AN ADVISORY GROUP TO THE
CORRECTIONAL SERVICE OF CANADA

THE CRIMINAL JUSTICE SYSTEM
DENMARK

Background Report No. 3
Strategic Planning Committee

April, 1980

Correctional Service
Canada
Service correctionnel
Canada

National Institute of Justice
United States Department of Justice
Washington, D.C. 20531

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

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

D.R. Yeomans
Commissioner

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This Report is a summary of the most recent literature available on the Criminal Justice System in Denmark.
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I CRIMINAL JUSTICE SYSTEM

A) Philosophy
- main aim of criminal law is general prevention; punishment dominant theme of law, but social tolerance high;
- justice is fair and uniform, with strict application of the law and regulations;
- recognition of the need to separate those offenders who require only punishment and those who require psychiatric treatment while being punished;
- free will philosophy operative;
- criminal justice system not rehabilitative; this function best left to external authorities (i.e. welfare agencies).

B) Administration
- Ministry of Justice responsible for police, prosecution, and correctional operations;
- all sub-systems of criminal justice system under one policy body; allowing for consistency and uniformity;
- independence of judiciary.

C) Operations
- wide police/prosecution discretionary powers regarding disposition and prosecution;
- 25% of crimes dealt with by prosecutorial waivers;
- arrested persons must be presented before judge within 24 hrs;
- no plea bargaining;
- no juvenile court system (offenders under 15 years of age dealt with by Child-Youth Welfare Authority);
- criminal responsibility relevant to the finding of guilt and to disposition; only basis for diversion from criminal justice system is legal insanity;
- drunkenness is a defence.

D) Sentencing
- emphasis on punishment and maintenance of respect for the law;
- age of criminal responsibility is 15; offenders 18 years or younger usually waived by prosecution; these offenders handed over to children's welfare authorities;
- capital punishment abolished in 1930;
- maximum sentence is set out in criminal code and there are no statutory minimums;
- prison see as last resort.

Reform Act 1973 (last criminal code amendment)
- elimination of indeterminate sentence and institutions designed to house persons serving indeterminate sentences;
- abolition of youth prisons;
- abolition of special measures for alcoholics;
- abolition of workhouse detention;
- reduction in maximum sentences for property offenders and recidivists;
- emphasis on increase use of fines and probation.

E) Sanctions

i) fines
- frequently used sanction (25%);
- day fine - similar to Swedish day fine; elaborate schedules of payment;
- levied according to gravity of offence and offender's financial situation;
- jail terms for non-payment run from 2 days to 60 days but are rarely used.

ii) suspended sentence
- equivalent of probation sentence, but without supervision;
- used in approximately 25% of criminal cases (50% in 1975);
- conditions applied;
- treatment/assistance-oriented sanction.

iii) imprisonment
- sentences are for a definite period or life;
- life sentence usually pardoned after 10 - 12 years;
- 3 forms of imprisonment, lenient; ordinary; detention.

a) lenient imprisonment
- sentence length from 7 days - 6 months;
- served in local jail; which are usually limited in terms of resources/amenities;
- used for non-dangerous offenders;

b) ordinary imprisonment
- used in 20% of sentences for criminal code violation (1975);
- sentence length 30 days to 16 years or life;
- most common form of imprisonment, although declining in use;
- served in "state prisons" (as distinct from local jails).

c) detention imprisonment
- used primarily for a small number of habitual and/or dangerous offenders;
- declining use of this sanction;
- basically indeterminate sentence.

F) Trends
- increased use of probation/fines;
- stress on depenalization;
- increased emphasis on 'modern' crime, economic/traffic offences;
- decriminalization of 'victimless' crimes (1969) (i.e. prostitution, possession of soft drugs, pornography);
- move to shorter prison sentences;
- crime rate - decrease in number of reported crime in 1975 by 15%;
- increase in the number of property crimes;
- basically long trend stability in rate.
II CORRECTIONAL SYSTEM

A) Philosophy
- punishment through deprivation of liberty;
- recognition of the negative effects and limits of imprisonment; prisons to punish not cure;
- the State has the right to deprive liberty, but also obligation to accord as much freedom as possible within confinement;
- loss of liberty is the only punishment;
- after-care seen as critical aspect of correction; aspects introduced early in offender's sentence;
- imprisonment should be reflective of Danish society - peaceful, orderly, humane;
- indirect treatment overtone in handling of young offender.

