this would be enforced and who would be responsible for its enforcement is not entirely clear.

Even for those individuals with special conditions, ambiguities and problems arise. Reference to Figure 3 also indicates what these conditions are as well as the proportion of people bound by them. The statistics in the adjacent column are based on the total sample (239).

Only one-quarter (24.7%) of the total sample had any reporting condition****. Over one third (35.6%) were specifically prohibited from the consumption of alcohol. The remaining conditions would seem to have limited enforceability in view of the lack of reporting conditions. For example, how can conditions such as restitution, curfew,

*Dombek, Carl, "Probation", Criminal Law Quarterly, Vol 17, No. 4, August 1975, p. 406.

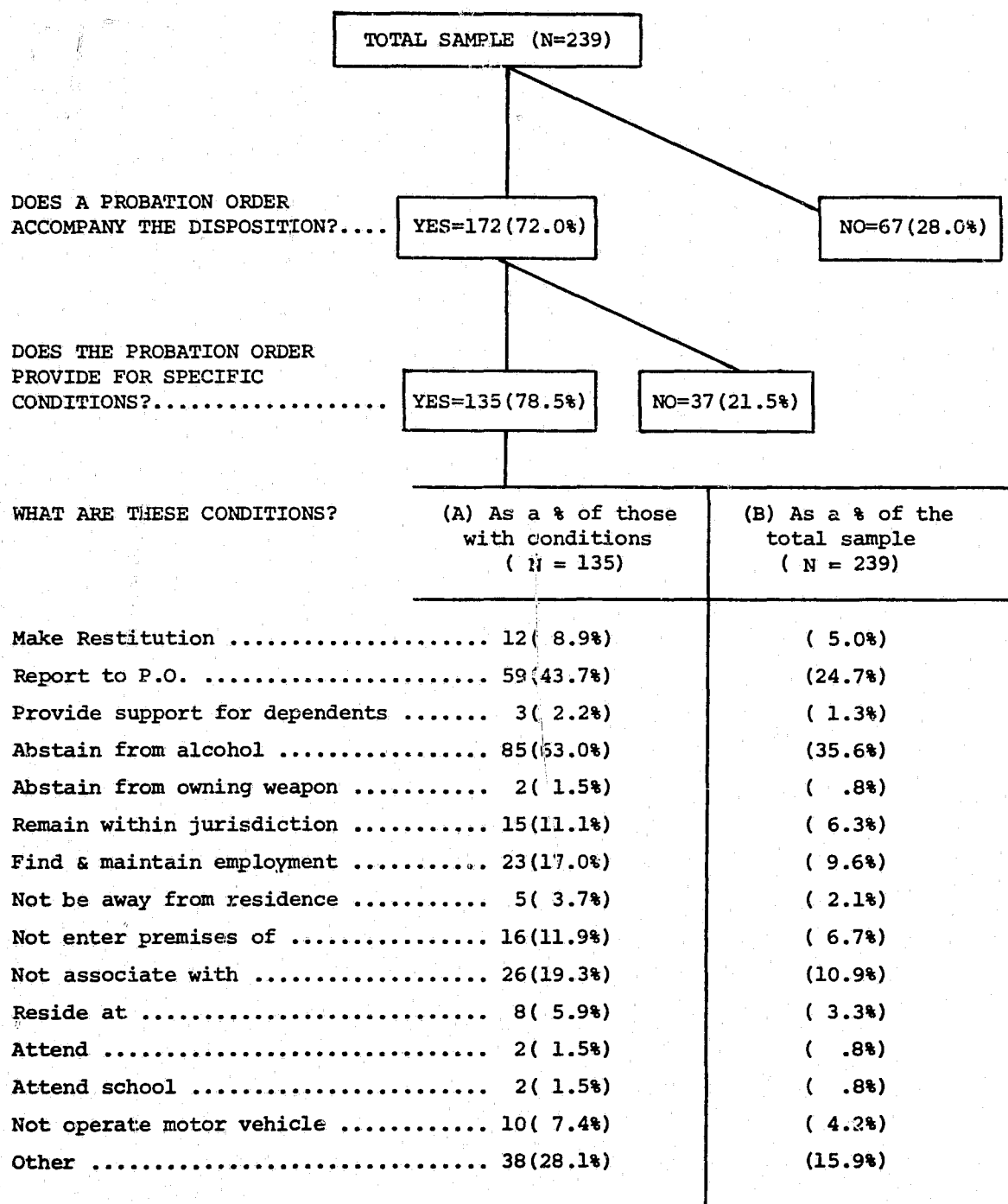
**Barnett, C.C., "Probation Orders Under the Criminal Code", Criminal Report New Series, Vol 38, June 1977, p. 170.

