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SPECIAL STUDY No. 23

Developing Policies  
for  
Public Security and Criminal Justice

by  
Robert Evans Jr.

*prepared for the  
Economic Council of Canada*

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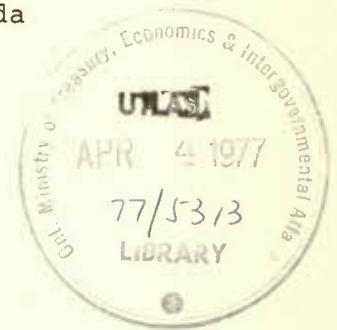
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DEVELOPING POLICIES FOR PUBLIC SECURITY  
AND CRIMINAL JUSTICE

by

Robert Evans Jr.

Special Study No. 23  
Economic Council of Canada  
1973



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## CHAPTER 1

### DEFINING OBJECTIVES

Amidst calls for law and order on the one hand and proposals to reduce the number of activities called crimes on the other, it is increasingly clear that there must be better articulation of policy for the administration of justice in Canada. Policy objectives would, ideally, reflect society's concern with the security of life, freedom, and property, from various forms of disruptive, illegal activities. The question of security falls, in turn, under the larger preoccupation of our society with individual rights and responsibilities.<sup>1</sup>

In this context, the task of defining objectives for the justice system can be approached from two directions. One focus would be on the nature and underlying causes of crime, so as to determine the economic and social steps a society can take outside the justice system to reduce criminal behaviour. The other, on which this document tends to concentrate, would be on the measurement of criminal activity, in order to assess the methods used in catching, convicting, correcting, and often confining those who, in the eyes of the state, have contravened the law. The second approach is needed to evaluate the effectiveness of the various programs now in existence. More important, it is required as a base on which to build a coherent policy.

At present, in the absence of adequate data, policy is all too often based on tradition, and objectives are all too rarely spelled out. Some of the unstated objectives that seem to underlie criminal justice in Canada may, perhaps, be more clearly understood by recognizing that historically the emphasis has been upon punishment. Moreover, punishment has usually been of a retributive nature, tending towards violence and brutality, and imposed with an indifference to human suffering. Both the quality and the quantity of sentences have, by and large, reflected society's views at any given time on the seriousness of certain crimes. In general, society has sought to protect itself by removing the offender and counting on his sentence to have a deterrent effect upon others.

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Early in the nineteenth century the old eye-for-an-eye attitude was supposed to change as a penitential approach gained favour. Two famous American prisons -- the Eastern Pennsylvania Penitentiary in Philadelphia (Cherry Hill), and the Auburn Penitentiary in the State of New York -- date from this period, the 1820s. In Pennsylvania a man was left alone in his cell with his thoughts and his Bible in the hope that he would repent and reform. In New York the men worked together, but with downcast eyes and in silence. Hard work was supposed to both punish and reform. In practice, both programs turned out to be inhumane, yet the Cherry Hill system was put forth by Quakers who were not normally thought of as vindictive. Thus, as is obvious now, it is incorrect to assume that if the originators of a policy are pure in heart, then the policy will be good. At Auburn, the men had gained some education and had learned a trade that would have potential upon release, but the benefits were clearly unintended.

In neither prison were the interests of the convicted individuals considered. Punishment remained an important element, and many of the correctional elements worked out to be merely cruelties. Thus, despite a philosophy of "correction", their methods, which reflected continuing emphasis upon punishment and a belief in the mystique of the word "security", perpetuated the lock-them-all-up school of thought.

These two institutions had a long-lasting influence, for good or for evil, on the Canadian Penitentiary Service, for in many ways we have not really changed. Back in 1836, the Grand Jury investigated the Bordeaux Jail in Montreal.<sup>2</sup> In their report the members said: "The Grand Jury earnestly wish to see ... offenders ... have a chance of improving ... instead of coming out worse members of society than they go in, as is invariably the case." The high-minded policy objective was quite clear, but what happened? Apparently very little, at least for a long time. Dorothy McArton visited the Bordeaux Jail in 1964 in her capacity as a member of the Canadian Committee on Corrections. Her reaction was, "I was appalled at this institution."<sup>3</sup> This is not an isolated example, nor is it only a reflection of Canadian attitudes. It merely serves to illustrate and underline the point that *de facto* objectives are often quite different from those that governments and individuals commit to paper.



DEVELOPING POLICY

It is, of course, difficult to state policy objectives that are both idealistic and practical. The wording must be general enough to express the philosophical views of society and yet precise enough to be interpreted in quantitative terms. In Canada, the most recent attempts to define objectives for the criminal justice system were made in two major studies of the 1960s -- one undertaken by the Canadian Committee on Corrections, the other commissioned by the Government of Quebec.

The Canadian Committee  
on Corrections

The Canadian Committee on Corrections (often referred to in this Study as just the Canadian Committee) was established on June 1, 1965, pursuant to Order in Council 998. Its terms of reference were: "To study the broad field of corrections ... to recommend, as conclusions are reached, what changes, if any should be made ... in order to better assure the protection of the individual and, where possible, his rehabilitation, having in mind always adequate protection for the community...."<sup>4</sup> In setting out the basic principles that would underlie the specific portions of their report, the Committee outlined these additional propositions:

- "(1) The basic purpose of criminal justice is to protect all members of society, including the offender himself, from seriously harmful and dangerous conduct.
- (2) The basic purposes of the criminal law should be carried out with no more interference with the freedom of individuals than is necessary.
- (3) Recognition of the innocent must be assured by proper protection at all stages of the criminal process.
- (4) No conduct should be defined as criminal unless it represents a serious threat to society and unless the act cannot be dealt with through other social or legal means."

In elaborating upon these principles, the Committee noted that, in their view, the criminal justice system

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could protect society by: (1) its deterrent effect not only on specific violators of the laws but on others, as its operation influenced those who had not yet committed criminal violations; (2) the social rehabilitation of individuals through the use of correctional measures; and (3) control over offenders in various ways, including the use of segregation until it was safe to release a specific individual into the general population.<sup>5</sup>

### The Quebec Commission of Enquiry

Two years later, on the 24th of January, 1967, by virtue of Order in Council 125, the Quebec government appointed a Commission of Enquiry to study the problems of the applications of criminal and penal laws in Quebec. The main direction of their charge was to "... make recommendations for measures to be taken to assure a greater protection for citizens and their property as well as greater efficiency in the fight against crime with all due respect to the fundamental rights of the individual".<sup>6</sup>

In carrying out their investigation, the Commission noted that Quebec appeared to operate with an absence of any global concept or overall general policy which, if woven into the various elements of the criminal justice system, would serve to guide the different services with a uniform philosophy. Failure to develop such a philosophy had meant that each of the various agents within the criminal justice system had acted on the assumption that his own particular concern was the primary goal. This, the Commission said, could be seen in the behaviour of the Crown prosecutor who felt that cases must be won, of the policeman who was not satisfied unless those arrested were punished, and of the judge who gave exemplary sentences. In addition, the lack of a unified philosophy had meant that the instinct and emotions of a variety of individuals tended to be dominant. The Commission need not have restricted its observation to Quebec, for it appears equally applicable to the rest of Canada and probably to most of the world.

In suggesting the common elements that would guide its investigations and recommendations, the Commission asked the rhetorical question, "What are the yardsticks for measuring the quality of a system of justice?" It then proposed the following goals: (1) that justice be available to all citizens regardless of class or financial ability; (2) that the law and the system of criminal

## Defining Objectives

justice reflect the true wishes of the people and reflect the evolution of society; and (3) that the system proclaim in its principles, and show in its procedures and actions a deep respect for individuals without ignoring the rights of society to peace and order.<sup>7</sup>

The goals and policies outlined by both Commissions reflect many of the same values that are to be found in the reports of similar committees elsewhere. The Wolfenden Committee in England and the monumental report of the U.S. President's Commission on Law Enforcement and Administration of Justice both set forth very similar guidelines.

From all these studies, two fundamental policy objectives have emerged. The first is to provide society and the individual with a reasonable degree of security from illegal activities that threaten life, health, or property. The second is to assure just treatment of the accused and convicted. However, the debate sharpens and problems arise as one attempts to define these goals more precisely; e.g., what constitutes a "reasonable" degree of security, or "just" treatment?

Even if policy objectives are defined that can be agreed on by all concerned, how is a member of parliament to choose, for example, between measures that provide more protection but less freedom? Or, if rehabilitation should be a desired objective, how much rehabilitation should be recommended if its costs are prohibitively high? Thus even a unified and accepted philosophy may well contain an inherent weakness unless it provides practical guidance to those making policy decisions.

### CHOOSING INDICATORS

Practical guidance will not come from further clarification of objectives. What is needed is a set of indicators to measure actual situations in terms of the objectives. As described in the *Eighth Annual Review* of the Economic Council of Canada, these indicators should form a monitoring system that "would act as an early warning system emphasizing anticipatory action rather than belated and often costly reaction to changes in society. It should help to provide a much needed bridge between the broad abstract goals and operational guidelines for policy."<sup>8</sup> The Council also notes that in choosing goal indicators, the emphasis is on measuring the "outputs"

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of the system, not the "inputs", and gives an example in the goal area of health, where the measures should be of "infant mortality ... rather than expenditures on prenatal care or the number of obstetricians and pediatricians; the level of nutrition, rather than expenditures on food".<sup>9</sup> Ideally, indicators should measure real output and its distributional dimensions, but more often such measures may not yet exist, and "proxy" output measures will have to be used.

In some instances indicators will be positive measures, but in many cases the standards used necessarily measure the absence of evil rather than the presence of good. Thus parliamentary candidates speak, for example, of adequate income, jobs for all who wish them, and high standards of health. Yet the unemployment rate measures the degree of employment; the percentage of persons whose incomes are below a poverty line delineates adequate income; and the number of work days lost due to illness portrays the state of our health. This unfortunate tendency to use negative characteristics as the measure of achievement is even more prevalent in the area of public safety.

This Study, in its examination of many aspects of public safety and justice, will attempt to point out the problems and possibilities in developing both policies and goal indicators, and in improving relevant auxiliary data. In Chapter 2 the first main policy area, security for the public, is defined in terms of relative levels of crime, and objectives are therefore discussed in terms of crime reduction. Chapter 3 deals with the problem of ensuring equity in the two main stages of administering justice -- i.e., in convicting and correcting those who break the law. At each stage, current practices are reviewed and output measures suggested to measure progress towards policy objectives.

REFERENCES FOR CHAPTER 1

- <sup>1</sup>Economic Council of Canada, *Eighth Annual Review: Design for Decision-Making* (Ottawa: Information Canada, 1971), Chart 5-2, p. 69.
- <sup>2</sup>J. Alex Edmison, "Some Aspects of 19th Century Canadian Prisons", in William T. McGrath (ed.), *Crime and Its Treatment in Canada* (Toronto: Macmillan, 1965), p. 281.
- <sup>3</sup>Canadian Committee on Corrections, *Toward Unity: Criminal Justice and Corrections* (Ottawa: Queen's Printer, 1969), p. 500.
- <sup>4</sup>*Ibid.*, p. 1.
- <sup>5</sup>*Ibid.*, Chapter 2.
- <sup>6</sup>Commission of Enquiry into the Administration of Justice on Criminal and Penal Matters in Quebec, *Crime, Justice and Society*, vol. 1 (Quebec: Roch Lefebvre, 1968-69), p. 9.
- <sup>7</sup>*Ibid.*, p. 37.
- <sup>8</sup>Economic Council, *Eighth Annual Review*, *op. cit.*, p. 76.
- <sup>9</sup>*Ibid.*, p. 72.

## CHAPTER 2

### ATTAINING THE OBJECTIVE OF PUBLIC SECURITY

Ultimately, public safety can only be defined in terms of the personal experience of each Canadian citizen. Thus security has many facets. It is being able to walk at any hour of the night down dark side streets, free from the danger of assault and untroubled by the prospect of attack. It is being able to leave one's door unlocked, to buy from salesmen confident that the merchandise is as claimed. It is paying taxes that buy real public services instead of lining the pockets of those who profess to be friends of the public. The list could be extended almost endlessly, for public safety is a state of being and a state of mind.

As defined in such terms, public safety is nearly impossible to measure in a positive way. Even a more modest effort that attempted to estimate the probabilities of having evil befall the average Canadian would all but flounder in a sea of problems. Consequently, almost all analysts of public safety have contented themselves with measurements of negative situations, such as violations of public safety or rates of criminal activity. Even then, many of the data needed to make up performance indicators simply have not been available, and thus remarkably little quantitative analysis has been done in this area.

Shortcomings in the data base stem from a variety of causes. For instance, the Judicial Division of Statistics Canada (until 1970 a Section) has been accorded a rather low priority within that organization, and its small budget and staff have limited its scope. Further, the data gathered are diffuse and not particularly helpful for evaluating decisions. One might be excused for suggesting that the numbers are collected for the sheer joy of collecting rather than because they serve any useful purpose. To provide adequate goal indicators, the existing data base will have to be expanded, analysed, and arranged so as to correspond to policy objectives and related programs.

## *Developing Policies*

In this chapter we review the kind of work that has to be done to establish policy and measure achievement in the area of public order and safety. First, we deal with the problem of defining public security or, more accurately, its obverse -- the level of crime. Measuring this level presents its own problems, and we discuss the degree to which the data available can be used for this purpose. In the third section, we evaluate some economic theories of criminal behaviour to determine what kind of quantifying analysis might be done to make them useful as bases for policy-making. Finally, we examine ways of measuring the efficiency of traditional methods of crime control.

### DEFINING THE GOAL AREA

No western society can afford the conquest of crime. In economic terms it would cost too much, and philosophically it would be intolerable. Merely reducing the murder rate significantly would require constant surveillance of our private lives, for this crime most often stems from close emotional relationships. Nearly half the murders in this country, for instance, involve kinship of offender and victim.<sup>1</sup> Since protection from murder would therefore mean adopting such devices as the reverse TV screens so chillingly described in George Orwell's *1984*, almost certainly most of us would opt for more murder and less surveillance. Clearly, protection from all crimes, or a zero crime level, would involve prevention, detection, and rehabilitation measures that would be considered far too expensive relative to the cost to society of criminal activities.

What we apparently want, and what we have set up, are institutions that keep criminal activity down to a level that is considered "acceptable" to our society. If this pragmatic standard were adopted as a basis for formal policy, the results should be far more effective than if objectives were set that were impossible to achieve. Moreover, an "acceptable level of crime" would provide a single goal and would thus allow policy-makers to use a single set of criteria in deciding between alternative strategies. Crime prevention or crime detection? Efficiency in the courts, or scrupulous justice? Incarceration or other types of deterrent measures, like fines, suspended sentences, or retributive action? To make trade-offs meaningful, such strategies should be

evaluated against the same standard. Unfortunately, before even approaching a consensus on what might be acceptable as a level of crime, a good deal of tough analysis would have to be done. Not only is the existing level of crime in Canada difficult to measure because of inadequate data, but crime itself has never been adequately defined.

Yet any measure of the level of crime depends crucially upon what acts are defined to be criminal. Unfortunately, systems of justice are often used as much to repress the socially annoying or morally unpopular as to control the genuinely dangerous, and few societies seem to tolerate any great amount of variety within existing laws. China's "hundred blossoms", for example, did not bloom for long.

Thus crime is subject to arbitrary definition. In one recent estimate of future trends in Canadian crime, the author suggested that public reaction to the currently alarming increase in crime would force a redefinition of the Criminal Code to include more categories of activity.<sup>2</sup> Laws would then be more stringent and therefore more easily enforced. A contrasting view, published by a transplanted Englishman writing in the United States,<sup>3</sup> suggested that an essential first step in making the control of crime practical would be to reduce the areas subject to criminal law. In his opinion, fewer laws would lead to more effective administration. These diverging views must be reconciled in a definition of criminal activity that will not change over time. Such a definition is essential as a yardstick to measure both the current level of crime and progress towards its reduction.

A problem arises, however, when trying to decide what types of behaviour should be controlled. To reduce this issue to manageable proportions, the detrimental effects of the behaviour of others on the welfare of the individual may be considered to fall into three broad groups. Two are annoying but not illegal. The first consists of those external and unintended effects that accompany one person's seeking his own self-interest. Examples are legion, from the overly noisy party next door to the soot and other pollution emitted from smoke stacks and auto exhausts. The second group consists of activities that, while they are not expressly designed to enrich one person at the expense of others or to cause harm, end up doing so because of mistakes, carelessness, or the cutting of corners to save time or money. Examples can be drawn from



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automobile and industrial accidents or from faulty products, such as soda pop bottles that explode or cars that have defective brakes. The third major group consists of activities deliberately designed to enhance the welfare -- economic or psychological -- of one person or corporation to the detriment of others. In large measure these activities are currently illegal or are considered crimes, and it is this group that should be the focus of definition. It can also be divided into three for purposes of analysis.

Activities in the first set might unfairly enrich one person at the expense of others but be considered quite fair and legal in our modern economy. The man who buys a gold mine cheap and sells it dear is acclaimed a "clever entrepreneur" in the Canadian economy, but if salt in the mine is the basis for the high selling price, then the "clever entrepreneur" award is stripped away and perhaps the striped suit of a convict is substituted. Even the type of salt might determine whether the activity would be considered appropriate or not. Ore from another mine that is used as salt in the mine to be sold is clearly illegal. If, however, the mine is sold on the basis only of bullish statements about international gold prices, the plans of governments to build roads, and so on, then, although the intent may be the same, the activity is considered to be only "sharp". It often occurs that activities that are ultimately determined illegal did not appear to be improper when they were undertaken. Thus the person who is found to have dumped international goods into the Canadian market may have believed that the selling price was legitimate. So too, the person whose deduction from income tax is disallowed may have believed it to be quite legitimate.

The second set of illegal activities consists of those in which the victim is not wholly innocent. One of the most obvious examples is where people have knowingly become involved in duplicity, but the list includes many activities that are more traditionally criminal -- for example, robbery, assault, and murder -- where the victims may actively and voluntarily involve themselves or, by their own stupidity, place themselves in jeopardy.

Last, there is the area that people traditionally think of when they say the word "crime" -- e.g., aggravated assault, burglary, and murder -- where the victim took reasonable precautions and did not invite the evil that befell him.

Which, among these dangers to the citizen's property and personal safety, could be of concern when "public safety" is considered? The answer, it turns out, is neither easy nor straightforward. Professor Fitzgerald has suggested that "the aim of crime prevention in a free society is part of a larger aim for protection for society in which the citizen can fulfill himself in the pursuit of his individual happiness, free from want, disease, and external interference".<sup>4</sup> These objectives are very similar to those suggested by the various committees and by the Royal Commissions whose views were discussed in Chapter 1. The difficulty with these sentiments is that they provide very little in the way of practical guidance in classifying activities into those that should be governed by criminal sanctions involving police, criminal court trials, and the use of fines and incarceration, and those that should not.

Any system of crime classification will be both inconsistent and arbitrary. Nevertheless, three basic elements of criminal activity may be used to group crimes according to their seriousness in terms of danger to public safety. Thus an extremely serious crime would involve: high cost to a person or to society; an involuntary or innocent victim; and a strong element of malice or deliberate action upon the part of the violator.

#### HIGH COST

Costs could be evaluated according to monetary loss, including something for pain and suffering, or they could be based on some other calculation of seriousness. The great advantage of the cost approach is that it would allow society, if it so chose, to concentrate its resources against true public dangers. This is presumably the aim of the present classification of crimes into major and minor. However, there is some evidence to suggest that the legal differences between major and minor crimes do not reflect the actual differences in cost that society incurs by their commission. In a study in Philadelphia, it was determined that, while aggravated assaults required about three times as much medical and hospital attention, 28 per cent of the simple assaults resulted in injuries that were at least as serious as those caused in 76 per cent of the aggravated assaults.<sup>5</sup> As another example, a national victimization study in the United States found that the median loss suffered as a result of major property crimes was only slightly more than the loss from minor ones -- i.e., \$149 vs. \$123 in 1965.<sup>6</sup> These quite

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moderate levels are consistent with the median loss reported from robberies in London some 20 years ago, where the median was between \$5 and \$10.<sup>7</sup> Unfortunately, these levels cannot be compared with the loss to individuals from quasi-crimes like sharp and shady business practices, improper advertising, and credit schemes.

However, monetary costs and legal seriousness as expressed by legislators are not the only criteria by which injurious activities may be ranked. Individual citizens may be shown a series of descriptions of injurious conduct and then asked to rate the seriousness of each one relative to the others. Such approaches are subject to the charge of class bias -- the employer viewing employee theft more seriously than do employees, or undue weight being given to middle and upper class distaste for violence. Despite these problems, the approach does allow for the incorporation of elements into the evaluation process that are excluded from the mere counting of monetary losses. Recently Dogan D. Akman and André Normandeau polled 2,475 Canadians, mostly college students, on the relative seriousness of a variety of crimes. In general, those that involved elements of force were considered to be more serious than those that merely involved theft. Men felt that a robbery of \$5 in which force was used was almost (96 per cent) as serious as an assault that involved medical treatment but not hospitalization. Women felt that larceny of \$5,000 was almost (96 per cent) as serious as an assault that involved medical treatment but not hospitalization.<sup>8</sup>

The problem may be seen more clearly when the implied objective of the criminal sanction as protection against substantial personal injury is examined. All would probably agree that an early and involuntary death is to be avoided. In 1967, 281 Canadians were murdered; but 5,429 citizens lost their lives in traffic accidents, and 1,006 lost their lives in work-related accidents. This means that in 1967 the average Canadian was 19 times more apt to lose his life in an automobile accident and 5 times more apt to lose it in an industrial accident than he was to be murdered.\* Clearly, if a principal

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\*These proportions are not strictly accurate since all use the population base 7 years and older, while the probabilities of the three types of death vary with age and sex among other variables. Moreover, some double counting is involved, since a motor accident while at work would be counted in both totals.

policy objective of the criminal justice system is to reduce the loss of life, more concern should be given to drivers. The comparison of murder with other forms of death is not meant to imply that traditional crime is not worth intelligent concern, but only to try to place it in proper perspective. Thus when political figures, such as Mayor Lindsay of New York City, speak of the need to make it safe to walk out and get a paper in the evening, it should also be recalled that driving to get that paper is probably far more hazardous. Yet the use of criminal sanction in the traffic area is modest at best.

