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Chapter X

The Great Repression: Criminal Punishment in the Nineteen-Eighties

*Michael Mandel**

Introduction

Even before the stock market plummeted in October of 1987, parallels were being drawn between our era and the years just before the Great Crash of 1929. According to the experts, in each era an extraordinarily narrow concentration of wealth was aided and abetted by governments that were strikingly similar in their non-doctrinaire support for big business, combining handsome subsidies on the one hand with a laissez-faire approach to regulation and taxes on the other. Each era was seized by a takeover/merger mania financed by spiralling debt and fragile credit devices such as "margin buying" (in the 1920s) and "junk bonds" (in the 1980s). The stock market was widely believed, in each era, to be completely out of touch with the strength of the economy, and based instead on pure speculation (Davis 1987; Thomas 1987; Galbraith 1987), the whole thing resembling a mass game of chicken. Both periods saw quantum leaps in Canada's integration into the American economic orbit: the twenties was the decade in which U.S. capital bought out Canadian manufacturing and extraction industries, and the eighties was the decade of the Free Trade Agreement. Each decade started with a severe recession and the second half of each saw a boom which created unheard-of wealth, but also unheard-of inequality; spectacular profits were made amid falling wages and farm incomes. Even the moral crusade of the late eighties, the "War on Drugs," seemed like a replay of Prohibition, complete with its hypocrisy,

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international adventurism, official and unofficial violence, and, naturally, the fortunes being made from it (Thompson 1985:63-69, 77-96, 138-157, 193-195; Granatstein et al. 1986:197-203).

Conventional wisdom holds that a crash of 1929 dimensions would be very different this time around, what with social "safety nets" and the "general cushioning effect" of Keynesian fiscal policies (Galbraith 1987:64). But there is reason to believe that the results of the next crash will be much *worse* than they were after 1929 because, on at least one very important index, the appropriate comparison for our times is not with the period just before the Great Depression but with its very depths. This is the index of *repression*. In criminal punishment terms, the Great Depression was more repressive than any period before, and as repressive as any period since, *except our era*.

As far as criminal punishment is concerned, the 1980s was the most repressive decade in Canada's history. During that decade, the *per capita* prison population reached and sustained an all-time post-confederation high. This occurred at a time when the official philosophy of corrections emphasized "community" above all else. The emphasis on community was due to the fact that in *relative* terms--but only in relative terms--imprisonment is a declining form of punishment. Since the 1960s, imprisonment has been greatly outstripped by the growth of penal measures that operate outside of the traditional prison setting. The most prominent of these is the probation order, a device of infinite variety: from the occasional meeting with a probation officer, through unpaid work ("community service"), to conditions identical to imprisonment ("probation hostels"). On any given day, there are now three times as many people serving sentences of probation as there are in prison. Of course, this should not be allowed to obscure the fact that our imprisonment rate is higher than it has ever been. And this is *in addition to* a probation population never before seen in Canada's history.

Canada's Most Repressive Decade

The prison population

In determining the relative repressiveness of various periods in Canadian history, we are at the disadvantage of lacking consistent, comprehensive data. Comparable adult imprisonment figures covering all of Canada are only available since 1955. However, the method of reporting has changed significantly in two major respects. In the first place, since 1979 a distinction has been made between those "on register" and those "actually in" a given prison. This

reflects the growth in the 1970s and 1980s of lawful absences from prison, especially "day parole." Since these mechanisms are part of the new "community" form of punishment, it would be misleading to include them in a comparison of *prison* populations in the past, especially since there were no comparable forms of lawful absences during the periods of high prison populations prior to the current one (eg. 1961-1965 and 1931-1935). Consequently, I have tried to stick to the "actual in" counts, though sometimes these have had to be estimated. The second major change affecting comparability of data is the Young Offenders Act (YOA), which came into force in April 1985. The effect of this was to transfer a large number of offenders from adult court and adult punishment to youth court and youth punishment because it raised the age of majority for criminal law purposes from between 16 and 18, depending on the province, to a uniform national age of 18. This, *and this alone*, is responsible for the apparent fall-off in the adult prison population after 1985. However, to adopt the new definitions for comparison purposes would also be misleading, because 16- and 17-year olds are still being imprisoned; in fact they are being imprisoned in greater numbers than they were before YOA. The only real difference is that they are being imprisoned under different legislative mandates. To merely accept the reclassification as determinative would make long-term historical comparisons impossible. I have tried, therefore, to adjust the figures to counteract this "Young Offenders Act effect."