B) Policy
- United Nations Standard Minimum Rules on Treatment of Offenders are part of the Danish rules on custodial treatment;
- attempts to make life in institutions as normal (as possible) as free society;
- provide humane care until release;
- low emphasis on security;
- little supervision of inmates.

C) Administration
- one national, centralized, administration responsible for pre-trial arrangements, prisons, probation, after care, hostels - Department of Prisons and Probation - an autonomous unit within the Ministry of Justice.

D) Conditions
- small institutions, bed capacity 15 up to 285;
- security relatively lax in comparison to other western nations;
- placement determined by central administration; based on length of sentence and record of escapes;
- no reception/diagnostic centers;
- prisons either open (little security) or closed;
- 6 closed prisons; 9 open prisons; 50 local jails;
- most institutions ruraly located;

E) Operations
- large inmate turnover due to brevity of sentences;
- few staff/inmate problems, ratio 2:1 or 1:1 (staff: inmate);
- little censorship;
- few restrictions on inmates; especially in open institutions;
- many institutions are old archaic structures; accommodations made as comfortable as possible.
- no therapeutic programs per se;
- all inmates required by law to work or study;
- paid for work/study; some wages comparable to union rates;
- inmates can choose work program and institution desired; waiting list procedure;
- weekly conjugal visiting; primarily for open institutions;
- seen as a right;
- work release presently reduced usage due to unemployment situation;
- disciplinary measures - isolation cells can be used up to three months, with no loss of privileges (i.e. conjugal visits) - declining use of this measure;
- fine or loss of privileges are common forms of discipline.

v) inmate profile
- young males, 25 years;
- average age declining;
- majority of property offenders are young;
- 20% prison population are drug addicts;
- large number of inmates are products of the child welfare system.

vi) inmate rights
- offenders retain all civil rights (i.e. right to vote, freedom of speech, association, etc.);
- inmates have full access to ombudsman; courts not utilized to adjudicate grievances.

vii) parole
- inmates eligible at one-half to two-thirds of sentence (at least 4 months must be served);
- 90% usually paroled at two-thirds, 8% at one-half of their sentence;
- parole decision made at institutional level - decision factors include - will inmate benefit from supervision; institutional behaviour, in theory, not an influence on parole decision;
- release date known on entry;
- parole supervision from 2 to 5 years;
- no court review applicable in administrative release decision.

F) Evaluation Research
- emphasis on experimentation of different institutional programs, i.e. coed institutions; employment of female guards; inmate input into institutional policy;
- limited research on special institutions and control groups - indicate different methods of confinement do not create any different effects, re: recidivism.

G) Trends
- decreased use of imprisonment;
- increased use of community based alternatives;
- increased use of open institutions;
- increased use of unsupervised furloughs;
- removal of corrections from rehabilitative services and vice versa;
- possibility of a small hard-core prison population serving long sentences, as alternatives to shorter prison sentences are utilized.
III CONCLUSION ON SYSTEM'S OPERATION

The Danish correctional system can be described as a realistic approach to the handling of offenders. There is an admitted awareness of what prison can and cannot do, and that social problems, not necessarily criminal, are better handled by other socio-economic measures; further incarceration and social readjustment are seen as contradictory.

No matter how small, comfortable and well staffed institutions are, the Danes do not place high expectations on the offender or the system. The concept of punishment and maintenance of a general respect for the law is actively applied. There is also high respect for the legal profession. The composition of the prison population is 85% property offenders, considered non-dangerous. This might appear contrary to North American positions which currently call for the limited use of incarceration of the non-dangerous offender, however the Danish view is that the state adequately and efficiently provide economic, medical and social assistance, taking care of the individual, thus offences against property are not as justified nor tolerated.