***Dunfield, Wesley, Probation Litigation; A Primer, (unpublished manuscript).

****There are currently Federal Proposals to amend Section 663 (1) to clarify that a probation order shall be mandatory in conjunction with an intermittent sentence.

FIGURE 3

PRESENCE OF PROBATION ORDERS AND SPECIFIC CONDITIONS



travelling restrictions, etc. be enforced? It was also surprising to find that so few cases had any condition with regards to "finding and maintaining suitable employment" (17.0% of those with conditions; 9.6% of the total sample). This would seem especially pertinent since one of the most important reasons for an intermittent sentence is to allow the offender the opportunity for employment continuity.

The consequences of the problems just outlined are many and varied. Confusion often arises as to who should lay a charge when an inmate reports to the institution in a drunken state. This is problematic when either a probation order does not exist, or when it does, no specific condition regarding abstaining from the consumption of alcohol is made. (As noted above, only 35.6% had such a condition.) It is not clear, in these situations whether the institutional authorities or Probation/Parole Services have the primary responsibility for enforcement procedure and the laying of charges. (The problems and implications of charges of "unlawfully at large" will be discussed in a later section.) In a few instances violators have experienced grace from the consequences of their violations because of the ambiguities just described. Frequent occurrences of this sort can potentially endanger the integrity of the intermittent sentence.

No statistically reliable differences were detected between those people serving an I.S. at Mimico C.C. and other institutions, as to the proportions bound by a probation order. Although not statistically reliable, the Mimico sample tended to have more people (69.4%) with alcohol abstinence conditions than did the people from the other institutions (55.6%). This is generally in line with the previously reported higher proportion of Mimico people having alcohol convictions.

THE PRESENCE OF PROBATION ORDERS BY COURTS

Further detailed analyses showed no reliable differences between Provincial Courts and County Courts* regarding provisions for probation orders along with the intermittent sentence disposition. Three-quarters (76.5%) of the dispositions emanating from Provincial Courts had probation orders compared to 66.7% for the County Courts. However, the data in Table 7 indicate that the location of the courts may be significant. A far smaller proportion (56.5%) of dispositions from the large urban courts** had probation orders when compared to the remaining courts (82.5%).

*This also includes some district courts and one Supreme Court.

**The large urban courts included: Ottawa County Court; Ottawa Provincial Court; Toronto Provincial Court, Toronto Supreme Court and East Mall Court (Provincial).

TABLE 7

PRESENCE OF PROBATION ORDERS

	YES	NO	TOTAL
Large Urban (Toronto & Ottawa Courts)	52 (56.5%)	40 (43.5%)	92 * (39.1%)
Other	118 (82.5%)	25 (17.5%)	143 (60.9%)
TOTAL	170 (72.3%)	65 (27.7%)	235

$$\chi^2=18.9, p<.001$$

It can safely be stated that for the major part, the courts do in fact issue probation orders with the exception of the larger urban courts (Ottawa & Toronto).

Although the scope of this study did not permit further analysis, these findings are not entirely surprising when one considers the heavy workload of the Ottawa and Toronto courts. Furthermore, the same degree of contact and communication between institutional authorities and courts is not possible in the larger centres as in the smaller communities. The data clearly suggest that efforts in this vein are not only desirable but necessary to resolve issues emanating from the utilization (or lack) of probation orders in the context of intermittent sentence.

* It may occur that individuals sentenced in one Court will serve their sentence in another locality. (The reader is reminded that the locality with the largest proportion of I.S. inmates is the Mimico Correctional Centre.)