#### ROLE OF THE VICTIM

An alternative approach to assessing the extent of injury is the degree to which the victim is responsible, but here also difficulties arise. First, some activities that might be considered crimes against a person may not be covered by criminal sanctions. In a complex society, we observe and also break some of the thousands of rules that govern our interactions with other persons. A great majority of these rules are enforced by informal and non-institutional means -- for example, by ridicule, criticism, or ostracism. Others are enforced by private sanctions, some of which may at times operate through formal channels. Membership in most voluntary organizations would be in this category. As associations between individuals become less personal and less voluntary, the rules tend to become more formalized and the ultimate enforcement procedures more institutionalized, usually involving civil law. Even in these circumstances, less formal enforcement practice will continue to play an important role. A person's continuing need to make contracts, which would be severely compromised by failures to honour previous ones, probably stands as a greater deterrent to contract violation than do the ultimate threats of civil penalties.

Criminal sanctions do apply when associations have become totally impersonal and involuntary, and the harm that is done to an innocent person results from the deliberate actions of another. The difficulty here is that the extent to which the victim is unwilling or involuntary is not easy to judge. Even for crimes of homicide, rape, and robbery, it is not clear what proportion involve totally innocent victims. It has been estimated in the United States that 45 per cent of serious crimes against persons involve someone known to the

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victim.<sup>9</sup> A study of murders in Chicago in 1965 found that in situations where data were available, 37.9 per cent of the murders were precipitated by the victim.<sup>10</sup> Similarly, a study of robbery in London noted that "an examination of the behaviour of the offenders and victims leaves little doubt that a number of offences would have been prevented if certain elementary precautions had been taken to avoid giving obvious opportunities to potential offenders".<sup>11</sup>

The other main difficulty is the grouping under the criminal sanction of a number of activities that have come to be known as "crimes without victims". These "immoral" activities, which largely involve sex, drugs, alcohol, and gambling, have long been subject to criminal regulation and, although suggestions have been made to remove them from this category, there is little evidence of action.

### MALICE AFORETHOUGHT

Another alternative would be to group activities on the basis of the intention or motive of the individual. Serious harm caused by one whose heart is pure would be treated one way, while the person who has plotted the entire event would be dealt with in another. It is clear that we already make such distinctions to some extent. The seriousness of formal legal charges in cases of murder depends upon intent. The use of the defence of insanity, and the consideration of extenuating circumstances in deciding upon sentences, are evidence that motive is important. Yet, on the other hand, speeding, certain product liability regulations, and a host of others are instances in which the intention of the individual or corporation is not an issue.

\* \* \*

From the groupings discussed above, it would seem that an appropriate definition of public safety could be derived from an inverted pyramid, the bottom of which would consist of those crimes that comprised all three elements -- i.e., cost, innocence of victim, and malice. Further up, crimes would lack one or more of the elements, or possess only traces of them. Yet attempts to classify crimes according to these elements yield no simple or consistent approach.

## Attaining Public Security

Our inability to find a satisfactory measure of crime would seem to be because, as Professor Walker<sup>12</sup> has pointed out, criminal sanctions usually apply only to those types of behaviour that people find most objectionable. Consequently it is difficult to state any satisfactory general principle that will distinguish between those actions that are crimes and those that are not. Lady Wootton made the point quite succinctly when she noted: "... the prevalence of criminality among lower classes is, for instance, easily demonstrated by the use of definitions that automatically exclude those crimes to which upper classes are most likely to be addicted."<sup>13</sup> Thus the definition of objectionable behaviour in its most extreme form -- crime -- appears to be a function of the culture and the times.

It is unfortunate that the goal area for public safety cannot be precisely specified -- in other words, that one cannot say that Crimes 22, 34, 107 *et al.* constitute the area of public safety. But even if the relevant crimes could be listed, problems would arise because the characteristics of specific crimes under the Criminal Code are far from precise. Moreover, each main crime would have to be divided into subgroups for policy-making purposes. A policy to deal with robbery with a gun, for example, would not be appropriate to deal with robbery by misuse of bankruptcy laws.

### ASSESSING AVAILABLE DATA

If the policy goal for criminal justice is difficult to define, progress towards this goal is even more difficult to measure. The main problem is that data currently collected in Canada do not provide adequate indicators of progress, despite the steadily rising flood tide of statistical facts about police, crime, courts, and corrections that cascade across Canada. (One academic entitled a recent piece "Canadian Criminal Statistics: -- Not Again!"<sup>14</sup>)

Little progress has been made in improving the situation, because no organized approach has been taken to determine the number of crimes that occur. Certainly such a number is difficult to ascertain, for several reasons. One is that offences reported to the police mingle crimes with noncrimes -- i.e., violations of the Criminal Code considered to be unfounded (6.1 per cent of reports in

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1970). In addition, the number of crimes not reported to the police is unknown, and at the present time there is insufficient information available to estimate the number. In a U.S. survey of crimes known to victims, the interviewed persons reported a total of about 3,300 offences. Only two-thirds of these were felt to meet the necessary criteria to label them "crimes committed", and only half of them had been reported to the police.<sup>15</sup>

Some meaningful information can, however, be sorted out of data that are currently collected or can readily be developed. The remainder of this section discusses how criminal activity can be measured by three sets of existing data:

- cost to society;
- number of crimes known; and
- rate of convictions.

### COST TO SOCIETY

The data on the cost of crime in Canada are fragmentary at best. The nearest estimate, some \$1.7 billion in 1969, is derived from costs reported by the various government levels for public protection -- a term that includes law enforcement and crime prevention measures. This figure is slightly above that suggested by a corroborating estimate, derived from a U.S. study, which puts total crime costs at 2 per cent of the Gross National Product, or \$1.5 billion. When specific categories, as laid out in Table 2-1, are used to determine how closely these estimates approximate the true costs, the results are ambiguous. If loss from major theft in Canada forms the same proportion of total property loss as in the United States, it would total \$366 million -- near enough to the two estimates in the table, which include theft from commercial establishments. But if loss from major theft in Toronto -- 10.5 per cent of crimes known to police in that city -- is extrapolated for the rest of Canada, property losses of close to \$800 million are implied, an amount greatly in excess of the other estimates.

If cost data are judged worth developing, the main problem to be overcome is that of allocation in each of the three major areas: costs of public protection; preventive expenditure by potential victims; and direct and consequential losses incurred by victims of crimes.

Costs of public protection services are difficult to allocate because control of crime is only one of several services provided. For example, a modern police department engages in a number of activities nominally unrelated to the control of crime. Some of these social service functions, such as returning lost children and transporting accident victims to medical care, should clearly be excluded when calculating expenses. Others, such as traffic control, are more complex because, in their absence, more criminal activities would probably result. Courts and other institutions involved in the criminal justice system present similar difficulties.

Preventive expenditures may also include expenses for activities that give protection from crime but were undertaken for unrelated reasons. An example of such an activity would be the taking of a taxi instead of a subway or a bus in a big city. The use of a taxi probably lessens the risk of attack or robbery, and one would expect an increased use of cabs as street crime rises. Yet clearly the vast majority of taxi trips are taken because of their speed and convenience. Similarly, many people would continue to lock their homes even if they could be assured that nothing would be taken if they left them unlocked.

Direct loss measurement involves both individual and social losses. The crime of arson clearly results in an individual loss to the owner of the structure and a social loss as well, since time and money that could have been devoted to providing new buildings must be used to rebuild the burned structure. However, when a thief takes \$500 and spends it, the former owner suffers a loss but, since the store where the money is spent does not recognize the difference in the owners of money, no social loss has occurred. For society all that has occurred has been a redistribution of wealth. The existence of so-called "crimes without victims", involving, for example, narcotics or sexual practices, presents another problem, since neither individual nor social loss has occurred. And sometimes even seemingly uncomplicated circumstances may raise problems. The medical and psychic costs to the victim of a violent attack are both individual and social costs. But what about the victim's lost earnings? To him they are an individual loss, but, given the Canadian unemployment rate, can they be said to be a social loss?



Table 2-1

THE COST OF CRIME IN CANADA, BASED ON U.S. ESTIMATES

	Canada, 1969	
	Estimate No. 1, Applying Percentages of GNP	Estimate No. 2, Derived from Public Protection Expenditures (\$ million)
	United States, 1965	
	Estimated Cost (\$ million)	Percentage of Total Crimes
Crimes against persons		
Homicide	750	
Assault	<u>65</u>	
Total	815	6.3
Crimes against property		
Unreported theft (from victim survey)	1,400	
Major theft	600	
Embezzlement	200	
Fraud	1,350	
Forgery	82	
Arson, vandalism	<u>300</u>	
Total	3,932	30.4
Other crimes		
Driving under influence	1,816	
Tax fraud	100	
Abortion	<u>120</u>	
Total	2,036	15.7
		99
		478
		574
		245

(cont'd.)

Table 2-1 (concl'd.)

Public enforcement			
Police	2,792		
Courts	356		
Correction	<u>1,034</u>		
Total	4,212	32.6	512
Private prevention			
Prevention services	350		
Prevention equipment	200		
Insurance	300		
Private courts	<u>60</u>		
Total	<u>1,910</u>	<u>14.8</u>	<u>235</u>
Total cost of crime	12,905	99.8*	1,571
			<u>226</u>
			1,691

\*Does not add to 100 per cent due to rounding.

Source: Column 1 is from the President's Commission on Law Enforcement and Administration of Justice, *The Challenge of Crime in a Free Society* (Washington: U.S. Government Printing Office, 1967), p. 44. The costs for public protection in Canada in 1969 (Column 4) are from the *Canada Year Book, 1970-71* (Ottawa: Information Canada, 1971). These are federal costs, plus one-half of provincial and municipal expenditures on protection of property.

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In actual fact, a distinction between social and individual costs need not be made, at least at this point in time. This is partly because public policy will probably continue to be focused upon reducing individual losses rather than viewing economic crimes as a not unreasonable form of income redistribution. In addition, it is possible to view individual losses as an estimate of the social loss that Canada suffers because those engaged in crime have not turned their hands to socially useful tasks instead of to crime.

### KNOWN CRIMES

At present, information available on crimes committed consists of reports to police or discoveries made by police in the course of their operations. This limited coverage can be supplemented fairly easily by victim surveys such as those undertaken in the United States, which would help number those crimes left unreported because of fear, involvement, or unconcern. The advantages and disadvantages of each data source are discussed here in turn.

#### Existence of Crime as Known to Police

Reportage is most extensive in this area, involving the RCMP, the Ontario and Quebec Provincial Police forces, the Canadian National and Canadian Pacific railway police, and the National Harbours Police. Only municipalities with a population of 750 or more that have their own police forces are supposed to send in reports. (In 1970 the municipal response rate was over 96 per cent.) In addition, information on arson and attempted arson was submitted by provincial and territorial fire marshals. The main source of these data is the Statistics Canada publication entitled *Crime Statistics (Police)*. In this publication each crime is entered under its appropriate Criminal Code classification, with attempted crimes (except murder) entered with completed acts. However, although Statistics Canada coverage is comprehensive, it does not provide data accurate enough for use as goal indicators. One problem arises from the fact that, with the exception of murder, a series of crimes occurring at the same place and at the same time would be entered as a single crime under the most serious heading. Moreover, the principal violations of personal safety under the traditional legal category used by Statistics Canada constitutes only 6 per cent of crimes known to the police.

Table 2-2

SURVEY OF CRIMES NOT REPORTED TO POLICE, UNITED STATES

	No. of Cases	Percentage Reported	Reasons for Not Reporting		
			Not the Concern of Police	No Action by Police	Personal Fear
Homicide	1	100			
Forcible rape	13	77			
Robbery	69	65	23	44	23
Aggravated assault	31	65	50	25	12
Simple assault	125	46	50	36	7
Burglary	313	58	30	62	6
Larceny, \$50+	198	60	24	62	14
Larceny, \$50 and less	473	37	31	57	11
Vehicle theft	65	89			
Automobile offenses	144	71	22	77	3
Malicious mischief	345	38	23	68	7
Fraud	82	26	41	35	24
Consumer fraud	40	10	50	40	10
Other sex crimes	45	51	40	50	5
Family problems	64	50	66	17	10

Source: Philip H. Ennis, *Criminal Victimization in the United States*, Field Survey II of the President's Commission on Law Enforcement and Administration of Justice (Washington: U.S. Government Printing Office, 1967), pp. 42, 46. It is based upon 2,100 reported crimes in a national survey of a sample of 10,000 households.

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The other main problem is that the decision to call an event a crime is often dictated by particular circumstances. In some instances, people who call police relative to a complaint are not contacted because no one seems to be home when police respond to the call. In other cases, an officer may not file a formal report after he has talked to the person. In the U.S. study, only in 77 per cent of the cases did the police come and talk to the person who complained, and only in three cases out of four did the police consider the activities complained about to be crimes. The decision not to call them crimes or not to report them reflects not only the events themselves, but also the wishes of the victims or the reaction of an officer to a victim's attitude. One special study of a few urban police areas in the United States found that when the victim wished the matter to be handled in an informal way, the officer almost always abided by that wish. Most people who wished formal action, especially those respectful to the officers, received it.<sup>16</sup> Some insight into why people do not inform the police, or why, after informing them, they decide to request that formal action not be taken, may be gleaned from the information in Table 2-2. There it will be seen that the most prevalent reason for not reporting was either a feeling that the matter was not a concern of the police or that the police would, or could, do nothing about it. Not being a police concern was more important than police inaction for family-related crimes.

### Existence of Crime as Known to Victims

Surveys of victims partly solve the problem of estimating crimes that go unreported to the police. One such special study, carried out by the Dominion Bureau of Statistics in 1968-69, provides some useful information on theft -- namely, that roughly half the robberies take place away from buildings and only about 13 per cent take place in residences (Table 2-3). Unfortunately, although the survey gives us some information on the types of business that were robbed, it provides no data on the location of robberies other than those from business establishments. All we can deduce is that the citizen is clearly safer from robbery when he is in his home than when he is about.

Table 2-3

NUMBER AND LOCATION OF ROBBERIES IN CANADA, 1968-69  
WITH COMPARABLE U.S. AND LONDON DATA

	Number in 1968	Percentage of Total	Number in 1969	Percentage of Total	Percentage of U.S. Robberies, 1969	Percentage of London Robberies, 1957
Highways	3,969	49.3	4,613	46.2	55.1	55.5
Retail stores	1,096	13.6	1,701	17.0	--	--
Chartered banks	290	3.6	381	3.8	.5	--
Other financial institutions	140	1.7	191	1.9	--	--
Miscellaneous	462	5.7	680	6.8	9.9	6.9
Auto-related businesses	275	3.4	389	3.9	4.6	--
Other businesses	749	9.3	736	7.4	19.6	--
Residences	1,066	13.2	1,255	12.6	10.3	17.7
Total	8,047	100.0	9,946	100.0		

Source: Dominion Bureau of Statistics, *Crime Statistics (Police)*, 1968, and 1969 (Ottawa: Queen's Printer), pp. 140, 142 and pp. 142, 144, respectively. Data for the United States are from *Crime in the United States: Uniform Crime Reports, 1969* (Washington: U.S. Government Printing Office, 1970); data for London are from F. H. McClintock and Evelyn Gibson, *Robbery in London* (London, England: Macmillan, 1961), p. 130.

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The other crime for which some data on victims are available is murder. In 1969 there were 315 murder incidents in Canada, with 342 deaths. Nearly half of these involved kinship or common-law relationships. In only 42 death cases did murder occur during the commission of another criminal act; half of these deaths were of persons over 50, whereas only 20 per cent of total persons murdered were over the age of 50. This may reflect the nature of crimes against the elderly but more probably reflects the fact that the degree of violence that would not be fatal to a younger person could result in death for older and more frail persons.

Some information on the socioeconomic characteristics of victims is available in the United States from a 1965 survey done by the National Opinion Research Center. Victim rates were developed for four income classes of the white population (Table 2-4). These classes were \$0-\$2,999; \$3,000-\$5,999; \$6,000-\$9,999; and \$10,000+. As can be seen, with the exception of the third income group, the overall rates for so-called index crimes are surprisingly similar. If some kind of rating system were to be used, it could be seen that the burden falls disproportionately on the lowest-income class. Crimes against those with incomes over \$10,000 tend to be relatively minor, like vehicle thefts and larcenies, whereas 80 per cent of crimes against those in the lowest-income classes are more serious. Similar Canadian statistics would probably show some variation, but it is doubtful whether the basic patterns would be very different.

It is also possible to combine police statistics with social and economic data from the census tract reports to provide some limited insight into victim differences. When this was done for Toronto, the typical wide geographical variation in crime rates showed up (Table 2-5). These Canadian data are consistent with studies in other countries, which show significantly higher crime rates in the areas of cities where lower-income groups live.

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Table 2-4

CRIME VICTIM RATES, BY INCOME CLASS  
UNITED STATES, 1965

(Per 100,000 population in each group)

	Income Group			
	\$0-\$2,999	\$3,000-\$5,999	\$6,000-\$9,999	\$10,000+
<u>Part One</u>				
Total	2,214	2,267	1,685	2,170
Homicide	0	0	0	0
Forcible rape	58	46	0	17
Robbery	116	91	42	34
Aggravated assault	146	289	147	220
Burglary	1,310	958	764	763
Larceny (\$50+)	378	700	565	916
Vehicle theft	116	183	167	220
<u>Part Two</u>				
Total	3,928	4,168	4,604	4,866
Simple assault	494	487	324	458
Larceny (\$50 and less)	1,426	1,506	1,559	1,712
Auto offences	233	441	628	543
Malicious mischief or arson	728	715	1,371	1,424
Counterfeiting or forgery	58	30	42	51
Fraud	378	335	188	305
Consumer fraud	87	137	115	203
Other sex crimes	87	182	178	102
Family problems	<u>434</u>	<u>335</u>	<u>199</u>	<u>68</u>
	3,435	6,573	9,555	5,897

Source: National Opinion Research Center, *Criminal Victimization in the United States: A Report of a National Survey* (Washington: U.S. Government Printing Office, 1967), p. 31.



Table 2-5

INDEXES OF CRIME IN TORONTO, 1969

	Population (1)	Crimes* per 100,000 Population (2)	Index (Median=100) (3)	Average Male Wages 1961 (4)	Theft Loss per Person 1969 (5)	Crimes* per Officer 1969 (6)
Metro Toronto	2,050,056	5,487.2	114	4,330	\$61.83	70
Police Division:						
11	110,450	5,368.9	111	3,412	38.54	78
12	86,188	3,645.5	75	3,815	44.24	63
13	148,600	3,261.1	67	3,485	44.32	48
14	167,306	7,323.7	152	2,838	70.30	58
21	64,800	4,989.1	103	4,143	32.45	63
22	122,650	3,617.6	75	5,832	95.49	69
23	99,450	4,599.2	95	5,167	23.34	79
31	123,932	4,537.1	94	4,409	41.02	89
32	190,930	4,342.9	90	6,703	53.13	82
33	135,950	3,566.5	74	4,861	42.85	76
41	151,300	4,306.0	89	4,569	33.19	72
43	160,900	2,513.9	52	5,263	19.88	56
51	58,240	11,304.9	235	2,985	72.32	62
52	43,950	37,574.5	781	3,393	700.00	95
53	138,800	4,628.9	96	5,564	68.78	67
54	114,150	5,003.9	104	3,878	37.62	66
55	53,175	5,884.3	122	3,891	32.85	65
56	79,285	8,097.3	168	3,327	48.29	67

(cont'd.)

Table 2-5 (concl'd.)

\*Under the Criminal Code, excluding traffic offences.

Source: Data on criminal activity are from the Metropolitan Toronto Police Department Statistical Report, 1969.

Column 1 -- Population figures are estimates by census tract, as prepared by the Planning Commission. They differ slightly in total from those used by the Police Department. Allocation of census tracts between police divisions was done by the author from a comparison of maps.

Column 2 -- The Criminal Code totals contain the three motor vehicle crimes that involve criminal negligence, of which there were 131 in 1969.

Column 4 -- Average male wages are the median values for the census tracts in the police division. Where a division divided a census tract, the population was roughly allocated by the proportion of area in each division. A portion of a tract was considered as a whole one for purposes of estimating wages. When a 1961 tract was divided into more than one for 1969, each part was assumed to have the same average wages when that calculation was made.

Column 5 -- Theft loss per person relates to thefts from both private individuals and companies.

Column 6 -- "Officer" means constable, and the numbers exclude detectives, and traffic, supervisory, and special groups. The number of staff per district was given, and they were allocated to divisions on the basis of the number of automobiles per division.