Ontario keeps separate figures for 16- and 17-year olds sentenced under the YOA and I have used these to project a national effect (based on Ontario's share of the relevant measures). I have then simply added these projected national figures to the conventionally reported adult imprisonment figures.¹ It turns out that, even apart from the YOA, the 1980s were the most prison-prone decade in Canada's history, but not to take account of the YOA effect would be to unnecessarily minimize the trends of the decade. Furthermore, excluding these numbers gives the completely misleading impression that the prison population started to fall drastically in the late 1980s.

Appendix Table I shows that in each of the years 1983 through to 1988 the per capita prison population exceeded the previous record high (for the period covered by the table) of 1963 by between 2.7 per cent and 9.5 per cent. The average prison population per 100,000 Canadian population for the five year period 1984-1988 exceeded the five-year period 1961-1965 (the previous five year high) by 111.3 to 103.6 (a difference of 7.4 per cent). The decade average for 1980-1988 exceeded the 1960s average by 105.6 to 99.7.² The average prison rate for the 1970s was only 89.3 per

100,000, with a high of 96.4 in 1977. Since 1955, therefore, the current period is clearly the most repressive in terms of the proportion of the Canadian population in prison on any given day.

To reach back farther, we have to use proxy figures. The "total institutional population" (Appendix Table II) has the advantage of going back to 1916; but it has the considerable disadvantage of not distinguishing between adult and juvenile detention. This table shows that the high imprisonment period of 1961-1965 was also higher, on average (123.2 per 100,000), than any other period since 1916, including 1930-1934 (117.3), though the rate for its highest year in total institutional terms (1964:125.9) was slightly lower than the rate for 1932 (126.1), the depths of the Depression. To estimate the adult rate for the Depression so that it can be compared with the 1980s requires deflating the Depression figures to remove the element of juvenile imprisonment. This results in an average adult imprisonment rate for 1934 of between 98.6 and 105.3 per 100,000 (depending on the assumptions one makes),³ putting the Depression's worst years well below the levels reached in the 1980s. The most repressive year of the Depression era, 1932 (0.2 percentage points above the most repressive year of the early 1960s), would, on this calculation, be assigned an adult imprisonment rate of between 105.7 and 113.2⁴ per 100,000 Canadian population, still below the 1987 level of 114. If the entire decade of the 1930s is considered, the relative severity of our era becomes even more obvious. The average total (including juvenile) imprisonment rate for the 1960s was 118.7 per 100,000; it was 99.7 for adult institutions. For the 1930s as a whole, the average total institutional population was 113.1 per 100,000, from which can be estimated an adult population of between 95 and 101.5 adult prisoners per 100,000 population, compared to the 1980s adult institution average of 105.6.⁵

The only figures we have going back all the way to 1867 are for the *penitentiary* population (Appendix Table III; Figure 1). In Canada, "penitentiary" has a specialized meaning: prisons administered by the federal government. Consequently, these figures leave out of account those prisoners serving sentences in provincially administered institutions, a varying percentage of the prison population which has always constituted more than half of the total prisoners. The penitentiary population has varied as a percentage of the total prison population from a low of 26.7 per cent in 1937 to a high of 43.5 per cent in 1974. On the other hand, while "penitentiary," is a purely jurisdictional term and does not designate any particular type of prison, Canadian criminal law has always reserved "penitentiaries" (i.e., federally-administered prisons) for

prisoners serving sentences of two years or more, i.e., the longest sentences. So the penitentiary population can serve as an index of penal severity: at any given time, what proportion of the Canadian population are serving prison sentences of two years or more? Here, too, the current era takes the prize. The average penitentiary population for 1984-1988 was 42.9 per 100,000, while for 1931-1935 it was only 38.2.

Penitentiary Population Per 100,000 Total Population		
Decade	Decade Average	Decade High
1980-88	40	44.2 (1986)
1970-79	38	41.3 (1973)
1960-69	37	39.7 (1964)
1950-59	34	36.0 (1959)
1940-49	29	33.1 (1940)
1930-39	35	43.1 (1933)
1920-29	26	29.6 (1922)
1910-19	24	26.6 (1910)
1900-09	24	26.9 (1900)
1890-99	26	27.9 (1898)
1880-89	26	28.5 (1880)
1870-79	22	28.7 (1879)
1867-69	25	28.1 (1867)

[From Appendix Table III]