EMPLOYMENT STATUS

One of the primary objectives of an intermittent sentence, is to provide an appropriate period of custody while at the same time allowing the convicted person the opportunity to maintain employment and financial necessities. Within this context, therefore, it is of utmost importance to ascertain whether the employment goal is being achieved. In order to extract this information, it was decided that the best alternative would be to ask the I.S. people themselves.

A complete set of information regarding inmates' current employment status, as well as other explanatory data is presented in Figure 4.

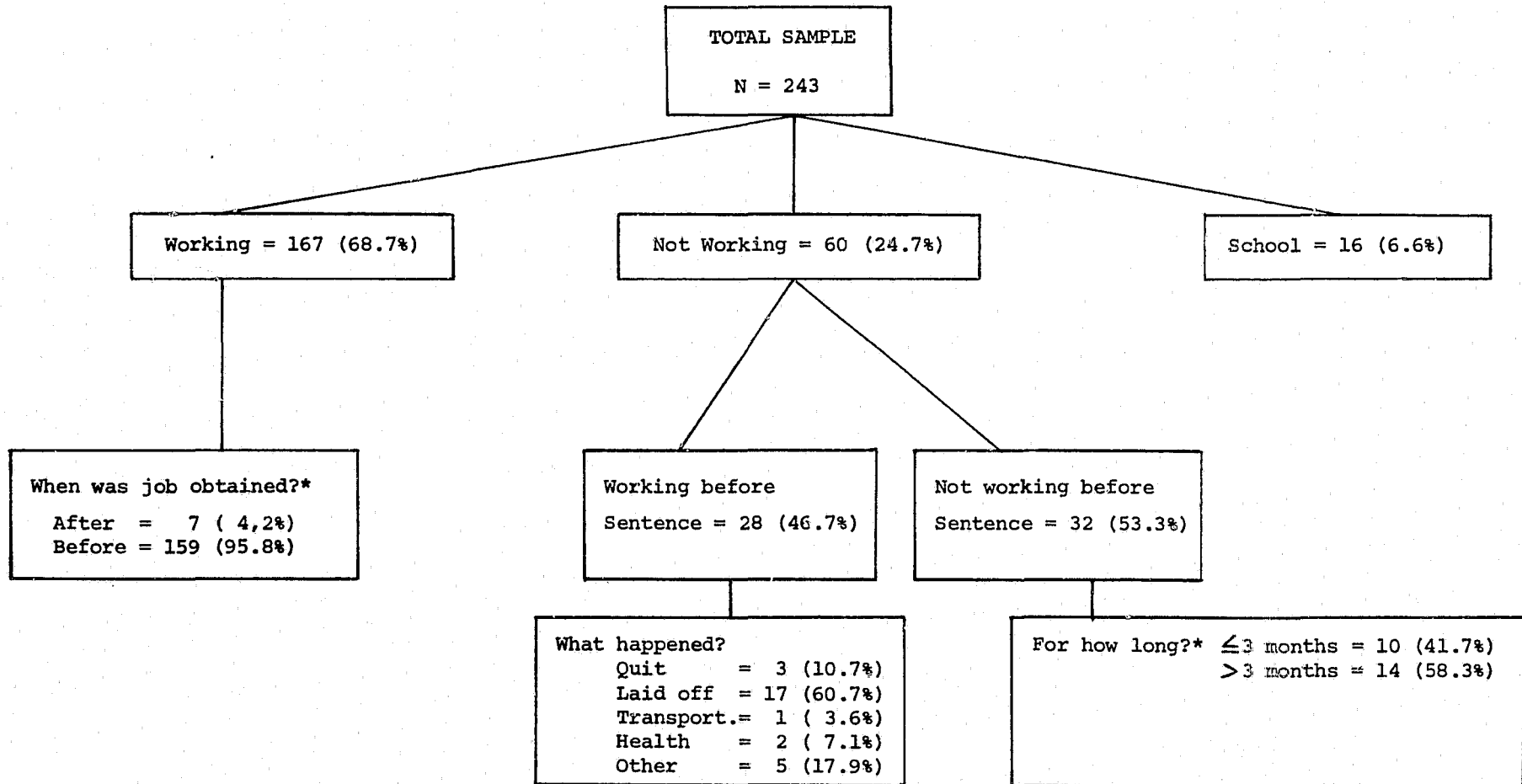
Most notable among the data is the finding that for a sizable proportion (24.7%) of the total sample, the primary goal of intermittent sentence is clearly not met. The fundamental question which must be asked is: If these individuals are neither gainfully employed nor engaged in educational programmes, then why are they serving an intermittent sentence? With the possible exception of two of these people (who had health-related problems) there do not seem to be extenuating circumstances which might explain why their convictions were being satisfied through an intermittent sentence. It is interesting to note that while 46.7% of these individuals had jobs at time of sentencing, over one-half (53.3%) were unemployed, some for period of over three months.