CONVICTION RATES

The merit of counting convictions as opposed to known crimes has been the subject of extensive debate, mainly between two philosophical positions. Those with a legalistic viewpoint hold that a crime can exist only when a legal decision has been reached that one was, in fact, committed. The significance of such a view will be easily understood by looking at figures on the difference between the number of complaints to the police and the number of crime reports or between the number of arrested individuals and those finally found guilty. Table 2-6 summarizes some court data that could be useful in this kind of assessment. The other position -- the "realist" one -- has been that the closer one gets to the actual activity that was called a crime, the more accurate the information becomes, due to the various ways in which data become altered as they pass through institutional data-gathering systems.

The arguments in support of these two positions have taken the turn of a debate over the relative merits of data sources, thus assuming a unity in the nature of crimes, criminals, and victims that does not exist. For instance, the two very different crimes of murder and car theft each have a high reporting rate but for very different reasons. Murder is usually reported because it is difficult to conceal, at least for long, while car thefts are reported as an aid to their recovery and for insurance purposes. Although the numbers of these known offences thus come closest to being true figures on the extent of crime, from the point of view of public decisions and policies they are two of the most meaningless. Data on murder are not very helpful because of the degree of victim involvement and kinship relationships; data on car thefts show that the vast bulk of cars considered stolen are really only "borrowed" for short periods of time without the permission of their owners. Nevertheless, a great deal of analysis has been done on the basis of conviction data, and it will be summarized here.

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Table 2-6

COURT DATA FOR CANADA, 1968<sup>(1)</sup>

	Number of Cases
Offences known or reported to the police	1,404,434
Actual offences	1,335,444
Offences cleared	734,879
Offences cleared by charges	540,664
Number of adults charged	491,389
Number of juveniles charged	66,327
Persons charged, indictable offences	57,494
Persons convicted	50,890
Persons acquitted	6,268
Appeals from trial decided	1,179
Acquitted	210
Sentences suspended	7,674
Sentences suspended with probation	6,933
Fines	14,307
Committed to institutions	21,306
Deaths	1
In gaol	15,910
In reformatory	2,034
In training schools	18
In federal penitentiaries	3,302
Admitted with sentence up to three years <sup>(2)</sup>	2,112
Released from federal penitentiaries <sup>(2)</sup>	3,648
Released upon completion of sentence <sup>(2)</sup>	2,220
Released upon parole <sup>(2)</sup>	1,364

(1) The most recent data available (spring 1972) were for 1968.

(2) Fiscal year 1967-68.

Source: Dominion Bureau of Statistics, Judicial Division Publications, *Crime Statistics (Police), 1968*, pp. 12, 17, 20; *Statistics of Criminal and Other Offences, 1968*, pp. 10, 132, 175, 182, 184; and *Correctional Institution Statistics, 1968-69*, pp. 110, 120, 124, 130 (Ottawa: Queen's Printer).

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Evidence that the conviction rate is rising is presented in a study by the Dominion Bureau of Statistics<sup>17</sup> that consisted of a time series and projection of convictions of indictable crimes per 100,000 persons aged 16 and over, which resulted in the production of a secular trend line for these convictions. Since conviction levels were measured between 1949 and 1956 and have risen since then, the trend line has an upward cant to it that would raise the estimated conviction rate per 100,000 to 338 in 1971. This would be an increase of about one per 100,000 per year or of about 1,000 convictions per year. Experience in recent years suggests, however, that convictions have been rising even more rapidly than that and, in at least four years, the numbers were well above the trend line.

Contradicting evidence is supplied by the Canadian Committee of Corrections, based on work done by E. J. Giffen. His data on convicted persons aged 16 and over dated back to 1950.<sup>18</sup> When conviction rates for several different crimes are examined, it becomes clear that those for the more serious crimes appear to have declined, although rates for less serious crimes have gone up. More specific conclusions, as set out in Table 2-7, should be noted here. There was a small downward trend in the overall conviction rate in the early 1950s, followed by a reverse that began about 1957, leaving the situation in the late 1960s about what it was shortly after the Second World War. When the data are disaggregated by sex, it is apparent that women's crimes have been rising, although the rate is still comparatively small. Among males, the growth is a function of the under-30 group because, above that age, rates have gone down more or less steadily. Whether the rates for the older ages will increase in future as the younger high-risk groups of today become older is difficult to say. At earlier ages -- the pre- and post-20s -- there is some evidence that this has occurred, but the same does not appear to be true after the higher-risk groups have passed the age of 30.

Table 2-7

PERSONS CONVICTED OF INDICTABLE OFFENCES  
CANADA, 1950 TO 1968

	Rate per 100,000		Male Crime Rate Index (1950=100), by Offence		
	Total Population (1)	Males	Females	Against Property with Violence	Against Property without Violence
1950	333	613	42	100	100
1951	303	562	41	85	95
1952	304	562	41	90	92
1953	296	551	36	90	84
1954	302	562	36	87	83
1955	271	505	33	75	77
1956	258	482	30	75	82
1957	292	545	33	79	99
1958	311	579	37	73	107
1959	274	506	38	64	123
1960	307	566	44	70	116
1961	330	603	54	77	122
1962	324	594	53	79	117
1963	353	644	61	82	126
1964	340	612	67	83	120
1965	329	584	76	82	113
1966	351(2)	615	88	86	120
1967	341(2)				
1968	370(2)				

(1) Figures in this column do not equal the sum of males and females divided by two because of the distribution of the sexes in the population base, i.e., age 16 and over.

(2) Estimate based on court statistics.

Source: Canadian Committee on Corrections, *Toward Unity: Criminal Justice and Corrections* (Ottawa: Queen's Printer, 1969), pp. 472, 476.

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Professor Giffen's findings are corroborated by a study undertaken by Lynn McDonald, who used the total population as a deflator.<sup>19</sup> Her approach was to estimate the year-to-year percentage rate of change for a variety of measures of the crime rate. She then tested to see whether, on a statistical basis, the rate was really increasing or whether the data were equally consistent with a zero rate of increase. For the period 1950-66, she found that the rate of increase for indictable convictions was not significantly different from zero -- a conclusion quite in agreement with Professor Giffen's data. The two significant increases recorded were for parking offences known to the police and for convictions for summary offences, 1955-66. These results also support a belief that there has been downward movement in the rate of violations against persons.

In many ways the same weaknesses already discussed in connection with police statistics apply to conviction data. The nonindictable offence information refers to convictions, and a single individual may be represented by several convictions. The indictable offence information refers to individuals, but a person may be charged with more than one indictable offence at a single trial. In that case, the most serious charge (measured by the maximum sentence allowed under the law) upon which conviction is obtained is the basis upon which the case and the individual are entered into the tables.

Thus too much emphasis is placed upon counting at the gate (here, the gate of conviction) instead of providing information on the process involved. If one visualizes a stockyard with hundreds of pens and gates where cattle are switched from original owners to new ones, who in turn may move some out for further fattening and others for slaughter in different plants at different times, one will have a picture of the pattern of the criminal justice system. In such a system it can be seen that most of what we know about it, and about the people in it, comes from the equivalent of having men (clerks of the court) seated at the various cattle gates counting as each animal goes past. Thus it provides almost no information about what goes on within the pens, about relationships between animals, or about relationships between the animals and those who move them along or make the decisions. Our information systems should place greater emphasis upon events, decisions, and individuals, and upon the interrelationships among them.

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Despite the shortcomings of the system, however, data on convictions are under somewhat tighter control than those on crimes known to the police and, because of their greater continuity over time -- at least since 1949 -- court data are probably the most appropriate to use when it comes to investigating differences in activity levels over time, at least for major crimes.

To summarize, information on the number of crimes known should come from two sources: from the traditional "crimes known to police", and (a newer approach) from victim surveys. Both sources should be utilized to provide what would amount to overlapping indexes of the level of crime. The traditional measure -- that is, police statistics -- has two advantages: it provides continuity with historical material, and it is based upon almost complete enumeration. With almost all police departments included, detailed breakdowns by geographical subdivisions are possible. The chief advantage of the victim survey is the extent to which it includes unreported crime, while the major drawback is that, since surveys are based upon samples, only limited information for subgroups of the population will be available. Appendix A presents some additional detail on the problems of conducting victim surveys. If sufficient money were invested in the surveys, however, it would be possible to obtain meaningful victimization data for highly defined minority subgroups of the Canadian population.

Nevertheless, in their present form, the data that exist or that can be obtained through these two sources are difficult to convert into policy goal indicators. In part, their weaknesses stem from the divergent interests of those who collect the numbers and those who wish to use them, as can be seen in the following example. The robbery of over a hundred guests at a party represents a greater loss to the victims than does the theft of a TV set in a simple break-and-entry. For the police, however, both incidents merely represent events that must be investigated and that will probably be solved by the arrest of approximately the same number of persons. While, to the police, the two events might have equivalent weight, to policy-makers they would not, because in an index of crime the greater loss would presumably count for more. Thus aggregation is a problem, because it is current practice for each type of crime known to the police to be entered with a weight of one -- a murder and a simple larceny having equal importance.



## *Developing Policies*

Because the difficulties of applying "proper" weights to various crimes are so complex and, moreover, could lead to continuing controversy over the accuracy of any weighting system, it would seem best to provide two indexes. One would continue the present policy of equal weights; the other would include a more complex weighting system. The approach of Akman and Normandeau discussed earlier would be an obvious candidate for use, though again this is a technical problem that need not be solved here.\*

Another weakness in the data available stems from the fact that the number of crimes registered by the police can be decided according to circumstance, as discussed earlier. Although all forces in Canada now follow the Uniform Crime Reporting System adopted in 1962, practice still varies with interpretation from place to place. Such a problem becomes obvious in comparisons between Canadian regions or cities. Their annual reports reflect differences in practices, attitudes towards the police, care in collecting statistics, as well as true differences in criminality. Moreover, statistics will vary over time as public attitudes change towards what is considered crime. It has been suggested that one reason for the rise in violent crime has been the decrease in the toleration of aggressive and violent behaviour among social classes who used to regard it as a fairly normal method of dealing with quarrels. The potential impact of such a change was quite apparent in Table 2-1, which indicated that only 65 per cent of aggravated assaults and 46 per cent of simple assaults were reported to the police.

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\*The usefulness of overall index measures for crimes was severely attacked by Professor Nigel Walker in his recent review of "The Index of Crime" published in *The British Journal of Criminology*, 11 (April 1971): 191-94. Professor Walker argued that no reasonable questions exist that can usefully be answered by information in index form, and that underlying data would be so unstable that an index would hide necessary information. The logic and evidence behind his views were hardly convincing. The widespread use of "crimes known to the police" or "indictable convictions" demonstrates the value that people place on having some aggregative measure. These measures differ from a complex index only in the manner in which they weight the underlying data. Thus Professor Walker was left in the position of arguing not against concepts as he pretended but only in favour of one weighting system. His position on stability was equally weak. This is an empirical question and cannot be treated by hypothetical examples of instability as he attempted to do.

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The third major problem in converting existing data into policy indicators involves the criterion by which the population base is defined. Theoretically, the population base applicable to each type of crime should be divided into the number of crimes in that category to obtain victimization rates. But not all types of crime are easily related to population groups. To exclude all men and women of very young and old ages from the population base for the crime of rape is a relatively easy decision. Robbery involves a more difficult decision. Currently almost three-quarters of all robberies occur in a few major cities. Should the population base be only the population of those cities plus perhaps one-quarter of the rest of the population? This approach seems logical but, if it were used, the population base might have to be adjusted every few years as the incidence of robbery either spread or became more concentrated in major urban areas.

Although crime is an urban problem (Table 2-8), the exact relation between crime and urban areas is difficult to understand. The 12 major metropolitan areas in Canada contain about 38 per cent of the nation's population, but they account for 48 per cent of total Criminal Code violations -- for robbery alone, they accounted for 77 per cent in 1970. Yet individual provinces show no correlation between the degree of urbanization (1966) and the crime level (1970), nor is there a relationship between the crime level and the size of the population for the major urban areas. Even if the two Quebec cities, Quebec and Montreal, were to be less out of line, the results would not be much different.

Paradoxically, there is almost a significant correlation between the crime level and the rate of mobility into major urban areas between 1961 and 1969. Such correlation has historically been found in other countries, as Tobias observed.<sup>20</sup> It is true, of course, that the "violent economic and social transition" of a farm boy moving to the city was several orders of magnitude different then than now.

Within urban areas, analysis reveals marked differences in victimization by crime. In a recent study of police practices in Montreal, which examined three police areas, the crime rate for one area was as low as 300 per 100,000 population, while in another it was 12,300 per 100,000.<sup>21</sup> In Toronto, the 13th Police Division

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experienced a rate of 3,261.1 Criminal Code violations (not including traffic violations) per 100,000, while in the 52nd Division it was 37,574.5. Net value of stolen items per 100,000, excluding automobiles and bicycles, followed a similar pattern. In the 13th Division in 1969 it was \$44.32 per person, while in the 52nd it was \$700. An entire school of criminology was founded upon just such differences, but it is not clear how useful it is, except to police chiefs or as an approach to compiling victim data by social class. This limited value stems from the fact that no one has found any really good explanations for the differences and because, within these divisions and districts, there are extensive variations between subareas, streets, and blocks.

Table 2-8

CRIME IN URBAN AREAS, 1970

	Population	Criminal Code Violations (Per cent)	Robberies
Cities of 250,000 and over	25.2	35.2	64.5*
Cities of 100,000 to 249,500	8.4	10.3	6.9*
12 major metropolitan areas	37.8	48.0	77.0

\*1969 data.

Note: Population figures for the urban areas are based upon estimates submitted by the police departments. Major metropolitan areas are defined by police jurisdiction and are not the same as census statistical areas.

Source: Dominion Bureau of Statistics, *Crime Statistics (Police)*, 1970 (Ottawa: Queen's Printer), pp. 27, 50, 72.

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Given the complexity of determining the proper population base, no attempt will be made to describe what it should contain in any one instance. That problem can safely be left to those who must gather the data and set out the actual survey and census procedures. But another major issue can be discussed -- namely, that of the number and types of crimes to be included in an index. Since historical practice has been to include all indictable crimes as a group, there might be some merit in continuing that practice. However, some of these crimes are not too dangerous, and there would also appear to be merit in selecting a smaller group of "serious" crimes for inclusion in a special index.

Table 2-9 presents some basic Criminal Code violations per 100,000 population over the age of six. The reason for using the ages of seven and over stems from legal tradition, and its usefulness is questionable since few seven-year-olds are apt to be caught up in criminal activity; for example, only 37 violated the Criminal Code in 1967.

The use of population figures as deflators for crime data is open to serious question. While they would facilitate the comparison of crime levels between, for example, Ottawa and Moose Jaw, the result would give an erroneous impression of the true incidence of crime. This point is easily illustrated by the data on automobile theft. The all-Canada rate was 337.5 per 100,000 population in 1970. However, not all members of the population can be victims of auto theft; only those with cars are eligible. Thus the true probability of loss is given by the ratio of stolen cars per 100,000 registered vehicles; in 1970, this was 736.6.

Interprovincial comparisons are also affected. On a population basis, the theft rate in British Columbia was over 30 per cent higher than in Quebec -- 459.5 vs. 346.3 per 100,000 population. Using automobile registrations, the opposite is true. The Quebec rate in 1970 was about 15 per cent greater than that of British Columbia -- 892.0 vs. 782.9 per 100,000 registrations.

Table 2-9

## CRIME RATES IN VARIOUS PROVINCES, 1970

Criminal Code Violations per 100,000 Population Aged 7 & Over	Seven Violent Crimes (1)		Three Property Crimes (2)	
	Index (Median=100)	per 100,000 (Median=100)	Index (Median=100)	per 100,000 (Median=100)
Newfoundland	90	400.4	91	1,288.1
Prince Edward Island	65	284.8	65	989.5
Nova Scotia	79	453.3	102	1,239.2
New Brunswick	70	338.9	77	1,448.3
Quebec	80	286.4	65	2,007.1
Ontario	117	550.0	125	2,052.6
Manitoba	117	428.7	97	2,615.9
Saskatchewan	110	532.9	121	1,751.0
Alberta	149	740.9	168	2,298.0
British Columbia	175	752.9	171	3,252.5
Canada	111	496.6	113	2,098.5

(1) Murder, attempted murder, manslaughter, wounding, assault, rape, and robbery.

(2) Breaking and entering, theft of an auto, and larceny of more than \$50.

Source: Dominion Bureau of Statistics, *Crime Statistics (Police), 1970* (Ottawa: Queen's Printer).

Similar qualifications may be made for most types of crime; for example, women -- and primarily those within narrow age limits -- are most apt to be the victims of rape, and only buildings (more generally commercial ones) can be broken into. Ideally, then, if crime rates are to provide insight into probabilities of victimization, the bases with which the number of crimes are deflated need to be carefully chosen for each major criminal area.

EVALUATING THEORY AS POLICY BASE

Before developing policy for public safety, we should first understand the forces that influence the level of crime. Theories that explain criminal behaviour have, however, been slow to evolve.

Historically, crime has been thought to be the result of individual leanings towards antisocial behaviour.

"Let the policeman's club be thrown down or wrested from him, and the fountains of the great deep are opened, and quicker than ever before chaos comes again. Strong as it may seem, our civilization is evolving destructive forces. Not desert and forest, but city slums and country roadsides are nursing the barbarians who may be to the new what the Hun and the Vandal were to the old."<sup>22</sup>

Writing as he did in the last quarter of the nineteenth century, Henry George was ahead of his time. Until the Depression years of this century, the predominant emphasis was upon the "criminal personality", not on environmental pressures. The individual was thought to have attributes that gave him a high propensity to engage in crime. The source of this propensity was thought to be twofold, with the emphasis formerly on biological factors and more recently on psychological ones. Extremists said that all crime reflected a mental illness.

After the Second World War, Henry George's theory came into its own. Society's view of the criminal took a decided turn to the sociological. The individual was thought to acquire his interests, ability, and self-justification for crime through his associations. Considering the type of people in prisons, it was not surprising that attention turned to the ghetto.

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"In 50 per cent or more of the cases he [the released inmate] is a product of an abnormal home from which he was separated in early life. In two out of three cases he is a city product. Generally, when first apprehended by the law he is a mere youth, of very limited education and little or no training fitting him to make a living. In about two out of three cases he is single and footfree. He is usually addicted to the use of liquor, frequently in excessive amounts."<sup>23</sup>

The weakness in the psychological and sociological views is that they fragment that complex being, man. As Professor Glaser has often pointed out,<sup>24</sup> the bulk of people involved in crime have both criminal and non-criminal interests. This dual nature of human behaviour is even more clearly evident in white-collar and business crime. An economic theory of criminal behaviour, on the other hand, places less emphasis upon individual attributes and more upon changing aspects in the environment.<sup>25</sup>

In examining this alternative approach, we analyse here three social conditions that are widely supposed to affect crime levels: economic opportunity, education, and unemployment.

### ECONOMIC OPPORTUNITY

An economic theory of criminal behaviour may be derived as a special case of the traditional theory of economic choice. The individual is seen as having a set of preferences for goods and services, both market and home-produced, and for leisure. He faces a set of relative prices for the goods and services he wishes to consume, and a set of market and implicit wages for those he is capable of producing. At first, income will either exceed or fall short of desired consumption. The individual then adjusts his employment and consumption patterns until equilibrium is reached. For some, the combination of a general inadequate demand for labour and their own minimal qualifications as potential employees will mean that they cannot move towards equilibrium by earning more money. Most people in such circumstances will utilize past savings, go into debt, scale down consumption, and turn to friends, family, and institutional welfare for assistance.<sup>26</sup> An additional alternative is to steal or otherwise acquire goods that are not legally theirs.

The extent to which people turn to crime in such circumstances will depend upon three main factors: (1) the propensity for crime, (2) the expected gain from the commission of the act, and (3) a random element.

### Propensity for Crime

The propensity for crime is itself a distribution and can be thought of as indicating the probability of an individual committing a specific act that violates public safety under given circumstances. Thus, under any set of circumstances, some will commit violations while others will not. We know very little about the reasons why individuals commit crimes, but it seems probable that they vary across cultures, between crimes, and over the life cycle. Statistics on arrest and imprisonment do not provide much guidance, for they do not take account of the fact that costs and alternatives to crime also vary between individuals in different groups. In addition, members of the middle class appear to be treated in a more informal and less severe manner than those of the more disadvantaged classes.

The level of violations will also depend upon differences in the propensities for crime in given situations. One person may seize an easy opportunity to commit a crime, while another may not. A modest incident may serve to illustrate the point. An ex-convict entered a bar one winter day. While he sat there, the bartender opened the cash drawer and then was called away. The man saw the money and turned head of the bartender. He then reached for the cash, placed it in his pocket, and started out the door. But as he was going out the door he slipped and fell, scattering the money on the pavement. The bartender saw the money, looked at his cash drawer, and immediately called the police. The result was a return to prison for the former inmate. A difference in the individual's propensity for crime, or altered circumstances, and that particular crime would not have occurred. Obviously, the propensity for crime could never be measured by statistics, and we shall have little more to say about it here.

### Expected Gain

The important element in our equation, then, is the second one -- expected gain. The main factors that determine whether a crime will be committed for expected gain are as follows:



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- (1) the money, power, or prestige obtained from the crime;
- (2) the ease of committing the crime;
- (3) the ease of receiving similar satisfaction in a noncriminal way;
- (4) the probability of being caught;
- (5) the probability of being convicted if caught; and lastly
- (6) the probable length of sentence received if convicted.