In essence the Danish system is humanitarian in its treatment of the offender, yet there are certain disadvantages in the operation of the criminal justice process. The use of mental institutions for labelled D.S.O.'s/habituals can be viewed as the Danish way to handle potential institutional and societal problems. The Danish public in general have little interest in either crime or criminals, and have left the handling of such to the state, thus prison reform is not a high political priority. The cost of the system is high, especially if one includes the social welfare system which probably takes a considerable pressure of the criminal justice system. Further, the 'progressive' Danish prison system is not without prison unrest, particularly in closed institutions where inmates complain about low wages, mandatory work and discipline procedures. However this unrest, usually taking the form of strikes, is rarely violent. The Danish system has its problems and the demonstration that humane and lenient imprisonment is ineffective in reducing recidivism or creating a drastic reduction in the crime rate has not prevented the system from continuing its tolerant approach to crime and criminals.
### AVERAGE DAILY POPULATION (1974-78)

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>BASE NUMBER</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Copenhagen Prisons</td>
<td>560</td>
<td>96</td>
<td>86</td>
<td>81</td>
<td>98</td>
<td>546</td>
</tr>
<tr>
<td>Local Prisons</td>
<td>990</td>
<td>94</td>
<td>78</td>
<td>76</td>
<td>87</td>
<td>861</td>
</tr>
<tr>
<td>Closed Institutions</td>
<td>818</td>
<td>101</td>
<td>93</td>
<td>84</td>
<td>79</td>
<td>644</td>
</tr>
<tr>
<td>Open Institutions</td>
<td>1121</td>
<td>97</td>
<td>84</td>
<td>76</td>
<td>81</td>
<td>903</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td>3489</td>
<td>97</td>
<td>85</td>
<td>79</td>
<td>85</td>
<td>2954</td>
</tr>
</tbody>
</table>

**SOURCE:** Kriminalforsorgens, Årsberetning, 1978.
SYNOPSIS

- relative rise in number of prisoners committed for crimes of violence;
- relative fall in property offenders.

* Excluding Copenhagen prisons.

NUMBER OF OFFENDERS IN 1973 SUBJECT TO TREATMENT IN STATE PRISONS AND THE INSTITUTION AT HERSTEDVESTER, BUT NOT THE COPENHAGEN PRISONS AND THE LOCAL PRISONS

<table>
<thead>
<tr>
<th>Inmates present</th>
<th>MEN</th>
<th>WOMEN</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>January 1, 1973</td>
<td>1519</td>
<td>26</td>
<td>1545</td>
</tr>
<tr>
<td>December 31, 1973</td>
<td>1376</td>
<td>33</td>
<td>1409</td>
</tr>
<tr>
<td>Admissions, total</td>
<td>3993</td>
<td>74</td>
<td>4067</td>
</tr>
<tr>
<td>Committed on conviction</td>
<td>3287</td>
<td>70</td>
<td>3357</td>
</tr>
<tr>
<td>Returned as a parole violator</td>
<td>80</td>
<td>1</td>
<td>81</td>
</tr>
<tr>
<td>Transferred from other institutions</td>
<td>626</td>
<td>3</td>
<td>629</td>
</tr>
<tr>
<td>Discharges, total</td>
<td>4136</td>
<td>67</td>
<td>4203</td>
</tr>
<tr>
<td>Expiration of sentence</td>
<td>1184</td>
<td>29</td>
<td>1213</td>
</tr>
<tr>
<td>Parole</td>
<td>2141</td>
<td>38</td>
<td>2179</td>
</tr>
<tr>
<td>Pardon</td>
<td>7</td>
<td>7</td>
<td>7</td>
</tr>
<tr>
<td>Death</td>
<td>2</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Transferred to other institutions</td>
<td>802</td>
<td>802</td>
<td>802</td>
</tr>
</tbody>
</table>