Provisions and mechanisms for reverting to "straight time" would seem reasonable and desirable for those who were working at the time of sentencing but who subsequently suffered loss of employment (outlined in Figure 4). This might have alleviated any possible abuse of intermittent sentence. It is not inconceivable that some accused individuals, although showing proof of employment at time of sentencing, left such employment once the desired disposition had been obtained. No mechanism exists for monitoring and enforcing the principle that inmates be employed (or attending accredited educational institutions). Although no provision exists in the Criminal Code, in isolated instances some courts do specify that upon loss of employment, the sentence is to revert to "straight time".

Those people, who at the time of interview, indicated that they were gainfully employed (68.7%), for the major part were working a regular 40 hour week. There were, however, several individuals (namely 7) who indicated that their period of work consisted of 30 hours or less per week.

FIGURE 4

EMPLOYMENT STATUS OF I.S. INMATES



**Totals vary because of incomplete information for some cases.*

A small proportion (4.2%) of those people who were working, also indicated that they had obtained their job after being sentenced. This suggests that at time of sentencing, these people were unemployed but were nevertheless given an intermittent sentence.

Presented in Table 8 is the employment status for the entire sample, analyzed by institution. Among the thirteen institutions included in the study, the highest proportions of inmates "not employed" were from the Thunder Bay Jail (42.9%) and Ottawa D.C. (41.7%).

Earlier in the report it was mentioned that I.S. may not be as viable an option for younger candidates as may be the case for older ones. The data regarding employment status supports this view. It was found, for example, that a significantly larger proportion (37.3%) of those under 21 years of age were unemployed as compared to only 19.9% of those 21 and over.

In general, the findings raise serious doubts about the purpose of intermittent sentence for a significant proportion of the sampled inmates. Furthermore, it is not clear, how much information is sought and/or provided to the courts about the employment status of people given an intermittent sentence disposition. When the interview data for the 32 people for whom the courts had current pre-sentence reports (P.S.R.) were further analyzed, it was found that a large proportion (11 or 34.3%) were unemployed. Two possible explanations could be, either that no information regarding employment status or history was present on the P.S.R., or if it was, the courts may have chosen to disregard it.

TABLE 8

EMPLOYMENT STATUS OF PEOPLE SERVING
INTERMITTENT SENTENCE BY INSTITUTION

INSTITUTION	WORKING	NOT WORKING	STUDENT	TOTAL
Mimico C.C.	86 (76.1%)	23 (20.4%)	4 (3.5%)	113 (100.0%)
Ottawa D.C.	12 (50.0%)	10 (41.7%)	2 (8.3%)	24 (100.0%)
Thunder Bay Jail	9 (42.9%)	9 (42.9%)	3 (14.3%)	21 (100.0%)
Others* (grouped)	60 (70.6%)	18 (21.2%)	7 (8.2%)	85 (100.0%)
TOTAL	167 (68.7%)	60 (24.7%)	16 (6.6%)	243 (100.0%)

**Because of the small numbers involved, the following institutions were grouped under the category "Others":
Niagara D.C.; Sault Ste. Marie Jail; London D.C.; Milton Jail; Camp Hillisdale; Toronto West D.C.; Sudbury Jail; Whitby Jail; Guelph Jail; Windsor Jail.*

INSTITUTIONAL REACTIONS TO INTERMITTENT SENTENCE

In order to gain a fuller understanding of the impact of intermittent sentence on the correctional institutions, superintendents from all Provincial institutions were solicited for their opinions. Complete responses from 44 superintendents were received and form the basis for the following discussion.