Long periods of economic growth will certainly change many institutions and customs that affect these six factors. The direction of change, however, is almost impossible to foretell. For example, availability of the automobile probably increased the ease of committing certain crimes, especially automobile theft. At the same time, it led to an ever-increasing number of auto-related violations. Professor McDonald has shown that in Canada there is a close and consistent relationship between the number of motor vehicle registrations per 1,000 population and the number of traffic convictions.<sup>27</sup>

The relationship between crime and economic cycles is no less difficult to determine, largely because the data on crime are so poor. It has been argued that rising crime levels in the nineteenth century, especially among juveniles, were a product of massive economic transformation.<sup>28</sup> The transformation was industrialization and its associated urbanization, with many authorities placing greater emphasis upon the former.<sup>29</sup>

The influence of economic growth is sometimes held to be offset by the rising levels of income associated with economic growth. But the rising-income argument has two difficulties. First, it is doubtful if much crime resulted from genuine want, even in the nineteenth century.<sup>30</sup> Consider, for example, many of the English youngsters transported to Australia because of criminal activity in England who made good in that harsher land.<sup>31</sup> It seems likely that their success was due at least partly to the opportunity of transported individuals to "grapple on equal terms with anyone else".<sup>32</sup> Thus not higher income

but greater equity in the distribution of income would be required to translate economic growth into a reduced crime rate. Since, on a regional basis, the lower level of income distribution in Canada does not seem to have changed greatly since 1926,<sup>33</sup> perhaps a decline in crime should not be expected.

The second difficulty is that crime may be less an income problem and more a class problem. If Professor Banfield<sup>34</sup> is correct in saying that the extensive crime in low-income neighbourhoods results from the attitude and outlook of *only some* of those who live there, then income is only an associated and not a causal variable.

The exact association between economic growth and crime is unknown, though crime in Canada does seem to have declined with growth. In 1951 (using a three-year moving average) the number of persons convicted of indictable crimes was 163 per \$100 million of constant-value Gross National Product (1949 prices). By 1967 the conviction rate had fallen to 126 per \$100 million of GNP -- clear indication of a declining rate of traditional crime.

A somewhat similar measure has been attempted in the United States.<sup>35</sup> Between 1938 and 1967 the value of property involved in thefts per \$1,000 of appropriable property grew from \$3.15 to \$3.91. The growth was due largely to an 80 per cent increase in losses from burglary -- with robberies remaining about constant, larceny rising slightly, and auto theft decreasing. Despite the increased number of burglaries and the decline in auto thefts, auto thefts accounted for almost half of the reported loss.

If improved economic conditions did lead to a lessened degree of crime, it might be more efficient to concentrate upon economic policies than on purely anti-crime measures. Unfortunately, currently available results are not too promising. Professor Fleisher's study of delinquency in selected U.S. cities concluded that an increase in family income of 10 per cent would result in a lowered juvenile arrest rate of 15 per cent.<sup>36</sup> Let us apply his figures in Canada. In 1969 the population of Toronto was just over two million. Based on the 1961 Census pattern, that population implied 345,000 families with children. A subsidy of \$500 for those below the median income -- supposedly about half -- would cost close to \$86 million. A reduction by 15 per cent in the number of juveniles

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and minors charged in Toronto in 1969 would be about 2,500 charges. Thus the implied cost would be about \$34,000 per charge -- a rather expensive project.

### THE ROLE OF EDUCATION

Those convicted of traditional crimes tend to be from the less advantaged classes, as measured by education and occupation (see Tables 2-10 and 2-11). The great bulk of those who are convicted of indictable offences have education below the high school level. Those actually in prison are at even lower levels -- a fact that deserves further investigation. The implication is that either those with less education commit the more serious crimes and thus end up in prison or, for other reasons, life in the courts goes harder for them.

When viewing these types of data, it is tempting to conclude that perhaps additional education generally would cause the crime rate to decrease, though the record of the last several dozen years does not bear this out. Certainly the offences we know as crimes, as Lady Wootton has assured us, tend to be committed by those in the lower classes and by those who are less advantaged. The interesting and unanswered question is whether they would commit fewer crimes if they were provided with a level of education higher than before. There is limited evidence that this may be true, since the gap between the general level of education of those in prison and the average citizen seems to be widening.

However, a 1968 study by the Judicial Section of the Dominion Bureau of Statistics suggests that the level of education, taken alone, has little appreciable impact on post-release success.<sup>37</sup> The average rate of recidivism was 26 per cent. The lowest rate was a modest 4.2 per cent for those with Grade 13 education, while the highest was 31 per cent for those with Grade 5 education. If only the range between Grades 4 and 12 is considered (this includes 88 per cent of the sample), the lowest rates (20 and 21 per cent) were at the Grade 4 and Grade 12 levels. The highest rates (28 per cent) were at the Grade 7 and Grade 8 levels.

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Table 2-10

CONVICTED PERSONS VS. CANADIAN MALE POPULATION:  
EDUCATION LEVEL AND MARITAL STATUS

	Convicted Persons*		Male Population Aged 15-64, 1966
	Indictable Convictions 1967	Entered Prison 1969	
	(Per cent)		
<b>Education Level</b>			
Illiterate	.6	.5	
Grades 1-6	10.7	18.5	45.9
Grades 7-8	31.0	37.0	
Grade 9	17.4	16.0	11.1
Grade 10	18.8	14.3	12.1
Grade 11	9.3	6.5	6.6
Grade 12	7.7	5.0	14.9
Grade 13	1.1	.8	9.5
After high school	2.8	1.7	
<b>Marital Status</b>			
Single	66.2	59.0	33.9
Married	27.3	30.4	64.7
Widowed	.9	1.3	1.0
Divorced	1.1	2.8	.4
Separated	4.2	6.5	--

\*Percentages apply only to those for whom the data are available. In the case of education, data were not available for 24.6 per cent of those convicted or 3.3 per cent of those entering prison. In the case of marital status, information was unavailable for 12.1 per cent of those convicted.

Source: The data for indictable convictions are from Dominion Bureau of Statistics, *Statistics of Criminal and Other Offences, 1967*, p. 27; for those admitted to prison, *Correctional Institution Statistics, 1969-70*, pp. 26, 27, 36, 37; all Canadians, marital status, *Canada Year Book, 1969*, p. 177. All Canadian education levels are from Gordon W. Bertram, *The Contribution of Education to Economic Growth*, Economic Council of Canada Staff Study No. 12 (Ottawa: Queen's Printer, 1966), pp. 21 and 90.

Table 2-11

OCCUPATIONS OF CRIMINALS  
CANADA, 1967

	Occupational Distribution	
	Those Convicted of Indictable Crimes	Labour Force
	(Per cent)	
Managerial	1.4	9.4
Professional	1.7	12.4
Clerical	5.3	14.1
Sales	4.9	6.8
Service	9.9	11.8
Transportation	8.1	4.7
Communication	1.0	.9
Farming	3.6	7.6
Fishing, mining	6.5	1.9
Craftsmen and operatives	30.6	26.1
Labourers	27.0	4.3

Note: This distribution applies to only about 60 per cent of those convicted because: 14.5 per cent provided no information concerning their employment status; 17.4 per cent were outside the labour force; and 8.5 per cent were unemployed. Some care should be taken in interpreting these figures, for the distinction between occupations and industries is often not easily made. In addition, more recent data exclude Quebec; consequently, 1967 data were used.

Source: Dominion Bureau of Statistics, *Statistics of Criminal and Other Offences, 1967* (Ottawa: Queen's Printer), pp. 27-28; and *Canada Year Book, 1969*, p. 767.

The value of education for the prison inmate as a positive influence on recidivism was also thrown in doubt in Glaser's major study of U.S. federal experience. Glaser found that those enrolled in academic education in prison have had less post-release success than those who were not enrolled at all. The relationship is not changed when controlled for prior felony commitments or age upon release.<sup>38</sup> There are, of course, some more positive data.<sup>39</sup> The State of Texas has recently made a major effort to obtain maximum educational improvements among men in prisons under its control, and initial results appear promising. In Glaser's study, when only men who had spent more than three years in prison before their release were studied, it was found that those who had obtained education in prison were less likely to return than those who had not increased their stock of education.

With such contradictory results, obviously much more analysis needs to be done in this area to produce data on which to base policy decisions.

#### UNEMPLOYMENT AND THE CRIME LEVEL

High levels of unemployment are closely associated with persons who become reinvolved in crime. A sample of federal penitentiary recidivists in 1968-69 showed that, at the time of rearrest, only 32 per cent were fully employed or at school.<sup>40</sup> High levels of unemployment are also associated with much-lower-than-average earnings. In 1961 the head and sole earner of a family with no unemployment had an average income of \$4,983, while one with 20-29 weeks of unemployment averaged just \$2,563.<sup>41</sup> Can these associations be put together to suggest that higher rates of unemployment will lead to higher crime rates because of financial need? The answers turn out to be yes, no, and unknown.

In dealing with men on parole or otherwise released from prison, evidence quite clearly shows that labour market success contributes to success in staying out of prison. If, however, a comparison of unemployment rates and levels of crime is made for Canada, it is immediately clear that unemployment and crime are not easily related. Unemployment, for example, is much more of a problem in the Atlantic Region than it is in British Columbia but, as was shown in Table 2-8, the level of crime is much higher in British Columbia than in the Atlantic Provinces. In 1966 the average low level of unemployment in the Atlantic Region was 4.2 per cent and the high was 10.1 per cent, while in British Columbia the figures were 3.8 and 5.3 per cent.<sup>42</sup>

The pattern of unemployment and crime has been investigated in several other countries and time periods. One of the earliest studies was by Ogburn and Thomas on delinquency and business conditions in New York State between 1870 and 1920. They found that an index of business activity was negatively correlated with deviations from the trend line of convictions for criminal offences in New York State.<sup>43</sup> In a more recent study, Professor Fleisher attempts to relate unemployment and delinquency for the United States. He, too, concludes that there is a strong association between levels of unemployment and levels of crime, though serious data problems may weaken one's confidence in the results.<sup>44</sup>

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Fleisher's results have another very curious aspect. Some years ago Leslie Wilkins presented data from England that suggested that some cohort groups were much more delinquent than others.<sup>45</sup> In an attempt to investigate the possibility of a similar pattern in the United States, Fleisher looked at the difference between expected levels of crime (given by regression equations) and actual levels for different generations. It turns out that by that measure the least delinquent generations were those who became 15 years of age in the years 1932-34, while the most delinquent were those who became 15 in the years 1938-43.<sup>46</sup> These results were exactly the opposite of what might have been expected, given the unemployment experience during those periods. Thus it is difficult to have faith in an unemployment-crime relationship.

A similar situation appears to have existed in Canada. Five of the six years with the lowest indictable conviction rates in the twenty years from 1931 to 1950 were the years 1931-35. The average conviction rate in those years was 452 per 100,000 population 16 years of age and older. Four of the highest five conviction rates in those two decades occurred in the period 1938-42, when the economy was improving. The average rate then was 573 per 100,000 -- almost 25 per cent higher than in the depths of the Depression.

No extensive analysis of unemployment and crime has been undertaken for Canada, and it is impossible to present the results of a major investigation. Based on a DBS publication, however, a brief analysis is possible, although it is difficult to pinpoint the role, if any, of unemployment in the level of criminality. One possible approach is to look at the trend line of Canadian crime, as measured by convictions for indictable offences per 100,000 population between 1949 and 1968. As noted earlier, the general pattern was a decline in that rate from 1949 to 1957, after which the rate began to rise again. Under the assumption that the trend is the product of unknown but systematic forces, it is possible to suggest that the impact of changing levels of unemployment should be associated with deviations from the trend line. In other words, a year with very high unemployment will also produce a higher than expected number of indictable convictions.

Table 2-12

UNEMPLOYMENT AND CONVICTION RATES

Year	Male Unemployment Rate		Indictable Conviction Rate per 100,000 Population	Direction of Year-to-Year Change	
	(Per cent)			Unemployment	Convictions
1949	3.6		341	n.a.	n.a.
1950	4.2		342	+	+
1951	2.8		304	-	-
1952	3.2		304	+	n.c.
1953	3.4		295	+	-
1954	5.1		302	+	+
1955	4.9		271	-	-
1956	3.9		258	-	-
1957	5.3		292	+	+
1958	8.1		311	+	+
1959	6.9		274	-	-
1960	8.1	6.6	304	+	+
1961	8.4	6.7	330	+	+
1962	6.9	5.4	324	-	-
1963	6.4	5.0	353	-	+
1964	5.3	4.2	339	-	-
1965	4.4	3.4	329	-	-
1966	4.0	3.1	350	-	+
1967		3.6	341*	+	-
1968		4.2	370*	+	+

n.a. -- not available.

n.c. -- no change.

\*Estimates from Table 2-7.

Source: Théodore Bédard, *Time Series Analysis and Projection of Crime Rates, 1949-1971*, DES Cat. No. 85-502 (Ottawa: Queen's Printer, 1970), p. 8; and Sylvia Ostry, *Unemployment in Canada* (Ottawa: Queen's Printer, 1968), p. 7. Figures in italics taken from *Canada Year Book, 1970-71*, p. 856.



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As can be inferred from Table 2-12, there is a very weak association between deviations from the trend and the level of unemployment, but it is far from being statistically significant. If only the upward-rising portion of the conviction rate curve is examined, over the years 1957-68, there still is no significant statistical relationship between unemployment and the rate of convictions.

A closer examination of the pattern of deviations and of the unemployment level in the table does, however, indicate one interesting pattern. Between 1948 and 1956, the conviction rate was declining. These were also years with modest male unemployment rates, averaging 3.9 per cent. Starting in 1957, the average level of unemployment rose substantially, at least until 1965, as did the conviction rate. The cyclical pattern is also interesting. With five exceptions in 19 years, in each year that unemployment rose, convictions rose and, similarly, both declined together.

We know that much of the increase in the conviction rate since 1957 has been concentrated in the lower age groups, and it would be tempting to suggest that the very much higher unemployment rates experienced by young men were partly responsible. There is some evidence in the United States to link the rising arrest rates of young males with lower rates of labour force participation,<sup>47</sup> but in Canada the evidence is not very supportive. The unemployment rate of male youths (14-19 years of age) was 129 per cent greater than the average male rate for the seven years 1950-56 and 137 per cent greater during the next seven, 1957-63. The average relative increase in youthful unemployment rates was only 6.2 per cent. This hardly implies a large relative increase in convictions; yet, between 1950-56 and 1957-63, the youthful crime rate rose almost one-and-a-half times faster than the overall rate.<sup>48</sup>

In conclusion, it would appear that there are some relationships between swings in the level of conviction rates and the level of male unemployment rates, but they are probably not very strong. Given that, it would seem that policies designed to reduce unemployment could count a lowered crime rate as only a modest extra benefit.

\* \* \*

A variety of interpretations might be drawn from economic theories of criminal behaviour. On the whole, it seems appropriate to conclude that the state of the economy is positively related to the level of crime, both over cycles and over long periods of time. Unfortunately, for purposes of policy planning, our understanding of the relationship is sufficiently poor that it is doubtful whether economic policies can be used in a general attack on crime. This situation largely reflects the fact that only a very small proportion of the population is involved in serious crime, and the exact composition seems only to be known after at least one major crime has been committed. For some groups with high propensities for crime, however, there may well be a role for economic policies. For the economy as a whole, it would seem that the traditional tests of the appropriateness of economic policy will continue to be the tests by which those policies must be judged.

#### EXAMINING APPROACHES TO CRIME CONTROL

Methods used to protect the public from criminal activity fall into four distinct groupings: prevention, detection, apprehension, and conviction. Successful prevention of crime is to some extent a result of the actions of private individuals and organizations, backed up by the presence of public protection agencies of which the traditional police forces are probably the largest group. Thus, in Montreal during the police strike, glass windows that had protected merchandise when police were on duty became inadequate when police services were withdrawn. Detection, apprehension, and efforts to convict are more completely public activities, although a much wider group of agencies than the police are engaged in, for example, the inspection of elevators, working conditions, food, drugs, and advertisements.

Policies and programs in the four main areas of crime control should be based on analysis of methods used in each, and a comparison of their relative effectiveness. For example, to reduce the number of break-and-entry crimes, should more money be spent on better locks, on the installation of alarms, or on better detection and apprehension of those who commit the acts? Deciding tactics, however, should take second place to evaluating basic approaches to public security. In this section we

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examine the more traditional approaches and suggest ways to measure the efficacy of current protection systems, both private and public, with special emphasis on the role of the police.

### PRIVATE PROTECTION SYSTEMS

The basic principles associated with private protection are few and relatively simple, though probably largely unpractised. One is to reduce the size or the value of temptation, as does the storekeeper who takes his receipts to the bank each day instead of at the end of the week. A second is to provide better physical protection for those items whose value cannot be reduced. The increasing use of exact fare plans for buses, and the installation of strong boxes in buses and taxis, are new examples of this principle. With increased concern for physical security may come the more widespread use of guards. In recent years, growth in the relative employment of police personnel per 100,000 population has been mirrored by an equal increase in the employment of guards and watchmen. In 1931 there were 13,500 guards, watchmen, and caretakers, and 11,000 policemen employed in Canada. Thirty years later the numbers had almost tripled, to 35,000 and 30,000 respectively. In 1971 it was estimated that there would be 47,000 guards and 42,000 policemen.<sup>49</sup> These almost fourfold increases over 40 years may be compared with an approximate doubling of total employment in the same period.

In many cases what may be required is not a change in bricks and steel or the addition of a private army, but an alteration in systems of operation. We noted earlier, for example, the suggestions made by the London police to people whose habits make them prime targets for robbery. In the President's study in the United States, it was estimated that approximately 42 per cent of all stolen cars had had their keys left in them, and many others had been started by jumping wires -- a process that could be made more difficult by minor alterations in automobile design.

A more complex set of problems is created by opportunities to steal via computer; for example:<sup>50</sup>

- In New York City, the Human Resources Agency lost \$2 million during nine months of 1968 because phony payroll checks were being written by the

computer at the rate of 100 a week. This was only discovered during investigation of an illegally overparked, overdue, rental car.

- In Canada, a department store systems analyst arranged to sell himself expensive appliances under a special price code. He then intercepted the documents, changed the price to a few dollars and paid his bill.
- In England, a bank programmer left his own account out of the overdraft survey.

In the computer situation there is no possibility of minimizing loss by reducing the amounts of money being handled, for the essence of efficient use is even larger and more complex computers. The only answer seems to be in better protective systems and audits. Thus we face the exact opposite of the usual situation. For the new types of crime, it is growing more difficult to discover that a crime has been committed, although the perpetrator may be relatively easy to identify.

Without an elaborate survey of business operations it is impossible to know to what extent businesses or individuals take special measures to protect themselves or their property. A recent study of small business administration in the United States reported that less than a third of all businesses used one or more of the following measures: local burglar alarm, central burglar alarm, reinforcing devices, firearms, shoplifting protective devices, security guards, or subscriptions to protective services.<sup>51</sup> It would be desirable to have some clear idea of the extent to which these systems are successful, but data are very limited. It is known that in one way most alarm systems used by firms are quite inefficient in that they cannot distinguish between a criminal and, in some cases, a poorly fitting door that rattles in the wind. Since police practice in many areas is to respond to all of these calls, the owner has no incentive to improve the efficiency of the system. As a result, it is estimated that 90 to 95 per cent of all alarms are false. At present this inefficiency imposes extra costs on the public via misuse of police services. Moreover, a superficial examination would suggest that alarms even facilitate crime. For example, in a U.S. study among retail establishments with central alarms, 11 per cent reported three or more burglaries in the preceding years, while

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only 4 per cent of those without that form of protection had three or more. The figures for no burglaries were only 68 per cent for the protected retail establishments and 86 per cent for the unprotected.<sup>52</sup> One possible explanation of these seemingly strange results could be that the more protected firms were more prone to be burglarized; the protective measures were effective, but not enough to counter the extra risk of crime to which they were exposed. However, this hypothesis was not upheld by the data, at least for the measurable difference of location broadly defined (e.g., ghetto, rural area, size of city).

The objective for the use of private protective devices of all kinds is quite straightforward: to reduce the loss suffered by the agency involved. The evaluation of success is more difficult, since it is hard to judge what would have happened if the protective measures had not been undertaken. Perhaps historical and cross-sectional comparisons may provide some insights into the effectiveness of private protection, although a benefit-to-cost ratio is almost impossible to generate, as the following example shows.

Recently in Cedar Rapids, Iowa, a special experiment in the use of silent alarms was conducted. They were installed in some 350 small businesses at a cost of \$185 per establishment. The annual cost to maintain them, including telephone lines, was approximately \$150 per year per business. In a year and a half of operation approximately 960 alarms (640 per year) resulted in the capture of 40 burglars (26 per year). In close to 200 cases there was evidence of a break, but no criminals were found.<sup>53</sup> To estimate the dollar losses the system prevented, we have to apply national average figures.

In 1967 there were some 818,000 burglaries of non-residences in the United States. Approximately 86 per cent of business establishments -- i.e., those doing less than \$100,000 of gross business -- together suffered close to \$300,000 worth of burglary loss during that year. If this sum represented 86 per cent of the burglaries, which seems reasonable, the loss per crime was \$420.<sup>54</sup> Applied to the Cedar Rapids incidence of known and suspected burglaries, this result suggests that almost \$67,000 in burglary loss was prevented by the silent alarms. The cost of this saving was \$60,000 (the annual cost plus one-tenth of the capital cost). If the public cost of

answering the 640 alarms was less than \$11 per call, then the added protection was worth the cost. In fact, however, it seems unlikely that the system paid for itself in direct savings. The incidence rate of burglaries for these businesses was 46 per 100 per year -- a figure that greatly exceeds the average of 37 per 100 for retail establishments in U.S. central cities. Using a more conservative rate of 32 per 100, the estimated direct savings drop to \$47,000 -- a figure that is some \$5,000 less than the yearly cost of operating the system, without counting police time.