<table>
<thead>
<tr>
<th>In closed institutions</th>
<th>In open institutions</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. &quot;Long-term&quot; Inmates</td>
<td></td>
<td></td>
</tr>
<tr>
<td>a. Ordinary imprisonment</td>
<td>520</td>
<td>744</td>
</tr>
<tr>
<td>b. Special imprisonment</td>
<td>93</td>
<td>x)</td>
</tr>
<tr>
<td>c. Correctional workhouse</td>
<td>y)</td>
<td>x)</td>
</tr>
<tr>
<td>d. Detention</td>
<td>230</td>
<td>16</td>
</tr>
<tr>
<td>e. Security detention</td>
<td>12</td>
<td>x)</td>
</tr>
<tr>
<td>f. Youth prison</td>
<td>162</td>
<td>x)</td>
</tr>
<tr>
<td>g. Asylum for inebriates</td>
<td>1</td>
<td>x)</td>
</tr>
<tr>
<td>Total 1</td>
<td>1018</td>
<td>760</td>
</tr>
<tr>
<td>2. &quot;Short-term&quot; Inmates</td>
<td></td>
<td></td>
</tr>
<tr>
<td>a. Lenient imprisonment</td>
<td>427</td>
<td>313</td>
</tr>
<tr>
<td>b. In custody on remand awaiting trial</td>
<td>755</td>
<td>979</td>
</tr>
<tr>
<td>c. Ordinary imprisonment</td>
<td>225</td>
<td>353</td>
</tr>
<tr>
<td>Total 2</td>
<td>1407</td>
<td>1645</td>
</tr>
<tr>
<td>3. Other groups of Inmates</td>
<td>24</td>
<td>23</td>
</tr>
<tr>
<td>Total 1, 2 and 3</td>
<td>2449</td>
<td>2428</td>
</tr>
</tbody>
</table>

1) Serving in "State prisons" or so-called "special institutions".
2) Inclusive psychiatric observation centre.
3) Mainly in local prisons.
4) In special sections of the State prisons.
5) Placed in local prisons.
6) Included in the number of persons in custody on remand (2.b.).
x) Abolished penal measures.
y) Can only be served in an open institution.
z) No statistics available - all sentences of imprisonment place in I.a.

General Statistics
Population: 5 million

Costs
- operating costs - $67.5 million (1977);
- cost/inmate - daily $49 (1976).

Prison Statistics
- average time served is less than 4 months (around 3.4 months);
- 80% of prison population sentenced to less than one year, of which 50% are sentenced to 6 months or less (1978 data). In 1975, 77% sentenced less than one year, 16% from one to two years, 7% from 2 years to life;
- average daily population 3,000 (1978);
- 76% of inmate population committed for property offences, 16% for violent crime, 8% for other.

Recidivism
- recidivism rate roughly 70%.

Sources:
Political
- constitutional democracy;
- welfare state;
- low geographic mobility of population; 59% urban
  41% rural;
- demographic bookkeeping - for national personal
  identification.

Economic
- little economic disparity between social classes;
- protection from personal hardship (free education/
  medical measures; job protection).

Social
- homogeneous society (religiously, ethnically);
- large and expensive social welfare system;
- collective responsibility for social welfare of
  individuals.

Cultural/Historical
- little competition between individuals;
- little social violence or little fear of crime;
- respect for individual;
- WWII - Nazi occupation and effects of concentration
  camps in part responsible for the short and lenient
  use of imprisonment and the humane treatment of of­
  fenders.
The hierarchial organization of the public prosecution, the police and the prison and probation system is shown below.

```
Minister of Justice
  /------------------
  | Permanent Secretary of State
  | Director General of Prison and Probation Administration
  | Director of Public Prosecution, Attorney General
  | Department of Prison and Probation
  | Directors of penal institutions
  | Heads of local offices
  | Directors 1) of penal institutions
  | Directors 2) of local offices
  | Directors of the probation service
  | Directors of institutions for probationers and parolees
  | Heads of local offices of the probation service and after-care service
  | Chiefs of Police
  | Deputy Chiefs of Police
```

Except for the persons in charge of 1) and 2), who are socially trained, all the above mentioned posts are held by people having a degree in law. Some directors of penal institutions do not, however, have a degree in law, but another comparable university degree.

Reform Proposals

Government Report - "Alternatives to Imprisonment" (1977)
Ministry of Justice.

Recommendations

1. Offender be given the option of treatment, be it probation or parole.

2. Semi-detention - detain offender in his free time, night or weekend prison, administered by prison authorities.

3. Community Service be recognised as an alternative.

4. Greater use of parole - possible earlier release date.
BIBLIOGRAPHY