Presented in Table 9 are the responses of superintendents outlining their perceptions of who should be allowed to serve on intermittent sentence. Superintendents viewed their own responses as essentially I.S. "selection criteria".

TABLE 9

SUPERINTENDENTS' SUGGESTED SELECTION CRITERIA FOR INTERMITTENT SENTENCE

	N=44	%
Minor offences	29	(65.9%)
Should have job/going to school	19	(43.2%)
First incarcerate	12	(27.3%)
Should have family to support	12	(27.3%)
Motivated/cooperative	11	(25.0%)
People without maladjustment	9	(20.5%)

Approximately two-thirds (65.9%) of the superintendents indicated that people serving an intermittent sentence should have offences which are of a relatively minor nature. In connection with this, it was felt that persons convicted of trafficking in narcotics, crimes of violence and chronic drinkers, are not suitable candidates for I.S. One quarter (27.3%) of all respondents also indicated that individuals serving an I.S. should be first

incarcerates. Just over two-fifths (43.2%) specified that having a job or attending school should be prerequisites for I.S. Unemployed persons were not viewed as suitable candidates.

When asked to indicate whether the individuals serving an I.S. within their institutions were, in their opinion, "suitable" inmates, only one quarter* (24.3%) of the superintendents answered in the affirmative. The remainder (75.7%) expressed doubts about the suitability. These superintendents often alluded to problems of intoxication upon admission to the institution, as well as contraband-related difficulties. Several people indicated that these same people should have been more appropriately allowed to participate in the Temporary Absence Program (T.A.P.). The result of the above was best expressed by one superintendent when he stated that, "... a great deal of time, money and staff efforts are wasted ...".

When asked whether intermittent sentences pose any additional or unusual problems for the institution, only 4 (10.8%) of 37 superintendents indicated "no". The answers for those who indicated "yes" were many and lengthy (See Table 10). Some of the comments made, although mentioned separately, are nevertheless interrelated.

TABLE 10

PROBLEMS POSED BY INTERMITTENT SENTENCE

PROBLEMS	NO=33	%
Overcrowding	21	63.6%
Additional Workload Disrupts Institutional Routine	14	42.4%
Compromise of Institutional Security	12	36.4%
Under Influence of Drugs/Alcohol	11	33.3%
Additional Staff Overtime Needed	9	27.3%
Problems of Contraband	8	24.2%
Violations of Regulations	7	21.2%
Improper and/or Lack of Probation Orders/Committal Warrants	5	15.2%

**The base used is 37. The remainder did not feel qualified to answer the question because of their limited experience with intermittent sentence.*

As can be seen in Table 10, the most frequently mentioned problem was institutional overcrowding. Nearly two-thirds (63.6%) of the superintendents indicated that their greatest difficulty was in accommodation planning. There is practically no control by the Ministry of Correctional Services as to who is given intermittent sentence or the manner in which it is to be served. Because institutional authorities rarely have more than two to three days advance notice of the volume of I.S. admissions, the potential for effective planning is reduced. It is not uncommon for an institution to be at capacity and yet have to admit I.S. people for the weekend. It is not unusual, because of practical consideration, to issue weekend temporary absence passes to some I.S. inmates on particularly heavy weekends. In most situations this practice is less than desirable.

In most localities, the sentencing court has very little information regarding space availability for designated correctional facilities. The provision of current information, as well as an appreciation and willingness by the courts to use I.S. more selectively, can minimize some of the difficulties just cited.

The next most frequently identified problem posed by I.S. for superintendents was the disruption of the institutional routine. At times, because of overcrowded facilities, regular inmates had to be transferred to other institutions. Normal institutional routines such as serving of meals often had to be re-scheduled in order to take into account the additional inmate population. Because in most institutions, I.S. inmates are segregated from the rest of the population, a great burden is placed upon the institution to ensure that proper security measures are taken. This can at times necessitate complex and undesirable inmate relocation within the institution. In institutions where segregation of I.S. inmates from the rest of the population is an impossibility, the problems can become exacerbated.