An alternative approach is to ask about the marginal cost of catching an extra criminal. Evidence suggests that an extra 17 per year were caught. The private cost of \$60,000 represents about \$3,500 per extra burglar, to which must be added the public costs. While this seems ridiculously high, it must be remembered that many break-ins and entries might never be attempted with additional protective arrangements.

The question of who pays for answering false silent alarms underlines one of the most difficult questions in the area of public safety -- the issue of cost-sharing. This issue involves not only what portion of costs different groups should bear, but also how the distribution should be decided. As was noted above, a large number of burglar alarms are false. The result is that some police departments have downgraded their responses, and the probability of catching an actual burglar has therefore been reduced. One solution to the problem is a higher-quality burglar alarm; another is to upgrade the police response and charge for false alarms; another is the use of a private police force to respond to central alarms. The distribution of costs between public and private sources is not equal in such situations and, except for the last one, involves close public-private co-operation.

#### AGENCIES OF PUBLIC PROTECTION AND DETECTION

We have already noted that promotion of public safety falls to a multitude of public and private groups. The major difference between the work of the traditional police department and other agencies is that most of the work of the latter concerns detection of the existence of a violation of public safety, whereas the regular

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police forces deal to a much larger extent with crimes brought to their attention by victims. It is only in operations against certain aspects of what is referred to as organized crime, sex, gambling, narcotics, and the like, that the police also become involved in attempting to detect the existence of crimes.

In this section most of the attention will be directed to the more traditional police departments -- partly because their usefulness and behaviour have been increasingly under scrutiny and partly because it is for them that data are now collected.

### The Role of the Police

In Canada it is difficult to speak of a cohesive police force, for there are so very many of them. According to the former Dominion Bureau of Statistics, 572 regular municipal police forces were maintained in 1969 by towns with populations of 750 or more. Ontario and Quebec have their Provincial Police, who contract their services to some municipalities. The Royal Canadian Mounted Police serves as a national police force, as a provincial police force in those provinces that do not maintain a force, and also as a municipal police force within certain communities on a contract basis. In some metropolitan areas such as Toronto, most of the metropolitan area is under a unified police department, while others employ a variety of forces. Nor does this exhaust the nature of traditional police functions; some companies have police forces, but only those for the Canadian National and Canadian Pacific Railways are listed in the DBS publication.

The DBS reports used the most common methods of counting social service data -- i.e., counts of particular activities. The number of crimes known are recorded, as are those cleared by charges or by other methods, and a count is made of major inputs -- primarily the numbers of policemen, civilian personnel, and motorized equipment. In conformity with what must be old and honoured traditions, police horses in Canada are also counted. Recourse to the individual reports of various departments would probably provide counts of other activities. What is not provided is a set of data that would be useful to a citizen who wished to know whether he was receiving appropriate police services.

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Such information would require, as a start, some determination of exactly what the police are supposed to do. Recently Anthony Downs suggested a variety of different objectives involving police services:

- (1) To minimize a crime index for the city.
- (2) To provide service on all calls within x number of time units (two minutes).
- (3) To provide to all parts of the city equal protection, defined either as resource inputs -- such as police man-days -- or as safety outputs, in terms of units of crime committed.
- (4) To create equal workloads for all shifts.
- (5) To develop capacity for massive response to riots.

The Downs suggestions make an interesting mixture. Some of them constitute police alternatives, such as (1) and (3), while (2) and (5) would be classed as programs or tactics. Downs's group also comprises a variety of measures for output, input, and efficiency. These mixtures are in part explained by the very diverse nature of the services that police forces are called upon to perform. Some of these, such as the checking of various licences, would be relatively easy to shift to another organization. Others, such as the rescue of persons in danger, would be more difficult to resolve, for many times they are not unrelated to the commission of illegal acts.

In this Study we are naturally interested in the police department's role in increasing the level of public safety, which is a combination of the Downs points (1) and (3) or some mixture of a minimized level of violations, with suitable concern for the equitable treatment of various groups of individuals. It turns out to be a most difficult task to accomplish. This is because the level of violations of public safety in any given area depends, as argued earlier, upon a host of variables other than the police.

Some people have suggested that one appropriate operational objective would be to maximize the number of crimes known to the police that are cleared by arrest. Closer examination will indicate that this is not apt to



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be a useful approach. First, it requires some independent estimate of the actual number of violations of public safety. Otherwise, there is the danger that an inefficient force would have a low total of known crimes either because the public had lost confidence in the ability of the force to respond or because so many reports were lost in the circular files. The use of an independent victim survey could be used, except that with jurisdictions the size of most police departments it would be very costly.

The denominator (crimes known) is not the only difficulty. Many crimes are cleared by police upon the basis of statements of people who will only be charged for other acts. Consequently, there is no independent test of whether the accused actually committed the transgressions. Nor are arrests necessarily a good indication, for it is possible to have a high ratio of arrests to known crimes but to have a large number of these arrests fail to lead to convictions or even trials. Indeed, the best way for a force to have a high ratio of arrests is to apply a minimum level of evidence necessary to make an arrest. Low requirements would undoubtedly gather into the police nets a large number of real criminals. Unfortunately they would also gather in a number of false-positives -- innocent persons faced with the prospect of being harmed physically or in their relationships with their peers.

Some of these problems were recently clearly illustrated in a book on police behaviour in the United States.<sup>55</sup> Two forces were compared in the way in which they handled juvenile cases. One force was highly professional, with clear channels of command, proper paperwork, and high standards for admission. The other was of the "dumb Irish cop" stereotype. The pay was not very good; the opportunities for advancement were not very high; a man needed friends to get on the force and remained somewhat under the influence of members of the local establishment. As would have been anticipated, the professional force made far more arrests of juveniles. In a town with the less professional force, officers would tend merely to reprimand a child or perhaps take him home to his parents and speak to them whereas, with a professional force, similar situations would result in arrest and formal charges. Which force does the better job? There is ample evidence to suggest that the vast majority of those charged and found delinquent during their childhood are never seriously involved with the law as adults. One study in Wayne County, Michigan, for example, found that only

40 per cent of those with juvenile court records had regular police records when they became older, and only a bare majority of juvenile recidivists (54.3 per cent) had adult police records.<sup>56</sup> Formally measured, the "professional" force would seem to be the most effective. But does the Canadian citizen want an authoritarian society, with lots of children going through formal arrests and court hearings? If the real objective is fewer adult criminals, perhaps society should consider how to measure the success of more informal methods.

### The Actual Job

Before going on with a discussion of how this seeming conflict between measurements and real success may be solved, it will be useful to discuss in some greater detail the activities of a modern police force. Any discussion of a police force involves certain ideas, probably derived from the television screen or mystery novels, of what the life of a policeman is like. Despite the plaint of years ago -- in song, no less -- that a policeman's lot is not a happy one, few people ask why. Does the policeman make arrests at a great rate? The clear answer is no. In 1969 there were 38,589 sworn-in policemen. On the assumption that each one worked 2,000 hours during the year, police service would have totalled 77 million hours. During the same period, 575,077 people were charged -- about 40 per cent for Criminal Code violations. This means that the average policeman brought charges against an average of 1.25 individuals every month. Even in a major city such as Toronto, the total is not much larger -- 15.5 per year for district detectives and patrolmen. If only traditional (nontraffic) Criminal Code charges are considered, the average district constable and detective in Toronto charged fewer than three people per year. Such an average hides a great deal of variation. Traffic policemen at busy intersections may not make an arrest in several years, while busy detectives in high crime areas may make a large number every month.

Similar misunderstandings also surround the degree of danger believed to be involved in a policeman's job. Is being a policeman as dangerous as is often alleged? In 1969, ten policemen lost their lives in the line of duty -- half were killed accidentally and half by criminal action. For all of Canada the death rate was 26 men per 100,000 policemen. In comparison, work-related deaths for all of Canada in 1967 were 20.8 of every 100,000.

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On an industrial basis the following broadly described industries all had higher death rates for their employees than did police departments: forestry, construction, mining, transportation, communications, and utilities. The literature on police work does suggest that such an approach to the danger of police work is unfair and misleading because of the potential danger to a policeman in every situation. Will the driver of the car stopped for speeding be a contrite "I couldn't have been going over 45, Officer" individual or a bank robber fleeing in a stolen car? Yet surely a similar degree of alertness must be demanded of miners or construction workers high above the street.

If the average policeman spends so little time making arrests and being shot at, what does he do with his time? Only recently have a few comprehensive studies provided some insight. One of them surveyed representative police departments in England,<sup>57</sup> in which each officer was asked to account for his time during the survey period. Four principal areas were considered: law enforcement, which consisted of the prevention and detection of crime; the administration of justice, which concerned work in or supportive of courts; treatment of offenders, which involved police work between the time of sentence until the man was in the hands of the proper correctional authorities; and lastly, civil duties, which contained all other types of actions, such as answering questions and helping little old ladies across the street. Perhaps the most eye-catching finding was the tremendous amount of time that was not given to any of the above four. In the provincial departments, 42.2 per cent, and in the metropolitan (London) sample, 33.8 per cent, of potential time was taken up by what the English refer to as abstractions -- e.g., leave, training, and other activities that make an officer unavailable for active duty. When only actual working time was considered, it turned out that, on average, 74 per cent of the provincial forces' time and 81.5 per cent of the metropolitan forces' time was spent on law enforcement.

An alternative approach used in the study was to break down time spent by areas of operation -- i.e., traffic, crime, civil order, and internal organization. The percentage of time spent on crime by the provincial forces was 28.6 per cent and by the metropolitan forces, 31.3 per cent. For both, civil order took a somewhat greater amount of time; traffic took a little bit less. In London, traffic took significantly less time because

of the existence of a central traffic division. When time was broken down still more, the very low position of crime investigations was made clearer. For the provincial forces, only 17.3 per cent of an officer's working time was given to investigating crime, while in the metro divisions the percentage was 21.6. The single most time-consuming job was patrolling, which took 30.2 per cent of provincial force time and 33.2 per cent of metro force time. In the words of the authors of the study, "The general picture is of an organization dominated by the form of operation devised more than a century ago to meet the then dominant problem of maintaining public order." The question that must be asked today is whether such organization of the police is appropriate. In England, the Working Party on Operation Efficiency and Management has already stated that it has serious doubts whether the traditional beat system is efficient as a method of policing many areas under modern conditions.

The same situation may be found in the United States. Professor Wilson took a sample of citizen complaints that were radioed to police cars of the Syracuse Police Department for the week of June 3-9, 1966.<sup>58</sup> The distribution of calls was as follows: 22.1 per cent involved obtaining information; 37.1 per cent involved service; 30.1 per cent involved the maintenance of order; and 10.3 per cent dealt with the enforcement of laws. Yet even for the 10.3 per cent, only a third dealt with situations that were clear-cut crimes. This means that only about 3 per cent of the work of the radio-dispatched cars that week involved potentially serious violations of public safety. A more recent survey of an unnamed city of 400,000 in the United States found that the patrol division accounted for 43 per cent of the uniformed and civilian strength and 41 per cent of the police budget. Over one 54-week period it turned out that, of the time consumed, 2.96 per cent dealt with crimes against persons and 14.82 with crimes against property, while half the time was spent on administrative activities.<sup>59</sup>

A recent study of time budgets in Montreal reported similar results. During the week of September 14-20, 1969, data from the daily police reports for four stations (4, 10, 12, and 21) were examined. The calls were divided into six categories, of which the main ones were "against crime" and "noncriminal". The latter category was divided into: repressive activities, maintenance of public peace and order, general prevention, specific prevention, and

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transport of prisoners. These activities accounted for less than half of the week's time, 46 per cent. The remainder of the time, 54 per cent, was given over to general patrol activity. Only a little over a quarter of the identified time was devoted to anti-criminal activity (13 per cent of the total time), the remainder being more of a social service nature.<sup>60</sup>

Administration is necessary for the successful completion of work dealing with crime, and some service calls that do not involve crimes may differ a little from those that do, but surely it is clear that the idea of a police force geared up to deal with the kind of crime people seem to worry about most is false. In New York City it has recently been estimated that it would cost an additional \$160,000 to put one additional patrolman into the streets.<sup>61</sup> The conclusion that police departments are doing their work improperly does not follow. What does follow is the necessity of asking some searching questions concerning what kind of police service is needed and how that service can best be provided.

The first question naturally concerns what the duties of the police should be. At the moment, calls of a service nature and routine patrol absorb the majority of a police department's time. Increasingly the complex nontraditional crimes are being handled by other than the uniformed officer. Thus not only do the duties of the police department need to be examined, but the role of the police officer should be redefined. In a world in which paraprofessionals are increasingly used in medicine and teaching, extensive reliance upon the all-purpose and expensive police officer implies a less than efficient use of resources. Some use of specialized officers and civilians is now made, of course; in 1969, 16.5 of every 100 police department employees were not police officers.

One reason for the heavy reliance upon uniformed officers is the peak-load problem. On the day of the funeral of Dr. Martin Luther King, the entire Atlanta police force was on duty -- the first time in history that every man was on duty at the same time. At such times the ability to postpone many of the day-to-day activities in order to put a maximum number of men into the streets is important. Thus police chiefs tend to have uniformed officers rather than cute young things in mini skirts performing the necessary clerical chores. However, many industries have found alternative ways to

solve the peak-load problem, and there would seem to be no reason why such alternatives should not be examined for police departments. Of course, the existing large number of separate police departments in Canada would make new methods difficult to apply in Canada. Such reasons led Quebec's Commission of Enquiry to urge strongly the amalgamation and co-ordination of police forces.<sup>62</sup>

Answers to the question concerning how police service can best be provided are difficult to obtain, because little is known about the efficacy of police activities. For example, does patrol activity, which requires a great deal of time, prevent crimes of the type that citizens worry about? Data for murders indicate that they rarely take place in a location where passing patrols would be able to prevent them. Yet the visible presence of police may deter would-be criminals by reminding them that quick reaction is possible. It is impossible to know whether that is so, until some carefully thought-out and conducted studies of marginal changes in patrol activity are undertaken. It is probable that organizations other than police forces will have to take the initial lead in such experiments, since police accord research low priority. Given the size of the average force, this attitude is not likely to change.

A broader requirement is for some carefully considered measure of output and efficiency in police activity. For the most part, the informational needs associated with the police are involved with different models of behaviour and their implied policies -- or more generally with the evaluation of different tactics that might be employed in seeking the policy objective of an acceptable level of crime.

### Police Efficiency

Apart from the number of crimes within their jurisdictions over which they have only limited control, the only measure of police efficiency is the clearance rate. This rate (over 70 per cent for murder) falls to quite low levels -- less than 20 per cent for theft in excess of \$50, and for breaking and entering. It is not a useful indicator of police activity, partly because of the number of ways in which its accuracy may be questioned -- a problem that was discussed earlier in this chapter. A more fundamental difficulty is that the clearance rate

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makes no distinction between cases that the police should be able to solve and those that only chance will allow them to solve.

A recent Rand Institute Study in New York reported that the probability of solving such crimes as burglary, shoplifting, and car theft appeared to be a matter of luck and not a function of the hours spent trying to solve them. This situation stems from the fact that more than half of the arrests for crimes of robbery, grand larceny, and burglary were made at the scene of the crime.<sup>63</sup> This finding is consistent with a study in Los Angeles, which reported that when police arrived at the scene of a burglary within one minute of being notified that the crime was in progress, they always arrested some persons, but the arrest rate fell to around 50 per cent if arrival was up to four minutes after notification and, of course, lower as the length of time was extended. Other police departments have estimated even lower percentages of arrest for all time intervals.<sup>64</sup> Success may also result from police receiving detailed information on possible suspects. A study of this aspect was reported for Los Angeles during January of 1966. In a sample of 1,905 crimes, names of suspects were provided to the police in 349 instances. Approximately 85 per cent of these cases were resolved by arrest or a decision not to prosecute a known offender. In the remaining cases, where no suspect was named, in only 181 or 11.5 per cent of the cases was a suspect eventually found. These situations suggest that a useful measure of police success should be weighted in some way to account for the probability of success.

A measure of whether or not a crime is solved gives no indication of the resources devoted to each case. The Rand study suggested that many expensive man-hours were wasted on "unsolvable" crimes. It also noted that a plain-clothes detective on patrol averaged 2.15 arrests for major property crimes per month compared with an average of only .86 arrests per month for a detective on general investigative duty. It is clear that society will probably continue to insist that disproportionate sums be spent on certain very special kinds of crime. Examples might include the murder of children or political figures, or daring property crimes such as the Great Train Robbery in England. Yet, for the great bulk of criminal activity, it would seem that some measure of the resources spent to solve the average crime would be useful information.

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A major issue in the use of clearance rates has been the very wide variation in the number of crimes cleared by the arrest of one person (as high as twentyfold in one major American city), who might in fact be found innocent by the courts. One alternative would be to include only those crimes for which convictions were obtained or in which the property was returned to the individual from whom it was stolen. With such a measure, car theft would require special handling, since so often a car is merely used without permission rather than stolen with the intent of keeping it. The advantage of this measure is obvious; it would prevent padding in order to obtain the appearance of good results. It is not without its own disadvantages, for it would make police efficiency dependent upon the courts. More important, it would provide the police with an incentive to charge possibly innocent people. One solution would be to publish both indexes -- a clearance rate on crimes solved and one on crimes for which a conviction was obtained.

The bases of both indexes should be weighted by the probability of the crimes being solved, with weights reviewed periodically to reflect changing circumstances. In addition, for some crimes -- primarily those against property -- it would be possible to indicate the ratio of dollars spent on their solution to the losses they caused.

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Public security is a complex concept, partly because it has so many facets and partly because it must be defined in negative terms. Nevertheless, Canadian data can, with some effort, be obtained and organized to provide useful indicators of achievement in this goal area. In this chapter, an attempt has been made to show how various informational problems might be approached, so that issues may be presented clearly for policy-making decisions.



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- <sup>29</sup>Commission of Enquiry into the Administration of Justice on Criminal and Penal Matters in Quebec, *Crime, Justice and Society*, vol. 3, tome 1 (Quebec City: Roch Lefebvre, 1968-69), pp. 155-69.
- <sup>30</sup>Tobias, *op. cit.*, p. 152.
- <sup>31</sup>*Ibid.*, pp. 246-47.
- <sup>32</sup>*Ibid.*, p. 247.
- <sup>33</sup>Economic Council of Canada, *Sixth Annual Review: Perspective 1975* (Ottawa: Queen's Printer, 1969), p. 152.
- <sup>34</sup>Edward Banfield, *The Unheavenly City* (Boston: Little, Brown and Co., 1970).
- <sup>35</sup>U.S. Department of Health, Education, and Welfare, *Toward a Social Report* (Washington: U.S. Government Printing Office, 1969), p. 58.
- <sup>36</sup>Fleisher, *op. cit.*, p. 117.
- <sup>37</sup>Dominion Bureau of Statistics, Judicial Section, "Recidivism -- A Pilot Study", March 1968 (unpublished).
- <sup>38</sup>Daniel Glaser, *The Effectiveness of a Prison and Parole System* (Indianapolis: Bobbs-Merrill, 1964), pp. 273-79.
- <sup>39</sup>See the articles cited in Calvin B. Michael, "Changing Inmates through Education", *Education and Training in Correctional Institutions*, Center for Studies in Vocational and Technical Education (Madison: University of Wisconsin, 1968), p. 102.
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- <sup>42</sup>*Ibid.*, p. 28.
- <sup>43</sup>William F. Ogburn and Dorothy S. Thomas, "The Influence of the Business Cycle on Certain Social Conditions", *Journal of the American Statistical Association*, 28 (September 1922): 305-40.
- <sup>44</sup>Fleisher, *op. cit.*, p. 84.
- <sup>45</sup>Leslie T. Wilkins, "Delinquent Generations", Home Office Research Report, 1960, reprinted in Marvin E. Wolfgang *et al.* (eds.), *The Sociology of Crime and Delinquency* (New York: Wiley, 1962), pp. 170-79.
- <sup>46</sup>Fleisher, *loc. cit.*
- <sup>47</sup>Llad Phillips; Harold L. Votey, Jr.; and Donald Maxwell, "Crime, Youth and the Labor Market", *Journal of Political Economy*, 80 (May/June 1972): 491-504.
- <sup>48</sup>Ostry, *op. cit.*, p. 9.
- <sup>49</sup>Noah M. Meltz and G. Peter Penz, *Canada's Manpower Requirements in 1970* (Ottawa: Department of Manpower and Immigration, 1968), p. 39.
- <sup>50</sup>The first two examples are from a talk by Harvey S. Gellman as reported in *The Toronto Globe and Mail*, September 10, 1970.
- <sup>51</sup>U.S. Congress, Senate, Select Committee on Small Business, *Crime Against Small Business*, 91st Cong., Document No. 91-14, April 1969, p. 117.
- <sup>52</sup>*Ibid.*, p. 127.
- <sup>53</sup>*Wall Street Journal*, November 24, 1970.
- <sup>54</sup>Select Committee on Small Business, *op. cit.*, pp. 74-89.
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<sup>56</sup>Mildred R. Chactin and H. Warren Dunham, "The Juvenile Court in its Relationship to Adult Criminality: A Replicated Study", *Social Forces*, 45 (September 1966): 116-18.

<sup>57</sup>J. P. Martin and Gail Wilson, *The Police: A Study in Manpower* (London: Heinemann, 1969).

<sup>58</sup>Wilson, ... *Police Behaviour*, *op. cit.*, p. 18.

<sup>59</sup>John A. Webster, "Police Task and Time Study", *Journal of Criminal Law, Criminology and Police Science*, 61 (March 1970): 94-100.

<sup>60</sup>Fasciaux, *op. cit.*, p. 33.

<sup>61</sup>*New York Times*, March 14, 1971, p. 70.

<sup>62</sup>Commission of Enquiry, *op. cit.*, vol. 1, pp. 80-83.

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<sup>64</sup>Select Committee on Small Business, *op. cit.*, p. 29.

## CHAPTER 3

### DEVELOPING POLICIES TO ASSURE CRIMINAL JUSTICE

The second goal area identified in Chapter 1 was the assurance of just treatment to the accused and convicted. The same argument applies to this goal area as to the first; that is, perfect justice is never possible and, even if it were, its cost would tend to be excessive. Thus the overall policy objective should be to secure an acceptable level of justice.

Decisions on what policies will best attain this objective properly lie with the legislature. Our concern is with measuring the success of such policies and determining whether they are applied fairly to all. In the next two sections we deal with the problems of constructing goal output indicators for court processes and correctional institutions.

### EQUITY IN THE COURTS

The issue of equity in the courts concerns the rights of the accused and the fairness of decisions. To measure the justness of individual treatment in these terms, goal indicators are needed that relate to actual court practices. For this purpose, the operation of the courts can be divided into three stages: procedures leading to trial; the trial itself; and the post-trial period or the sentence. Each presents different problems in assuring equity to the accused, and each will be dealt with separately in the following sections.

#### FAIRNESS BEFORE TRIAL

In the pre-trial stage, the courts are under strong pressure to ensure the appearance of charged persons at the proper time. They therefore prescribe imprisonment or bail. The main advantage of bail is that it minimizes costs to the state, to the innocent, and to the guilty, who might otherwise be punished more by pre-trial measures than by post-trial ones.

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Presumably, then, bail should be granted whenever no undue harm is likely to be caused by persons charged but not tried. Implicit in this argument is the assumption that the charged party is innocent unless proven guilty and that any errors ought to favour the protection of the rights of innocent parties, even at the cost of not convicting all those who are indeed guilty. Unfortunately, casual observation of the Canadian courts suggests that their operation is more consistent with the belief that charged individuals are guilty unless proven innocent. To quote one policeman, "We do not charge innocent men."<sup>1</sup>

Omniscience of police aside, it would seem that the vast bulk of those charged are arrested and kept in jail for some period prior to their appearance in court. Between September 1961 and February 1962, Professor Martin Friedland collected data on almost 6,000 cases that were heard in magistrate's court in Toronto.<sup>2</sup> Out of that sample, 92 per cent were arrested rather than summonsed, and only 12 per cent of them were bailed from the police departments.<sup>3</sup> (The author is unaware of more recent data.)<sup>4</sup>

Not only were very few persons granted bail at police departments, but fewer than half were granted bail at their first court appearance. Of 2,454 individuals who were in custody at their first court appearance and whose cases had not been decided, only 43 per cent were released on bail. The range across crimes was extensive: 92 per cent of those charged with driving offences were released, but none of those charged with narcotics violations were released.<sup>5</sup>

The failure to be released on bail at an appropriate time may cost a charged person a good deal and, more seriously, may affect the outcome of his trial. In Friedland's study, where the charges were of an indictable nature, 57 per cent of those in custody for the trial were convicted, as against 45 per cent of those who were not. This divergence probably does not reflect only the relative gravity of the charges. If the sample includes only those for whom a bail of \$500 was set -- i.e., those charged with relatively minor crimes -- a higher conviction rate for those not out on bail is still found. Specifically, 62 per cent of those who were in custody for the trial (unable to secure the \$500) were convicted, but only 45 per cent of those who were free were convicted.<sup>6</sup>

Release on bail may also affect the nature of the sentence a guilty person receives. The recent Commission of Enquiry in Quebec<sup>7</sup> reports that studies in the United States, Holland, and France all show that the probability of receiving a prison sentence is greater for those in custody at the time of the trial than it is for those who are free.

A recently reported study from England cites similar results. In a sample of 418 men charged with breaking and entering in Liverpool, 77 per cent of those who were jailed scored enough points on the Manhattan Bail Project scale to have been eligible for bail. When a subsample was matched with a sample of those out on bail, 88 per cent of those in jail had pleaded guilty as charged, but only 69 per cent of those on bail had done so. Where verdicts were necessary, 86 per cent of those in jail were found guilty as charged, but only 53 per cent of those on bail were so found. A custodial sentence was given to 69 per cent of those in jail, while only 51 per cent of those on bail received a custodial sentence. The conclusion appears quite straightforward: failure to receive bail is potentially quite injurious to the party charged.<sup>8</sup>

Costs to the state of the unnecessary holding of charged individuals is not set out in any one place, but some insight may be obtained by considering certain Ontario data. For the year ending March 1969, there were 3,510 individuals released from custody on bail; 3,453 released upon acquittal; 241 released without trial; 2,738 released upon probation; 2,859 released without probation; 12,291 released upon payment of a fine; 241 released on court order; and an additional 2,961 released for unstated reasons. This made a total of 28,294 individuals who, in terms of being found guilty and sentenced to prison, need not have served any time in jail. In that same year, only 34,314 persons were sentenced to periods of incarceration in Ontario. This would suggest that, at least in one province, almost 45 per cent of those kept for some period behind bars need not and should not have been there. At a direct average cost of \$14.37 a day per person, their time in jail represented a great waste of taxpayers' money, as well as an injustice to the individuals involved.<sup>9\*</sup>

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\*Exactly how the Bail Reform Act, which was designed to make it easier to remain free pending a court appearance, will affect the situation remains to be seen.



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Costs from court delays would also be reduced if the amount of pre-trial detention were markedly reduced. Since the acute need for speedy beginnings of trials would then be largely eliminated, all parties would have enough time for preparation, and the process would not so likely be dragged out by requests for postponement. Again, we have no very good evidence concerning court delays. Professor Friedland found in his sample that, for those found not guilty of an indictable offence, the time between the first court appearance and disposal of the case had a median of less than three weeks. The median for those found guilty was one day, but that figure mainly reflected the large number of guilty pleas. The median for the guilty who were not handled on the first day was approximately two weeks.<sup>10</sup> The conclusion that delays are not serious would be more soundly based if the figures were routinely published on (a) the median number of weeks before all trials were completed, and (b) the number of weeks before 90 per cent were completed.

### EQUITY DURING TRIAL

Questions of equity during the trial period are not completely isolated from issues in the other two stages. However, an arbitrary division is useful when setting up indicators. In this section we will discuss what is involved in providing equitable treatment and measuring its achievement.

#### What Is Equitable?

Once a trial begins, one of the most important equity questions is the extent to which the accused has a chance to prove his innocence. Giving him a fair chance would mean protecting him from the use of improper evidence, inducements to plead guilty, and the failure to have adequate counsel. In Canada, the problem of inadequate counsel is at least a policy issue, and legal aid is becoming increasingly common.

In the report of the Canadian Committee on Corrections, the right of the charged party to legal counsel was clearly recognized. Their view was that the federal government should work with the provincial governments to ensure that persons who could be imprisoned, or who could lose a driver's licence necessary to their employment, should be provided with adequate legal counsel through the appeal stage. In addition, they felt that some provision should be made to provide advice to persons haled into police stations.<sup>11</sup>

The most complete discussion of the need for legal aid was contained in the second volume of the Quebec Commission report.<sup>12</sup> It is impossible in a few paragraphs to do justice to the broad sweep of issues that the Commission considered. Briefly, though, it found that the basic problems in legal aid refer to the determination of a lack of funds by the supposed indigent, the provision of counsel at the appropriate stages of the proceedings, the degree of freedom of the individual to choose his own counsel, and the adequacy of the service the charged person receives. It also stressed the constant trade-off that has to be made between providing adequate representation and making sure that budgetary costs are not excessive -- e.g., by ensuring that frivolous appeals are not allowed.

According to some estimates, about 60 per cent of those charged with indictable violations cannot afford counsel unless they receive financial assistance. The cost of providing such assistance in Ontario during the fiscal year 1970 averaged \$194.12 per case for both civil and criminal cases, with criminal cases constituting about 54 per cent of the total. With the exception of robbery (\$318) and homicide (\$1,608), aid for most criminal violations averaged about \$150 per case.<sup>13</sup> Considering the high costs associated with keeping the accused behind bars prior to their appearance in court and of keeping them in prison if found guilty, such a sum would seem a relatively small price to pay to help people prove their innocence.

Personal choice of a lawyer, while having great emotional appeal, is not of much practical value. The vast majority of cases will probably continue to require only minimal legal services, the chief virtues of which should be immediate availability and extensive experience. Both of these can only really be provided by a stable group whose chief work is in criminal law.

The most serious problem of a legal aid system is overload, which leads to fixed rules and tired bodies, and thus eventually to a pale copy of what was promised. According to the Quebec report,<sup>14</sup> the basic question is whether the accused receive adequate representation, and the conclusion was that there was no evidence to indicate that they did not, although some arguments are cited in support of the view that poor representation is a problem.

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Another problem concerns the kind of evidence that is allowable. Major concerns involve the use of information obtained by wire taps and other electronic means, illegal searches, and confessions obtained by extralegal means. Some suggested standards by which to measure the appropriateness of such methods are rather curious. For example, one suggested criterion for exclusion of evidence was whether the illegality of its collection was deliberate or inadvertent.<sup>15</sup>

Closely related, perhaps, is the question of how fast the guilty pleas are processed and what percentage of those charged are convicted in actual trials of the kind television has given the public to believe are commonplace. This issue may be divided into two parts -- i.e., the proportion of persons that should have a "proper" trial, and the proportion that should be found guilty. The first concerns efficiency and the types of errors that society is willing to accept. At some given level of efficiency, few innocent persons go through trials; a high level of convictions indicates that the only ones going to trial are those against whom the evidence is close to overwhelming. The opposite, of course, would be true if the conviction rate were very low. Probably few guilty persons would get away, but the price of their convictions would be a very high level of involvement of the innocent with the criminal justice process -- an involvement that might be very costly to them as individuals.

The question of what is an appropriate level of convictions is rarely considered explicitly, although for obvious reasons it is typical for both courts and police to be in favour of a high conviction rate. For instance, in his recent study of prosecutors, Brian Grossman notes that if too many prosecutions were lost at trial, people would lose faith in the competence and decision-making of the initiators.<sup>16</sup> Most police believe they have the ability to distinguish -- and they do distinguish -- between guilt and innocence in their arrests,<sup>17</sup> and their attitude is not likely to provide the accused with the benefit of any doubt. Thus, in most jurisdictions, the conviction rate for those who are actually tried is quite high. Canada is no exception. In 1968, the conviction rate for those formally charged with indictable crimes was 86.8 per cent for all courts. Provincially, the variation was from a high of 97.5 per cent in Prince Edward Island to a low of 83.1 per cent in British Columbia. In addition, acquittal rates for persons

charged with indictable crimes vary with the type of court -- they are significantly higher for trials before judges only. In 1968, males tried before a judge and jury were acquitted 26.8 per cent of the time, compared with only 9.5 per cent when tried before a magistrate. Among women, the range was much broader. In 46.9 per cent of the cases where a woman was tried by a jury she was freed; when tried before a magistrate with absolute jurisdiction, the rate was only 7.3 per cent. The other side of the coin was that, if convicted, those who appeared before a judge and jury were much more likely to receive penal sentences (81 per cent) than those tried before a magistrate (24 per cent). A key element would seem to be the jury, for judges without juries sent only 65 per cent of the guilty to jail or prison.\*

It is not easy to rationalize these divergent conviction and sentence rates. The higher rate of sentences to jail and prison handed down by judges, as opposed to magistrates with consent, is consistent with the somewhat greater seriousness of the crimes they hear. Such cases are also more time-consuming and, as Grossman pointed out, in areas such as Toronto where courts are congested, expedition of proceedings is encouraged.<sup>18</sup> Yet the higher rates of nonconvictions at the higher-level courts mean that those who are truly innocent, and those against whom the evidence is weak or who have nothing to lose, would choose to be tried at the higher levels if they could arrange it. Clearly, heavier penalties upon conviction would be one way to lessen demands for a jury trial. Or, if relatively modest sentences could be expected for guilty pleas, more people might be induced to plead guilty and thus hurry the process along.

It is reasonable to anticipate that some or a great deal of the process of justice will involve conciliatory adjustments among prosecutors and defence lawyers. These arrangements would include such measures as plea bargaining, said to account for about 20 per cent of the cases in magistrate's court in Toronto;<sup>19</sup> pre-trial disclosures; and the prosecutor's silence when it came time for the sentence to be handed down. As long as benefits to the parties involved exceed those to be gained from the ritualized conflict of the idealized trial, such adjustments will continue to take place, no matter how "correct"

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\*All these figures exclude violations tried in Quebec municipal courts and federal law violations in Quebec (see table on p. 88).

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they may be. It would seem that the most desirable policy would be regulation of informal agreements to ensure that the interests of the parties do not outweigh the interests of the public and that the advantages are open to all.

### How Can Equity Be Measured?

The output of justice in the courts is difficult to define, although some important measures can readily be identified -- e.g., speed of determination, fairness of procedure, accuracy of results, and appropriateness of sentences. Speed of determination may be measured by the proportion of trials under way or completed within a given time period. The correct length of time is subject to debate, but to have the great majority of trials under way within 60 days of arrest or the issuance of a summons seems to be an accepted standard. Thus one output measure could be the proportion of persons charged with indictable crimes whose trials are under way within 60 days of arrest or summons. The index should be reported separately for persons who plead innocent and those who plead guilty, since the time required for the second group may well be much shorter.

Several elements should be considered in the measurement of fairness, including the use of bail and summons procedures, adequate counsel, and a trial procedure that is not weighted against the defendant. The first could be measured by the proportion of persons charged who are in jail more than 24 hours or, perhaps, who are in jail at all. Adequate counsel could be measured by the proportion of appearances before a judge in which the charged party was represented by counsel. The fairness of the trial itself might be measured by the proportion of cases in which an actual trial was held, as opposed to a guilty plea being entered, and the overall proportion of times that the charged party was found innocent. Finally, it would seem that a measure of the appropriateness of sentences is not possible but, at least, reports could tabulate the sentences handed down in different courts for similar charges under the Criminal Code.

Each of these factors is of interest and has been singled out by various groups as in need of reform. However, it is not clear how they should be combined to produce a standard unit of output. There was a similar difficulty with the aggregation of crimes in Chapter 2

but, at least in that case, acceptable weighting procedures could be worked out on such bases as the cost of the crime to the victim or society, or some measure of perceived seriousness. For justice we have no such suggestions. The complexity of the situation is indicated by the debates over capital punishment. Assuming that the use of capital punishment does reduce the number of murders, how many fewer murders does society exchange for the injustice of wrongly hanging one man?

In the absence of a weighting system, we can only suggest research of perceived trade-offs between various degrees of injustice. Until some acceptable conclusions are reached, we would suggest that the following indexes might stand as some indication of output. For the pre-trial period, two sets of data would provide the maximum amount of information. One is the ratio of those who receive penal sentences of more than one year to those who are kept in custody for more than 24 hours prior to trial. The size of this ratio would indicate the trade-off being made between two extremes: incarcerating people unnecessarily, and assuring security by taking no chances until after a trial had dictated the degree of guilt. The second ratio would be reached by dividing the number of people found guilty of a serious crime committed while out on bail by the number on bail for serious charges. This would provide an indication of how much security, measured by crimes, was being forfeited in return for the justice associated with pre-trial freedom.

A single index for the court process, while not ideal, would provide a reasonable measure of the level of trade-offs between the injustice of unfair trial practices and the contribution to security of obtaining convictions where crimes have taken place. This index would be the percentage of convictions obtained in various courts in cases where the charged party pleaded innocent. If this index grouped data according to the social and racial characteristics of those charged, it would also provide an excellent indicator of the distribution of justice among different groups of citizens.

Detailed information is currently available by court jurisdiction, but it is not organized in such a way as to be very meaningful. In addition, some information on the characteristics of offenders is obtained from the courts, but since such information is not

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essential for the operation of the courts, the resulting data have been of questionable usefulness.

Equity issues in the conviction or court process extend from adequate release upon bail to the type of sentence given. As the discussion has indicated, the great variety of dimensions means that a number of different measurements will be necessary if the authorities and the public are to monitor events in the court system effectively. Since agents of the courts are the only sources of much of the data needed, a successful information system will depend on provincial government requirements for a continuous data flow as part of the normal day-to-day operation of the courts. An example of what might be involved is provided by Quebec, where the clerk of the court must complete and forward to the Department of Justice in Quebec City a portion of a basic form on the day of each court appearance for each individual. When a case has been completed, a total of 88 lines of information will have been forwarded to the Department's computer.

The requirement of forwarding a report for each court appearance means that statistical data on delay and the time consumed by the court process can be easily summarized, provided the question of delay is a major evaluative variable. The sole exception would be extensive delay between arrest and the first appearance before a judge, for that information is not contained on the form.

Information on the charges laid, the original plea, the charges upon which the individual is found guilty, if he is, and the sentence given, are all included. Consequently, issues associated with the improper use of charges for plea bargaining, and the difference in sentences, depending upon the charge, plea, and court, are all capable of being presented in a form that would allow judgments to be made concerning the extent to which appropriate policies are being followed.

The use of bail, summonses, extent of bail, and availability of defence counsel, are also contained in the 88 lines. If similar data were available for other provinces, then interprovincial comparisons could be made. The extent to which equity for subgroups of the population could be measured from these data is, however, questionable.

Only nine lines of information relate to the accused: last and first name, sex, marital status, date of birth, address, social insurance number, alias, and mother's maiden name. With the exception of sex, it is doubtful if any of the other information is very useful in defining a significant minority group whose relative position might be of public interest. In addition, unless some attention were given to checking the accuracy of information concerning the accused, the results would be suspect. Since court clerks possess no special resources or experience in this area, it does not seem wise to try to superimpose upon these court data the specific issues of minority treatment.

Since a data collection system such as that introduced by Quebec holds the potential for accurate, up-to-date, and relatively complete data for the court portion of the criminal justice system, it seems natural to recommend that those provinces that do not have such a data system should adopt one.

JUST TREATMENT  
AFTER CONVICTION

Policy objectives for corrections are perhaps more difficult to set than for any other stage in the process of justice, because it is here that the two major policy goals conflict. For instance, a sentence and subsequent action of the parole authority consistent with the policy objective of an acceptable level of crime may or may not be consistent with the policy objective of just treatment for the individual. In addition, problems arise out of divided jurisdictions and responsibilities -- not only between agencies, but also between the provinces and the federal government. In situations involving imprisonment, provincial judges sentence persons to either provincial or federal institutions where the actual length of time the individual may serve (as opposed to the length of the sentence) will in many cases be determined by the federally appointed National Parole Board. Does each agency articulate its own operational objectives -- it is hoped consistently with one another -- or are there objectives for the post-trial period as a whole? The latter would be ideal but, in fact, it is the former that governs Canadian experience. In this section we examine practices across Canada concerning, first, sentencing and, second, corrections, and we go on to assess the relevant available data.



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### Purpose of Sentencing

The operational objectives for the post-trial period at the court level are classic and relatively well-known, and we need not repeat them in detail. In brief, they are retribution, deterrence, punishment and, lastly, reform.<sup>20</sup> Out of this welter of conflicting advice the Canadian Committee offered the following as the goal of sentencing:

"Segregate the dangerous, deter and restrain the rationally motivated professional criminal, deal as constructively as possible with every offender as the circumstances of the case permit, release the harmless, imprison the casual offender not committed to a criminal career only where no other disposition is appropriate. In every disposition the possibility of rehabilitation should be taken into account."<sup>21</sup>

The Quebec Commission of Enquiry's views would seem to be very similar.<sup>22</sup>

In Canada, the post-trial period has three basic outcomes: a suspended sentence with or without probation, a fine, or incarceration. In 1968, for indictable Criminal Code offences, 29.3 per cent of the offenders received suspended sentences; 28.4 per cent were fined; and the rest -- about 42 per cent -- were incarcerated. Incarceration can be in a provincial jail, usually for a matter of months; in a provincial reformatory or prison, for periods up to two years; or in a federal penitentiary, for a single sentence of over two years. Individuals with longer sentences in provincial institutions, as well as all federal prisoners, are affected by the National Parole Board. Upon release from incarceration, an individual is also eligible to receive assistance from the voluntary after-care agencies. These groups vary among provinces, with the John Howard Society being the largest.