Some superintendents (36.4%) indicated that the presence of I.S. inmates can potentially compromise institutional security. They cited the potential for "passing out" information from security risk inmates. Furthermore, they indicated that processing a large group of inmates at the same time, occupies staff and decreases security in the remainder of the institution. Nine (9) superintendents indicated that additional work resulting from I.S. often created the need for additional staff and/or overtime. At times, standard operating procedures are sacrificed simply because of staff shortages. For example, although the final "skin search" upon admission should be conducted in the presence of two correctional officers, this is not always possible. Furthermore, although searches on discharge should take place, the time and manpower are not always available. This is particularly true for those institutions which admit and discharge large numbers of I.S. inmates.

Other problems cited by superintendents are presented in Table 10. They include problems of alcohol/drugs, contraband, lack of probation orders, etc. In general, the common theme pervading through the numerous specific comments is that the use of intermittent sentence poses very serious overcrowding and administrative problems. Furthermore, some dissatisfaction was voiced concerning the type of person sentenced to I.S. as well as the lack of provisions for enforcement.

SUPERINTENDENTS' SUGGESTIONS FOR CHANGES

When asked what recommendations they would make in regards to intermittent sentence, superintendents often suggested changes to solve problems already alluded to in this report (See Table 11). One half (50.0%) of the superintendents indicated that because of the administrative problems and the dubious value of an intermittent sentence, the same essential purpose of an I.S. can be attained through other alternatives, such as the Temporary Absence Programme.

The other suggestions were more related to specific actions necessary to deal with the various aspects of I.S. Just over two-fifths (42.9%) expressed the belief that because of "the current loose structure", the use of I.S. should be "tightened" and specific "eligibility" or selection criteria be established. The spirit of the criteria would be geared toward ensuring that the goals of intermittent sentence are guaranteed and maintained (i.e. that candidates' criminal history not be serious in nature, that they be gainfully employed, that more emphasis be placed on the person who is married and has dependents).

A same number (42.9%) of superintendents felt it would be desirable if the Ministry of Correctional Services were given some legal mandate to play a more active part in the control and application of sanctions in cases where inmates serving I.S. fail to comply with the terms of their sentence. It was felt that institutional authorities should be given legal authority, when warranted, to revert a sentence served intermittently to "straight time". The basis for this suggestion is in the belief that, at present, inmates who fail to comply with the terms of their sentence do so with the perception that the consequences will be of a minor nature. These superintendents were of the strong opinion that the sanctions must not only be commensurate with the nature of the infraction but must also be perceived by the inmates to be so.

Over one-quarter of the superintendents (26.2%) recommended that the courts be provided with more information and detailed investigations respecting I.S. candidates. The

same proportion also indicated that the committal warrants should be more specific concerning the wishes of the court. As an example, it was noted that in one particular instance, a 90 day intermittent sentence was to be served two Saturdays per month. Since the court designated neither the specific Saturdays per month nor the times the inmate was to report, the inmate and institution are in a rather difficult position. In such cases, the determination of whether an inmate is complying with the court's conditions is open to conflicting interpretation.

Six superintendents strongly recommended that a probation order be made mandatory for all persons receiving an intermittent sentence. The reason the number is not larger can probably be attributed to the fact that most superintendents are already operating on the assumption that a probation order is a mandatory requisite of intermittent sentence.

The data presented in Table 11 have two major thrusts. One advocates the use of alternatives to intermittent sentence; the other advocates courses of action to rectify specific concerns.