Canadian sentences are stiff in comparison with those in European countries. A higher proportion of convictions are followed by penal sentences, and sentences tend to be longer. Conviction of an indictable Criminal Code offence in 1968 resulted in a little over 42 per cent of the accused receiving a sentence of incarceration.<sup>23</sup>

Table 3-1  
DISTRIBUTION OF INCARCERATED PERSONS  
CANADA, 1970

	1969 Estimated Population (Thousands)	In Training Schools	In Adult Institutions	In Federal Penitentiaries	Total	Rate per 100,000 Population
Newfoundland	514	89	171	128	388	76
Prince Edward Island	110	--	54	40	94	85
Nova Scotia	763	204	261	452	917	120
New Brunswick	625	83	328	319	730	117
Quebec	5,984	1,174	1,730	1,396	4,300	72
Ontario	7,452	1,243	4,554	2,129	7,926	106
Manitoba	979	164	535	432	1,131	116
Saskatchewan	959	39	527	331	897	93
Alberta	1,561	95	1,485	852	2,432	155
British Columbia	2,067	--	2,089	1,270	3,359	162
Northwest Territories & Yukon	47	20	147	15	82	174
Canada	21,061	3,111	11,881	7,337	22,329	106

Note: 1970 data are as of March 31, except for Quebec where the date is December 31, 1969. Not all persons in training schools are delinquent; in Quebec, approximately one-third were admitted as "children in need of protection". Since the Quebec figure is 90 per cent of the total in this group, it is the only one that would need an adjusted rate. The federal total has been allocated to provinces on the basis of their proportionate incarceration rate in 1967. It should be noted that all figures refer to persons incarcerated by the provinces and not to their citizens defined in any other way.

Source: Dominion Bureau of Statistics, *Correctional Institution Statistics, 1969-70* (Ottawa: Queen's Printer).

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While this may represent some improvement since 1955, when 45 per cent were imprisoned for indictable offences, it is still markedly above the 1967 rate for England and Wales of 25 per cent.<sup>24</sup> An alternative way of expressing the rate would be to take the prison commitment rate per 100,000 population. In 1960, the Canadian rate of 240 for those over the age of 16 was close to five times the U.K. rate of 59.<sup>25</sup>

The 1970 rate of approximately 106 per 100,000 population is an improvement over preceding years; the total of 22,329 is almost 1,000 fewer than in 1966, while the population base has, of course, been growing. These figures are quite similar to those in the United States, where the 1967 rate was 99 per 100,000 -- down from a postwar high of 121 in 1961. The Canadian postwar high was 151 in 1963. As can be seen in Table 3-1, there are sizable differences among the provinces. Quebec's 72.5 per 100,000, the lowest commitment rate, is only about 40 per cent of the highest rate, 178.3 in the Yukon and Northwest Territories.

The adult imprisonment rate as a percentage of convictions runs about one-third, although it varies among provinces. In 1968 the lowest province was Prince Edward Island, with 29.4 per cent; the highest was British Columbia, which gave penal sentences 51.1 per cent of the time. Close to a third of the penal sentences were for less than three months, given in 14.8 per cent of all convictions. In the case of short sentences, Prince Edward Island gave the fewest, 6.4 per cent, while Quebec gave the most, 24.3 per cent.

The country as a whole is distinguished by the relative length of sentences, as can be seen in Table 3-2. In India, only 4 per cent of those sentenced receive sentences for more than one year; in France only 9 per cent; but in Canada, 42.3 per cent. While the duration of Japanese sentences is comparable to Canada's, the commitment rate is less than half, so, proportionally, significantly fewer persons spend long years in prison.

One of the most serious problems associated with sentences in this country deals with wide divergencies in the maximum penalties allowed, and in the penalties applied for the same crime or for crimes that cause similar damage to society. Reginald Whitaker has pointed out that, until 1969, the Narcotics Control Act allowed a \$1,000 fine and six months' imprisonment in the case

of a summary conviction for possession of narcotics, while in 1967 two businessmen who stole \$20,000 from B.C. Hydro were fined \$1,000 and received one month in jail.<sup>26</sup> Even within provinces, there are marked differences between the sentencing practices of judicial districts. In 1964 the Ontario district that most frequently suspended sentences without probation did so 43 per cent of the time -- about twice the average rate of 24 per cent. The district that imposed penitentiary sentences the most did so 23 per cent of the time -- almost four times the average of 6 per cent. In contrast, some districts did not use either practice.<sup>27</sup>

Table 3-2

LENGTH OF PERIOD OF INCARCERATION

	Japan 1967	India 1964	Canada 1967	France 1967	England, Wales 1967
Less than 6 months	12.1	84.3	49.4	68.6 <sup>(1)</sup>	
6 months - 1 year	34.7	) 11.2	8.5	24.4 <sup>(1)</sup>	94.5 <sup>(2)</sup>
1-2 years	32.2		)	27.3	
2-3 years	10.7	)	12.6	)	5.5 <sup>(2)</sup>
3-5 years	6.6	) 3.5		)	
5+ years	3.5	)	2.1	)	
Life	.2	.8	.3		
(Death)		(200)	(7)		

(1) The time periods are less than 3 months, and 3 months to 1 year.

(2) Less than three years, and three years and more.

Source: Mosaharu Yanagimoto, "Some Features of the Japanese Prison System", *The British Journal of Criminology* (July 1970), p. 213; David H. Bayley, *The Police and Political Development in India* (Princeton: Princeton University Press, 1969), p. 129; Dominion Bureau of Statistics, *Statistics of Criminal and Other Offences, 1967*, p. 24 (where both definite and indefinite sentences were given, only the definite portion was considered); *Annuaire Statistique de la France, 1968*, p. 132; *Annual Abstract of Statistics, 1969* (United Kingdom), p. 79.

Table 3-3

SENTENCES IN CANADA, 1968

	Percentage Convictions, Indictable Offences	Percentage of Convicted:		If Tried, Probability of Being Incarcerated (1)
		Sentenced to Incarceration 0-3 Months	Incarcerated in Federal Penitentiary	
Newfoundland	97.3	47.7	20.1	.464
Prince Edward Island	97.5	29.4	6.4	.286
Nova Scotia	89.9	33.5	10.6	.301
New Brunswick	96.9	40.9	19.3	.396
Quebec (2)	84.3	43.7	24.3	.368
Ontario	86.6	38.4	11.6	.384
Manitoba	87.8	45.0	13.6	.395
Saskatchewan	92.9	42.0	14.7	.387
Alberta	89.9	45.9	12.9	.412
British Columbia	83.1	51.1	14.2	.424
Canada	86.8	42.6	14.8	.369

Note: There is a rank order correlation between the crime rate and the probability of being incarcerated that is just significant at the 5 per cent level.

(1) Column 1 times column 2.

(2) Excludes municipal court convictions and federal law violations.

Source: Dominion Bureau of Statistics, *Statistics of Criminal and Other Offences, 1967 and Correctional Institution Statistics, 1969-70* (Ottawa: Queen's Printer).

Here we should re-emphasize the lack of equity as illustrated in Table 3-3. There it will be seen that there are extensive differences in the use of incarceration among various provinces. In Nova Scotia only about one-third of those convicted are sent to a jail or prison in the province, but a very high proportion of those incarcerated are sent to a federal prison. In Saskatchewan, 42 per cent end up behind bars, but the federal prison rate is only 60 per cent of that of Nova Scotia. The most interesting information in the table is probably in the last column, which shows the probability of being incarcerated if tried on an indictable offence. There it can be seen that Prince Edward Island's probability of .286 is almost 38 per cent less than Newfoundland's .464.

The use of a sentence that provides for prison if a fine of a given size is not paid is an old, if not honourable, practice. It raises serious issues of equity where the implicit value of the time in jail is low, the old classic of \$30 or 30 days with its implied wage of \$7 a week being an excellent example. If fines were imposed in proportion to both the crime and to income, the alternative of incarceration if the fine was not paid would be more equitable. Indeed, the convicted individual might earn a higher after-tax income by going to jail than by staying out of jail and paying the fine.

There do not appear to be adequate data on the extent to which people are behind Canadian bars because they do not have the money for a fine. The Canadian Committee on Corrections<sup>28</sup> indicated that the percentage was large. In Quebec, the Commission noted only that the problem was not as great as it had been.<sup>29</sup> The solution that both commissions have suggested -- i.e., fines on the instalment plan -- have, by Supreme Court decision, now become the rule for the United States, while in England similar recommendations for a change have been put forward.

Some minority groups seem to bear a particularly heavy burden of incarceration, although no systematic information is collected on Canada's true minority groups and their proportion of the "criminal" population. In 1967, Indians comprised about 5.9 per cent of those convicted of indictable offences. The figure is 8.2 per cent if only those whose origin is known are included, for the origin of 27.9 per cent was unknown. This may be compared to their proportion of the general population,

which was only 1.2 per cent in 1961. At about the same time, Indians comprised from 10 to 26 per cent of those in selected federal penitentiaries. At Matsqui the figure was 10 per cent, and the high was in Saskatchewan, where it was 26 per cent. In addition, there may have been another 10 to 15 per cent who were Indians under the Indian Act, but who did not acknowledge Indian ancestry.<sup>30</sup> When known percentages of Indians in selected federal prisons were applied to the 1969 prison population, it was estimated that 426 or some 6 per cent of all federal inmates were Indians. The importance of Indian and Métis adults in crime statistics varies by province; for example, in 1966-67, 44 per cent of the men and 80 per cent of the women sentenced to Alberta prisons were Indian or Métis.<sup>31</sup>

Another imprisoned group whose rights to equity have been ignored are men sentenced to preventive detention. In an analysis of those 80 persons sentenced to preventive detention in federal prisons during February 1968, the Canadian Committee on Corrections concluded that 40 per cent did not pose threats to the personal safety of the Canadian public; perhaps one-third were threats; and, for the rest, it was impossible to say.<sup>32</sup> In addition, it was quite clear that many were there primarily because they were nuisances.<sup>33</sup> A geographical lack of equity was also shown by the fact that almost 50 per cent of all those sentenced to preventive detention were sentenced in Vancouver.

One solution to this problem is the sentencing conferences held by various universities (Toronto and Montreal) and by the provinces themselves. A second is the practice of having several judges participate in the sentencing of each individual. This is found in a few U.S. federal courts and is quite generally followed in continental Europe. The use of a sentencing board, as suggested for experiment by the John Howard Society in Ontario, has not received extensive support, though it might make a substantial contribution in serving as an alternative to an appeal on sentence only. On a *de facto* basis, the use of parole boards already provides such an alternative, since the normal operation of parole tends to reduce the variation in extreme sentences.

Coupled with the use of boards and conferences are proposals for more extensive use of pre-sentence reports so that each sentence may be more appropriate for the individual. Experience with such procedures is not,

however, as comforting as might be hoped. Research has suggested that in some circumstances pre-sentence reports may lead to inconsistency and more severe sentences.<sup>34</sup> A similar experience seems to be found in those jurisdictions with an extensive use of indeterminate sentences, where the average period of imprisonment tends to rise.

In moving towards fairness in sentencing, the first step should be to draw together a sentencing guide, as proposed by the Canadian Committee on Corrections.<sup>35</sup> Once this was accomplished, data on the variations in sentences for major criminal offences could be collected, analysed, and presented. Clearly the objective would be to minimize the intraprovincial differences and, to a lesser extent, to minimize the interprovincial variation. Humaneness would be obtained by a reduction in years of imprisonment, in terms of both the duration of individual sentences and the numbers sent to jail. The lower limit for terms of incarceration might be indicated by the experience of certain foreign countries.

#### Effectiveness of Institutions

Given the uncertainty of purpose that lies behind each sentence, it is not surprising that most of the correctional agencies take as their objective the avoidance of future criminal activity by the sentenced individual. For example, in Ontario, the Department of Correctional Services gives as its objective: "... to carry out the legal duties imposed upon the Department by the courts for the protection of society, and to attempt to modify the attitudes of those in its care and to provide them with the kind of training and the treatment that will afford them better opportunities for successful personal social adjustment in the community."<sup>36</sup>

One difficulty with statements such as the one just quoted is that they provide no simple means of determining the extent to which the objective has been met. In practice, two types of tests have been used. One recounts those things provided for the prisoners -- e.g., the amounts of education, training, or counselling. The other measures the recidivism rate -- i.e., the number who return to prison.



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The first measure -- what is done for inmates -- may be interesting and provide some recording of the department's or institution's stewardship of the legislature's money, but unless there are very close ties between the programs and avoidance of future criminal activity, society's objective is probably not being met. The standard question is always: Does more education for a convict result in a life free of crime, or only in a well-educated robber? Thus ultimately one must move to measures of output, though these are not easily defined or measured.

The traditional output measure, recidivism, raises a number of difficult issues, chief among which is its very definition. For example, should an arrest without conviction be counted as a return to crime, or only commitment to a penal institution for more than 30 days? Perhaps it would be possible to utilize some weighted average measure of crime. One suggestion involved an eight-grade system that would range from fingerprinting for a misdemeanour to conviction for a felony. Devising the "best" measure of recidivism will partly reflect the ease of collecting the required information, the relative social costs associated with each type of behaviour and, most important, an assessment of what should have been accomplished in the correctional process.

When correction is viewed as a process that should reform a man (in much the same way as a potter re-forms clay upon his wheel), then any subsequent fall from grace may be enough to label a man a recidivist and a failure. Alternatively, if correction is a process similar to that of teaching a child to read, then the expectation is that a single application will not be enough and additional periods of correction will be necessary before some of the convicted reach a life free of crime.

One measure of success that would be consistent with the idea that it may take years -- and more than one social intervention -- to achieve success is the number of months a released person remains free of the same type of corrective sentence or a more serious one. Use of such an output measure would have to be applied intelligently. It must be recognized that a prison may have prepared a person to function adequately, but society may not have given him a chance, and may have literally forced him back to crime. Or, an ex-offender may have functioned very adequately only to find that a single crisis completely shattered his prior adjustment.

Acceptance of the operational objective of extending the number of months that convicted individuals are not resentenced implies two major questions concerning correctional programs: (1) In what ways do they assist a man to avoid recidivism once he has been released? (2) To what extent are activities engaged in under the supervision of the state associated with behaviour upon release?

Answering any question about long-run recidivism in Canada is difficult, because the data are not well organized. From the bits and pieces available, it appears that the highest degree of success could be expected with probation. When the sample is limited to those who complete a probation period, most provinces report a success rate of about 80 per cent, although allowance for a follow-up period causes the percentage of success to decline. A recent three-year survey in Ontario of 466 persons on probation in nine districts found that 68.3 per cent of them completed the probation period and an additional three-year follow-up period without a return to crime. The range within the areas was from a low of 58 per cent to a high of 85 per cent.<sup>37</sup> These results are consistent with those obtained in a large-scale study in England more than 20 years ago.<sup>38</sup>

At the penitentiary level, two sets of data exist -- the limited amount collected and published by the Dominion Bureau of Statistics, and some special studies done in Quebec. The DBS *Correctional Institution Statistics* for 1969-70 indicate that of the 3,909 men received by the penitentiaries upon new sentences, about 22 per cent had never been incarcerated before, while 44 per cent had served at least one prior term in a federal penitentiary. The latter is not a true measure of recidivism, since some men are recommitted a number of times. In 1969-70, 30.6 per cent had five or more previous commitments (in institutions at all levels).

A longer-range perspective is provided by the experience of 1,677 inmates who were released from federal institutions between May 1959 and May 1961. Within five years, 947 of these men were involved again in crime -- a rate of almost 55 per cent. Divided into those paroled and those released at the end of their sentences, the data show that the relapse rate for paroled individuals was 45 per cent, compared with 65 per cent for the others.<sup>39</sup>

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In 1963 and 1964, there were 1,212 men released on parole from federal institutions. Over the ensuing five years, 25.4 per cent were parole violators. Approximately half were revocations for violations of parole regulations, while the remainder were forfeitures for new crimes. New crimes were committed following termination of parole by 20.7 per cent. Thus, within five years of release upon parole, 46.1 per cent of the men were reconvicted or in prison again. Close to 80 per cent of the failures occurred within the first year, and most of the remainder in the following year. Alternatively stated, the failure rate over three years for those who succeeded during the first two years was a negligible 6.6 per cent.<sup>40</sup>

A return-to-crime rate of 45 per cent for men paroled from federal institutions is much higher than the 12.2 per cent failure rate listed by the National Parole Board for a 145-month period ending in 1971. One explanation is that the Parole Board figures covered only the parole period, while the other study used a five-year follow-up. The second reason is that their numbers included men from both federal and provincial institutions. Those released from provincial care have shorter parole periods and, even though failure is very high in the initial months, the shorter the time period, the better the success rate. In one study of men released in Quebec,<sup>41</sup> half of those who would have been recidivists in a five-year period had become so within the first year, and 70 per cent within two years. Also, recent federal data imply a high recidivism rate. In 1969-70, there were 1,724 men released on parole from federal penitentiaries. In that same year, 150 men were readmitted upon parole revocation (technical violation of parole) and 358 more on parole forfeiture (revocation plus a new sentence for another crime). This implies a failure rate of close to 30 per cent. The 1968 parole statistics show that 37.5 per cent of all federal institution paroles terminated that year were on the basis of forfeiture and revocation.

A much better collection of data on recidivism should provide better evidence concerning the success of correctional agencies, but it would not provide information on the effect of treatment. A life free of crime may follow release from prison less because of what happened in prison than in spite of what happened. Similarly, recidivism may result from factors over which no prison could possibly have control; or the recidivist may have made great progress in prison, but just not quite

enough to avoid going back again. Additionally, if men do not return to prison, one can assume that they are not recidivists, but nothing can be assumed about the success of treatment or their lack of involvement in crime. They may just be successful criminals. The most powerful influences upon the probability of recidivism seem to be those that are unrelated to prison.

Older men with no prior incarcerations are least apt to return to prison, while younger men with prior convictions are most apt. Those with a long and successful work history prior to being imprisoned are more apt to succeed, while those without it are not. Such factors as marriage to the right woman or an appropriate job may make the difference between success and recidivism; yet the state has the potential of only marginal control over these situations. To the extent that events after leaving prison are crucial, it may be desirable to alter the traditional correctional process.

The principal formal approach to the post-release period is provided by parole. Parole in Canada has a relatively brief formal history, though the old ticket-of-leave system provided similar opportunities. Parole currently reflects the federal-provincial divisions of responsibility. The National Parole Board releases individuals from both federal and provincial institutions. In addition, some provinces have their own parole boards to deal with provincial cases.

An individual may be paroled at any time in his sentence, but more typically after more than half the sentence has been completed. As might be anticipated, persons with long sentences are more apt to be released upon parole than are those with short ones, although the difference is not large. Since a conservative approach is taken, less than half of those released from federal institutions are released upon parole. In 1969-70, 35 per cent of those released after serving between one and five years were released on parole; 45 per cent of those having served five to fifteen years went out on parole. This approach may be contrasted with that in some states of the United States, where close to 99 per cent of all releases are upon parole.

Parole implies that certain conditions must be met by the prisoners and certain assistance provided to help them adjust. In many countries, the parole officers'

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case loads may be very high, but all work is done under the supervision of state agents. In Canada, however, only a limited number of men are supervised by regional officers of the National Parole Service. The remainder are handled by probation officers of the provinces and by private agencies. In 1967, 39 per cent of national parolees were supervised by private agencies like John Howard, Elizabeth Fry, and the Salvation Army. This was down from the mid-50 percentage range of a decade earlier, though the absolute number of men supervised by the private groups was about the same. Another third (31 per cent) of the supervision was provided by provincial employees, usually the probation service.

Conditions associated with parole failure might be thought of as a crucial element that should receive great emphasis in reports of the Parole Board, but such is not the case. The statistical summary each year places its emphasis upon what was done and not on what was accomplished. As with the situation in correctional institutions, it is easy to find out what employees did with their time but very difficult to find out why some people returned to crime and others did not. It would seem that a much closer examination of the implications of program objectives is needed in these areas.

### Suitability of Data

Almost all information collected on corrections is presumably intended to provide a base for analysing different policy and program alternatives. However, the informational processes in the correctional agencies are hardly appropriate to the nation's needs, as pointed out by a Royal Commission more than 30 years ago. Why, if informational weaknesses were recognized then, has seemingly so little been accomplished? It may be instructive to review the situation.

In 1938, a Royal Commission under the chairmanship of Joseph Archambault said that the Prison Commission, with the co-operation of the Dominion Bureau of Statistics, should revise the data so as to show, among other things: "... the growth or decline of juvenile delinquency, recidivism, the success or failure of probation, ticket of leave or parole, and other kindred matters".<sup>42</sup>

Efforts were made to implement these suggestions, but some years later, in an appraisal of the information and data that had flowed from the report's recommendations, Bernard Meltzer had some harsh things to say.<sup>43</sup> Meltzer believed that there were two basic problems. One involved the accuracy of the information, for there did not seem to be any provision for subjecting the data to any confirmation. The other stemmed from the fact that few persons in the Penitentiary Service had any clear idea of the need for or usefulness of the information, and consequently there was no real incentive to make sure that what was collected was accurate or appropriate. Two more decades have passed since Meltzer wrote, and personal observation suggests that little has changed in the information area.

It would be fruitless to try to allocate responsibility for the poor response to shortcomings in the Royal Commission's guidelines. The principal problem is, and always has been, that adequate statistical information has never been seen by the operating agencies as essential to their effectiveness. Their attitude stems from the fact that the criteria by which agency heads have been judged have had little to do with the output of their organizations. A modest example may suffice. In the 1968 statistical report of the National Parole Board, it appears that the parole violation rate of the St. Vincent de Paul Penitentiary in Quebec was 21.5 per cent, but a similar institution in British Columbia had a 54 per cent rate.\* This difference may or may not be significant, but it is seemingly large enough that questions ought to have been asked. In such a world, it is not surprising that the gathering of "mundane" statistics has had a low order of priority.

Clearly, the first step in a revitalized statistics program must await promulgation of the operational objectives of the correctional agencies and the use of these objectives in the evaluation of wardens, parole supervisors, and others concerned. Then, since information supportive of these objectives would be necessary and valuable for the day-to-day operation of institutions,

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\*The failure rate is the number of paroles revoked or forfeited, divided by the total number of paroles terminated. It is not an ideal measure but the only one possible, given the published data. Since 82 per cent of all parole terminations occurred within 12 months, the estimates should be fairly reliable.

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the major statistical weaknesses should be partly corrected. For example, a major objective of parole is to keep men out of prison during both the parole period and subsequent years. If this were made the major objective for parole officers, then data could be prepared to reflect the difference between the expected and the actual rates of failure on parole and afterwards. Differences should then be a major factor in the salary review of individual officers and in the parliamentary review of the service as a whole.

In fairness to both parole and penitentiary officials, it should be pointed out that efforts are under way to computerize more information. It should be emphasized again, however, that collecting accurate data is only one condition necessary for improvement. If the information is to be meaningful, it must answer appropriate questions.

The 1968 statistical appendix of the Parole Board's report is an excellent example of how "better" numbers are no substitute for the use of information in a coherent manner. In the great majority of cases, results of provincial and federal parolees are intermixed. But these two populations have very different characteristics. Sentence duration and parole periods are shorter for those released from provincial institutions and, perhaps what is most significant, the failure rates are markedly dissimilar. The failure rate for persons released from provincial institutions was 15 per cent, as opposed to 37.5 per cent for those released from federal institutions. Moreover, the data are presented in raw form; i.e., few percentages or groupings are presented. More serious, the data are not organized to answer the questions that are central to the parole process.

Proper National Parole Board statistics would give attention to both of the two key elements of the parole process -- i.e., decision to parole, and assistance while on parole -- rather than almost entirely to the results of decisions, as at present. Each year their report should include statements concerning the approaches used by the Board as a base for decisions, and the back-up data should be organized around those issues. For example, one rule might be that, for men below the age of  $x$  with fewer than  $y$  years of schooling, paroles would not generally be granted unless one additional year of schooling had been obtained in prison. A table in the report would show the increased schooling of those released upon parole.

What role does the parole agent fulfil? Is he a spy, as some inmates believe, a finder of jobs, a completer of forms? Some statement concerning the services supplied to the parolees should be included with the statistics. Then information on the extent to which these services were provided, perhaps in relation to those who did well on parole, could be included in the statistical report. Members of Parliament would then be able to make knowledgeable judgments on whether parole services were being provided in a meaningful way.

If a single national index number is to be developed for evaluating the success of the present mix of policies and procedures, correctional agencies will have to supply the required data. Thus, data reform should start at the institutional level.

The most important statistic needed to measure the output of correctional agencies would seem to be crime-free days for those who pass through them. Obviously, true output could never be known until each cohort was dead, and therefore accurate measures would depend on correctional agency activity having infinite life -- a rather powerful assumption for any activity. Obviously, it would be necessary to limit the length of time considered in a success rating. Since it was shown earlier that the first year seems fairly crucial in determining success on parole, crime-free days might be measured over the period of a year. The year would cover different time periods, starting when people are released or pay their fines. The index number for any given calendar year should then be for those whose year after release ended (or began) in that calendar year, or some weighted average. It would probably be best to use those who started their after-year in the given calendar year, although the index would always be a little late in being published. Since each person released has the potential of 365 crime-free days, the denominator of the index would be 365 times the number of people. The numerator would be the number of days they were, as a group, free from crime in the first year, with a crime-free day defined in any way that seemed appropriate. Perhaps being charged with a new indictable crime would be the simplest measure, except for those on parole. In those cases, technical violations of parole for which they were returned to prison would have to be included, since it would be impossible to determine how many more days free of Criminal Code charges a parolee would have had if he had not been returned to prison.



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Besides months of freedom, other issues should be focal points of data-gathering. The key test of a prison's success is the extent to which those who pass through it do not return. Yet a number of forces far beyond the control of the prison will affect each released man from the moment that the great iron doors swing closed behind him. Consequently the prison should have attempted to prepare the individual for the streets by providing him with more education or, say, the ability to conduct a job interview satisfactorily. The success of the prison in providing these "necessary" skills can also be measured, but no such measurement is currently being taken. The reason is quite obvious. The basic test of a prison administrator has long been the extent to which men do not escape or riots do not occur. Thus specific objectives for each incoming inmate are not spelled out; consequently there is no way to measure what is actually being accomplished. No questions, no answers.

We cannot state too often or too strongly that unless the role of the information is cast in terms of models of what is supposed to be produced, they end up as mere lines on paper. Open at random the Dominion Bureau of Statistics publication, *Correctional Institution Statistics, 1969-70*. On page 26, for example, tables relate to admission by age and school grade, and the use of alcohol and drugs. Another table measures commitments by institutional history, showing that 54 of the inmates had previously been committed between 16 and 20 times. Of these, 51 had been in a federal prison before, but only 23 had been in jails, reformatories, and penitentiaries. Why is anyone interested in these data? Possibly as a measure of what happens during the prison years. Yet one will look in vain for tables that might show grade level on discharge compared with grade level on entrance, which would be some measure of the education received in prison.

A similar problem affects the statistics of the Parole Board. One detailed table gives the length of time served prior to parole for 18 groups of crimes -- some specific, such as "rape"; others, as broad as "other Criminal Code". In addition, data on percentage of sentence served prior to parole are included, in four broad groupings. Nationally, 14.1 per cent of parolees were men who had served less than 35 per cent of their sentences; 27.3 per cent had served between 35 and 49 per cent; 46.2 per cent had served between 50 and 69 per cent; and the remaining 12.5 per cent had served 70 or more

per cent of their sentences. Such information may be of interest to those who strongly believe that punishment is a major factor in a criminal sentence or to those who believe that the deterrent effect of a sentence is relative to its length -- so that if given proportions of sentences are not completed the impact is lessened. However, for the great majority of Canadian citizens, these data are meaningless numbers.

Parole and penitentiary officials may be interested in the information on proportions of sentences served, if they believe the numbers are meaningful. What meaning does the National Parole Board believe they have? We don't know. Does the Board believe that there is an "optimum" length of imprisonment? If so, then not only should that be made clear, but data justifying such a view should also be included. A majority of those paroled from rape charges served less than half of their sentences, whereas only 32 per cent of those convicted on frauds served less than half. What was the reason for these differences? Was it the fact that the parole failure rate for fraud was 28 per cent, but only 14 per cent for rape? Or was it because the median time before rapists were paroled was 12 to 18 months, as against 6 to 12 months for those convicted of fraud? No one knows, nor will anyone know until the National Parole Board provides the answers.

#### EQUITY BEYOND COURT PROCESSES

Many questions involving the distribution of levels of justice in Canada would be provided by presentations of the indexes discussed in this chapter. One added element of equity, however, would seem to require a degree of special treatment: equity for victims.

Since the victim of crime has generally been neglected, it is not surprising that questions of victim equity have largely not been asked. It is clear from earlier material that there are wide differences in the probability of being a victim, depending upon where one lives in Canada. With more extensive data on other characteristics of victims, it would probably be possible to develop experience probabilities for these other characteristics as well.

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Is equity being served by such large differences in the probability of being a victim? Clearly the answer is no, but the cost of achieving equity by a reduction in crime rates may be excessive. For example, crime in Toronto would have to be reduced by close to 54 per cent to equal the lowest level, as recorded for Division 43 (see Table 2-5). Alternatively, to reduce the workload of constables to that of Division 43 would require a 25 per cent increase in their numbers. A much easier way to approach equity would be to utilize compensation.

Modest approaches to compensation in the area of violent crime have already been made in some countries. In England the government established the Criminal Injuries Compensation Board in 1967 to see that the innocent victims of violent crime "do not go unrewarded". Since then it has paid out more than \$17 million, with the largest payment to a woman reduced to being a "vegetable" by a coal truck set loose by three children. Not everyone is eligible; those with criminal backgrounds or an unsuitable way of life may be excluded. An example of a person who did not collect was a man who tapped a wrestler on the leg with a lighted cigar and received a broken jaw in return.<sup>44</sup>

In the United States, a few states have begun a similar program. Five states, including New York, California, and Massachusetts, have paid out about \$1.8 million to 1,000 persons. New York paid out the most -- \$1.4 million. Standards of eligibility vary, but most require that the injured individual be an innocent party and that the costs of his injury impose hardship. A national program has been recommended by the National Commission on the Causes and Prevention of Violence.

In Canada, Saskatchewan took the first step and followed the pioneering lead of New Zealand in doing something for victims of violent crime. Her lead has been followed by most of the provinces, each of which has its own particular limitations. For example, in Ontario initial legislation provided compensation only for those injured or killed in the course of assisting a police officer, and it was not until 1969 that a broadly based law was enacted. The upper limit of a lump sum award is \$10,000 in Ontario, except where injuries were associated with assisting a policeman, whereas in Alberta payments are related to such schemes as Workmen's Compensation.<sup>45</sup>

In addition to protection from traditional crime and compensation systems, other issues are associated with the degree of state responsibility in less traditional areas. The 1970 Annual Meeting of the Canadian Bar Association considered a uniform code for loans secured by personal property, while, about the same time, the Honourable Ronald Basford, then Minister of Consumer and Corporate Affairs, was speaking in Boston on the probable need to regulate advertising in defence of the consumer.<sup>46</sup> The need for increased government protection largely reflects the almost impossible problems that confront the individual consumer in the purchase of major items. If an automobile is purchased, it must be all at once -- not a wheel this week, a drive shaft next, and so on. This means that the usual test of quality that can be applied to many items -- i.e., satisfaction with prior purchases -- cannot be utilized.

In addition, since most of an individual's purchases of major ticket items occur only on rare occasions, it is difficult for consumers to have adequate information about practices, usual prices, or qualities, or to develop independent approaches that will protect them. Some private agencies, such as the Consumers' Union, do sell certain types of information, but largely to those sectors of society least in need and, even then, only against a limited number of problems.

What seems clear from the examples above is that many countries are undergoing some significant changes in allocation of the costs of protection from crime and in compensation for crime losses. The appropriate division between protection and compensation would seem, apart from issues of efficiency, to be largely one of values and priorities of the electorate.

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In contrast to the public security goal, an acceptable level of justice is probably easier to define than to measure, as the discussions in this chapter have shown. Assuring "just" treatment involves comparisons and trade-offs that depend on data not now available in any usable form. Thus the main emphasis in this goal area ought to be on changing the type of data supplied by courts and correctional institutions. Only if more meaningful information systems are set up, can progress towards criminal justice be measured.

REFERENCES FOR CHAPTER 3

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- <sup>2</sup>Martin L. Friedland, *Detention Before Trial* (Toronto: University of Toronto Press, 1965), p. 25.
- <sup>3</sup>*Ibid.*, pp. 9, 46.
- <sup>4</sup>Canadian Committee on Corrections, *Toward Unity: Criminal Justice and Corrections* (Ottawa: Queen's Printer, 1969), Chapters 6 and 7.
- <sup>5</sup>Friedland, *op. cit.*, p. 77.
- <sup>6</sup>*Ibid.*, p. 113.
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## APPENDIX

### VICTIM SURVEYS

The first and most central decision must be to decide upon the objective of criminal statistics. Historically the seeming objective has been the search for a Holy Grail, the "true extent of crime". Here we shall be concerned with one approach to meeting that objective, which might more explicitly be:

To inform the public concerning the nature and extent of crimes, their magnitude and trend over time, and to furnish data necessary to evaluate various policies and programs.

In a sense, violation of public safety begins with the individual who commits the deeds, but until the violation actually takes place, the violator cannot be known. Consequently, we shall begin with the event.

The commission of a criminal act has a violator, a victim, and characteristics. Some of the characteristics will be of interest, such as location, time, and the relationship between the victim and violator. Other aspects are of no interest, such as the colour of the victim's hair.

An alternative to the use of crimes known to the police is to use crimes known to victims. Clearly these crimes will exclude most of those without direct victims, certain sex crimes, receipt of stolen merchandise, some instances of false advertising, etc. It is possible that such a survey would avoid some of the difficulties inherent in the need for crimes to be reported to the police, but what experience there has been with this approach suggests that, while it is a desirable addition to our knowledge about crime, it is only an addition and not a replacement for crimes known to the police. There are several methods by which these data can be collected. The proper method of collection will depend upon consideration of cost and the purpose for which the data will be used. This Appendix discusses the use of surveys of stratified samples to obtain data on crime victimization.



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There are several problems that immediately arise in this method. One is the sample size itself. When the sample used is to approximate the experience of the entire population, it is clear that the low rate of crime victimization in any given period means that the sample must be very large if it is to pick up any meaningful amount of major crime. In Canada, in 1970, there were 1,109,988 Criminal Code offences reported to the police. With some 5.1 million households in 1966, this would mean a maximum of one crime per 4.6 households. The incidence of a number of Criminal Code violations was not directly against households; consequently, with a household sample of 20,000, it could be anticipated that significantly fewer than 5,000 would report being victimized. If only the more serious crimes were included, then the number reported would be less than 2,000. In the United States, the current plan is for the sample size to be between 125,000 and 150,000 interview units and businesses. This greatly exceeds the size of the Current Population Survey sample, which is 50,000 households. Sample sizes of this magnitude would seem to be possible only on a regular basis and only for national information, though special studies might from time to time be accomplished in smaller jurisdictions. Sample interviews of persons reporting crime to the police could be used as an alternative way to obtain information on socioeconomic data at the local level. It would have to be recognized that such a local survey would be biased against those who do not report to the police.

A second serious shortcoming concerns victim recall. Raised as we are on the lurid details of newsworthy crimes, one tends to believe that a victim would have easy and quite accurate recall. Sober reflection on the exact nature of much crime would quickly convince one of the opposite, and testing confirms that inaccuracy is usual.

In one recent pre-test in Washington (W-II)<sup>1</sup> by the U.S. Bureau of the Census, it was found that only 81 per cent of persons known to have reported crimes to the police recalled that they had been the victim of a crime at the time of the special survey, which was from 3 to 14 months after the police reports. When the reported crime happened 11 months before the interview, only 49 per cent recalled both the existence of the incident and the correct month of its occurrence. In the 11-month group, correct recall rose to 63 per cent when the subsample was restricted to only those who remembered

reporting an incident. In a subsequent Baltimore pre-test of crimes that occurred three and six months before the test, the recall rates were essentially the same -- 69 per cent and 64 per cent, respectively. Considering that failure to recall visits to doctors sometimes runs over 20 per cent after only two weeks, the recall failure here is encouraging.<sup>2</sup>

As might be anticipated, the recall percentages varied according to the type of crime. In Washington a reported robbery was recalled 91 per cent of the time, but assaults, only 65 per cent of the time. In Baltimore the percentages were 76 and 36. Some of this difference reflects uncertainties over the correct legal category and certain sequence difficulties in the questionnaire. More important, it reflects two special characteristics of those activities classed as assaults. Many assaults involve friends, relatives, and acquaintances. While the police may become involved at the time, the "supposed" victim may view the event differently later or, for personal reasons, wish to forget it. The second problem is a product of the occupation of the informants. Policemen, firemen, and those in similar occupations may, as a matter of routine, be subject to experiences that, on occasion, require them to make formal reports. Even when a report is made, if the situation does not escalate dramatically after the passage of time, it may be difficult to recall that a formal report was ever made.

In order to obtain victim data, are lengthy interviews necessary, or would telephone calls or a question or two suffice? It seems clear that neither the telephone nor the generalized question is capable of obtaining the required information. An early Washington pre-test (W-I), using the telephone, indicated that it produced many fewer recollections of victimization than did ringing the doorbell.<sup>3</sup> The same was true of pre-test W-II, which used both general and specific questions. The specific questions brought out 145 additional incidents, 38 of which were only "attempted" crimes and, in that case, of no interest.

It is possible for persons to not only forget reported offences that did occur, but also to report incidents that did not happen or to report them in a time period in which they did not occur. In the NORC sample of 10,000 households, approximately one-third of the incidents were disallowed on the grounds that they did

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not constitute crimes as defined by the police.<sup>4</sup> The unsubstantiated rate in the NORC sample greatly exceeds the 6.1 per cent rate used by the Canadian police for Criminal Code reports in 1970.

Perhaps more serious (since careful screening can largely eliminate the unsubstantiated reports) is telescoping of older events into the time period of the survey. In the NORC sample, the recall period was one year. If, however, the number of events that had occurred in the most recent three months of the sample were multiplied by four to give an estimated annual rate, it would have been 60 per cent greater than the annual rate based upon the 12-month period.<sup>5</sup> Based upon the greater forgetfulness with passage of time discovered in pre-test W-II, it seems clear that a more correct annual estimate lies somewhere between a 12-month rate and an expanded 3-month rate. To specifically test for forward telescoping, persons known to have reported crimes seven and eight months or 10 and 11 months prior to the interviews were asked about events over the last six and nine months, respectively. In the 6-month case, 17 per cent of the respondents put the older events into the survey period; in the 9-month case, 21 per cent did so.

There are several ways in which forward telescoping might be handled. One is to reinterview persons concerning consecutive time periods, when they could be reminded of their earlier reports, or their second reports of the same crime could be excluded. A second way could be to have some special probe questions concerning those events near the beginning of the surveyed period. Third, the period covered by the questions can be longer than the period for which the report will be made. These latter two presuppose that events that are forward telescoped are placed in the earliest part of the survey period rather than brought close to the interview date. In those recalled cases that involved crimes reported three months before, 4.5 per cent of the respondents moved the event forward by one month, while the same percentage moved the event back one month. The same bracketing was also observed for events 6 and 11 months earlier. This suggests that an interview period of four months -- only three months of which were used -- might, because of counterbalancing misplaced events, give a reasonable approximation of individual victimization.

Every census, for a variety of underlying reasons, faces the problem of missed persons. Since, as seems apparent, those persons most prone to criminal victimization are also those who are most prone to census miscounts, similar problems would exist in any special survey of crime. In pre-test (W-II), 30 per cent of the sample had moved between the time of their reported incident (up to 14 months) and the interviews. Six per cent were found but had moved too far away to be contacted, while 13 per cent were never located. In Baltimore a total of 20 per cent of the sample were never located. Lost persons were not randomly distributed across crimes. The never-located rate in Washington was 25 per cent for assaults but was only 6.5 per cent for burglary. In Baltimore 28 per cent of assault cases could not be located, but only 12 per cent of larceny cases could not be found. Overrepresentation in a sample of those groups of the population subject to high mobility would partially compensate for their loss. Unfortunately, until much more is known about the incidence of traditional crime, it will be impossible to adjust completely for these losses, or indeed for any of the problems discussed in this section.

It seems clear that victim data could be a highly valuable source of information in the crime problem. What it does not offer is a substitute for the information contained in crimes known to the police. Both crime counts are functions of the population's real exposure to crime and the productivity of the individual as a source of data to either a census interviewer or to the local police. Both involve the imposition of formal bureaucratic mechanisms between victims and the seeker of information.

If crimes discovered in a victim survey are to be converted into an index of known criminality, then some method must be devised that will allow unlike crimes to be combined on some single scale. The development of such a scale involves two basic problems -- determination of the respective weights to be accorded to each factor, and decision about which factors to include for each event.

There are three basic approaches that can be used for weights. One of them -- duration of sentence -- is in a sense now used, with Parliament having set the weights in the basic Criminal Code and its amendments. These weights could be used; the average, median, or modal sentence actually given could be substituted; or a sample

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of persons could be asked to weight each crime by an appropriate sentence. A second way would be to use the net dollar loss involved in each event as the weight. This would require an arbitrary assumption for murders -- a procedure used in a recent U.S. report.<sup>6</sup> A weakness in the dollar or net loss approach is that it would exclude attempted crimes completely but, more important, it would give no weight to any psychological costs associated with being the victim of certain types of crimes. One solution to this is to use a scale that combines elements of net loss and psychological costs. Such a scale has been worked out for Canada.

Dogan D. Akman and André Normandeau,<sup>7</sup> following upon the work of Selden and Wolfgang in the United States, have worked out an alternative index method for Canada. The procedure is to determine a weighting system based upon the responses of representative groups to a variety of criminal activities. The factors considered for each event are: (1) what the victim lost or suffered; (2) whether premises were entered by force; and (3) whether intimidation was involved and, if so, whether it was by a weapon or only verbally. As an illustration, consider the following events. An unlocked home is entered and \$1,000 is stolen. This event would receive a score of 4, indicating the value of the goods lost. The same home, but locked, is entered and the owner is robbed of the \$1,000 at gunpoint and injured seriously enough to require hospitalization. This event receives the same 4 points for the lost money but, in addition, receives 1 point for forced entry, 3 points for intimidation by a weapon, and 7 points for injuries requiring hospitalization -- or a total of 15 points.

Under current reporting methods, a locality that saw a decrease of one robbery of the type described and an increase of one burglary would show no change in the total of crimes known, though examination would show the switch in the subtotals. Use of the weighted system would show a decline in criminal behaviour of 11 points.

The use of such an index has certain clear advantages. It allows each victim's involvement to be shown, and it provides for an assessment of physical damages incurred by victims. In addition, dollar loss will have the same importance regardless of whether the criminal will be charged with robbery, burglary, or larceny. Its disadvantages lie largely in weight validity problems and

the implicit assumption that all victims are equally innocent. Thus the hospitalization of someone who started a fight would count for 7 points -- equal in value to a person robbed at gunpoint on the street of \$3,249. The accuracy of the weights is another major problem, though the authors make a strong argument that it is not too serious. At this point, one could hardly recommend that this index be instituted, but a pilot project might well be supported.

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