TABLE 11

SUPERINTENDENTS' SUGGESTIONS FOR CHANGES	N=42	%
Abolish and/or use T.A.P. as alternative	21	50.0
Specific criteria should be established	18	42.9
More control by M.C.S.	18	42.9
More preliminary investigations to be conducted	11	26.2
Committal warrants should be more specific	11	26.2
Probation order should be mandatory	6	14.3

UNLAWFULLY AT LARGE PROCEDURES AND PROBLEMS

Available institutional statistics provide evidence for the large volumes of U.A.L. cases. For example, during the 1977 - 1978 fiscal year there were 285 cases of I.S. who were unlawfully at large at the Mimico C.C. When one considers the fact that for the same time period, there were 1745* cases of intermittent sentences at Mimico, the proportion of unlawfully at large cases is 16.3%, a very large proportion by any standards. As of April 1, 1978, 213 (74.7%) of the 285 U.A.L. cases had been apprehended or recaptured while 72 (25.3%) were still at large.

Furthermore, it is somewhat surprising to note that of 154 recaptured or apprehended cases for whom information is available, 69 (44.8%) had the U.A.L. charge(s) withdrawn or dismissed*. At times, the crown attorney will drop the charges because of insufficient evidence or may feel that the charges are not severe enough to warrant imposing further sanctions. In cases where there are other charges, the plea bargaining process can result in U.A.L. charges being withdrawn in favour of proceeding with the "more" serious charge(s).

It is not difficult to appreciate the enormous amount of resources expended by Corrections, the court and police with respect to cases of unlawfully at large. These three Criminal Justice components are experiencing not only heavy workload volume but at present are also under various restraint programmes. As such, proper investigations, enforcement and monitoring functions are at times compromised because of the more immediate practical necessities.

In order that the reader gain a fuller understanding of the process involved in declaring an individual unlawfully at large, a typical set of actions is presented below**. Although the details pertain primarily to Mimico C.C., similar procedures are in force across the Province.

When an inmate serving an intermittent sentence fails to report to the institution designated by the court, he/she is declared U.A.L. The Admitting and Discharge Officer (A. & D.O.) will then complete an Escape Report (#9910) for internal use, specifying the circumstances of the case. Subsequently, the A. & D.O. will notify the Metropolitan Toronto Police Department, 21 Division, by phone and report the matter. Officers of that Division will then arrive at the institution and take all necessary information about the inmate for the purpose of arresting him for unlawfully at large.

**As per data available from Mimico C.C. Records information.*

***The authors are indebted to Gordon Helsdon, Clerk of Records, Mimico C.C. for his assistance in this regard.*

On the next business day following the occurrence, the Escape Report is delivered to the Records Office for recording purposes and notation on the inmate file. The Senior Shift Officer is then requested to supply a Correctional Officer to report to the Records Office for the purpose of collecting the inmate file and laying an information before a Justice of the Peace in the East Mall Court.

After swearing upon the information, the C.O. will return the file to the Records Office. A "Warrant to Arrest" is then issued by the court and delivered to 21 Division for execution.

If and when the subject is arrested, he/she is taken to appear before the East Mall Court to face the charge of being U.A.L. A trial date is then set, usually following one or more remand dates, depending on whether there are other outstanding charges.

Following release on bail, if bail is allowed (as often is), the accused is required to return to the institution to serve the balance of the original intermittent sentence. When trial dates are confirmed, 21 Division provides the Records Office with a list of names and dates in this matter requesting certified copies of committal documents to assist the Crown Attorney dealing with the case. (In the past, the Clerk of Records had been required to attend all such trials.)

On or after the trial date, the court is contacted by the institution in order to learn of the disposition of the U.A.L. charge. The information is recorded and placed on file.

If the accused elects to be tried by a judge and/or jury, then the case will be placed on the assignment calendar for County Court several months in advance.

Although the process just described may sound rather straightforward, several remand dates can occur sometimes delaying the final outcome by a year or more. In most cases a disposition for the U.A.L. charge(s) is rendered within two to three months of the commission of the U.A.L. Although it is outside the scope of this study to ascertain the costs inherent (to the Justice System) in the above process, it would be an understatement to say that the costs are excessive when multiplied over the number of such occurrences.

GENERAL PERCEPTIONS OF INMATES

The questionnaire (referred to in the chapter on Methodology), administered to the inmate sample, contained several questions which were directed at their perceptions on several aspects of their intermittent sentence. One such question sought to arrive at an understanding of how inmates' families felt about the type of sentence they received (intermittent as opposed to a straight sentence). For the major part, inmates on I.S. (57.0%) thought that their families were generally happy about the present form of sentence. One third (33.9%) of the inmates, however, thought their families had mixed feelings toward the present sentence.* This is possibly due to their reactions to the incarceration rather than to the form of disposition.

When asked to indicate their perceptions of advantages and/or disadvantages to the I.S., three-quarters (76.5%) gave examples of advantages while a lower proportion (43.2%) also cited a variety of disadvantages. (Total is greater than 100% because some respondents cited both advantages and disadvantages). The specific items are presented in Table 12.

TABLE 12

INMATES' PERCEIVED ADVANTAGES AND DISADVANTAGES

ADVANTAGES (N=186)		DISADVANTAGES (N=105)	
Able to continue working	124 (66.7%)	No activities	26 (24.8%)
Able to continue to function normally	39 (21.0%)	No personal time	22 (21.0%)
Maintain family ties	38 (20.4%)	"Time drags"	21 (20.0%)
Financial	30 (16.1%)	Interferes with job	19 (18.1%)
Able to continue schooling	11 (5.9%)	Away from Family	19 (18.1%)
		Poor conditions	9 (8.6%)
		Transportation problems	9 (8.6%)

* The remaining 9.1% indicated that their families were unaware of their incarceration.

Of the advantages mentioned, "being able to continue working", was by far the most frequent (66.7%). Twenty-one percent thought they were able to continue to function normally (contacts with friends, co-workers, acquaintances, etc.). Maintaining family ties were considered important by 20.4% of the sample because they felt they were still able to support their family emotionally during the week. There was a financial advantage perceived by 16.1% of the inmates as they were still able to exercise primary responsibility and control over their monetary obligations. A few even indicated that by virtue of serving time on weekends, significant cost savings were being realized. For a small proportion (5.9%) of people, I.S. made it possible for them to continue with their educational pursuits.

A thread of commonality seems to run through the perceived advantages, in that they support the belief that I.S. essentially helps to maintain a sense of normality in one's life.

Concerning disadvantages, one-quarter (24.8%) felt that there was a paucity of activities during the weekends (i.e. no exercise periods, no involvement in work programs, no T.V., or reading materials). Inmates felt that this often led them to boredom and dissatisfaction. Because of the obvious involvement with other people and institutional regulations, 21.0% felt that not having personal time was a disadvantage, especially after working the full week. Twenty percent of the inmates mentioned that time often "dragged", which again could be a result of the lack of activities. Furthermore, as mentioned previously, serving three or four days a week tends to prolong what seems to be a relatively short sentence, over a long period of time. In many ways, I.S. was seen as a protracted way of satisfying one's sentence which at times caused great anxiety. It was pointed out by some (18.1%), that I.S. can sometimes interfere with their employment especially for those individuals who had jobs that included work on weekends. Jobs that involved travelling out of town had to be scheduled to the middle of the week in order to leave Friday open for reporting to the institution on time and Monday as the day of release. Eighteen percent felt they were away from their families during the only free time they had away from their job. Poor conditions, such as overcrowded facilities, poor food, schedule of meals, etc. were listed as a disadvantage by 8.6%. Finally, 8.6% of the sample, encountered difficulties in travelling to and from the institution. This appeared to be a problem particularly in small communities where available transportation systems were not adequate.

It is interesting to note that 212 (87.2%) of the inmate sample would not have preferred to serve "straight time" despite the dissatisfactions just discussed. Only 31 (12.8%) of the sample mentioned they would rather have been given a straight term. Some of the predominant reasons for this pre-

ference of "straight time" as compared to intermittent sentence were that the sentence could be satisfied in a much shorter period of time instead of "dragging out" for months; the "straight time" inmates seem to get more privileges and activities (e.g. exercise periods, T.V., reading material, etc.) compared to those on intermittent sentence. One other reason resulting in a preference for "straight time" was based on the belief that it would be less of an interruption for those who are required to work part of the weekend. In regard to the feeling that not enough activities take place during their stay in the institution, this might serve as a message to correctional authorities that a greater use of I.S. inmates be made during weekends, for various work projects in and around the institution.

END