So, in terms of imprisonment, the 1980s were the most repressive years in Canada's history, including the years of the Great Depression.⁶ Of course, imprisonment is not the only form of state repression and certain other forms were more typical of the Great Depression than of our own era. One such form was the death penalty (Appendix Table IV). There were 83 executions for murder in the years 1931-1935, almost twice as many as during the five-year period either preceding or following, and over one-third more than any other period in Canada's history (the next blood thirstiest period was 1946-1950, with 62 executions). The Depression was more violent in terms of the death penalty than any era before or since. There have been no judicial executions in Canada since 1962. In purely quantitative terms, these numbers are very insignificant: adding them to the prison population does not change the rounded per 100,000 population rate at all. But state-sanctioned killing cannot just be ignored. On the other hand, our era has no right to be complacent about its lack of capital punishment. Deaths "by legal

intervention" (that is, killings by police or prison guards), judicially sanctioned, were far from unknown in the 1980s. In the years 1980-1986 (the latest for which figures are available), such deaths numbered 63, or 9 per year (Statistics Canada 1980-86). Furthermore, deaths of prisoners averaged 77 a year for the last ten years for which information is available (1979-1988); of these, 33 per year were suicides--about 6.5 times the Canadian rate (Statistics Canada 1987-1988: Table 31; 1980-86). There are no readily available figures with which to compare our era and the 1930s in this respect.⁷

In quantitative terms, far more significant than deaths were the great number of deportations that took place during the Depression (Appendix Table V). The deportations for the years 1930-1933 were almost triple the per capita rate for any four years in the nineteen-eighties. Adding deportations to imprisonment changes the picture considerably, making the 1980s at most only slightly more repressive than the 1930s (122.7 to 121.3), and perhaps even less repressive (122.7 to 127.8), depending on the formula used. Whatever the formula, adding deportations to imprisonment means that the period 1930-1934 was substantially worse than 1984-1988 (146.4/153.1 to 124.7); it also means that the high rate of repression for 1932 far outweighed the rate for the fiscal period 1982-1983 (178.7/186 to 130.4).

It is important to determine whether the number of persons deported should be added to the number of persons imprisoned. Should deportation be regarded as on the same level of repression as imprisonment? There is no question that a large number of Depression deportations were meant to supplement the criminal law system. In the first place, there are many documented cases of the use of deportation to rid the country of political radicals, some of whom had been convicted of crimes and had already served terms of imprisonment (Roberts 1988:48-52). Secondly, deportation was used "as an alternative to relief," an explicit means of "'shovelling out' the unemployed" (*Ibid* 1988:162,169). On the other hand, there are a number of documented cases of people who *wanted* to be deported, especially to the British Isles (where most of the deportees wound up) because of the desperate situation in Canada (*Ibid* 1988:185). Things could be substantially better at home and deportation meant a free, if uncomfortable, passage. While the government's claim of 90 per cent voluntary deportees was certainly exaggerated (*Ibid* 1988:181-82), it is hard to know where the truth lies. More importantly, there is a great difference between imprisonment and deportation to one's home country (assuming one is not claiming to

be a refugee). For one thing, the state's concern with the deportee ends at the border; the deportee, as such, is under no sentence of any sort in the home country. For another thing, the element of enforced isolation is lacking; in the 1930s, whole families were deported along with the breadwinner (*Ibid* 1988).

Of course, the point is not to minimize deportation, or even the desperate conditions of working people neither deported nor imprisoned. What we are trying to grasp, and what distinguishes certain periods in our history, especially our own, is the level of *state* repression, the repression of the public sphere as opposed to the private sphere. In this regard, deportation seems much more like probation than imprisonment. Imprisonment localizes punishment and surveillance in an isolated institution. Probation and related measures, such as parole, extend punishment and surveillance beyond the walls of the prison into the community, where, at various levels of restraint, the offender is kept under surveillance and required to carry out certain duties, more or less onerous depending on the circumstances of the case. Some probation can certainly be more repressive than deportation. Deportation, where involuntary, follows the offender to the border and then says goodbye; probation and related measures follow the offender into the community and keep an eye on him or her for years.

Whether or not the correct analogy for deportation is probation, it is clear that probation must be taken into account in any quantification of repression. If that is so, then the Depression, deportations and all, is no match for the current era in terms of repression.

The probation population

In comparison to the prison population, the probation population has grown not only steadily but spectacularly. This is almost entirely a post-World War II development. There was some probation before the War, but it was on a tiny scale. Ontario appointed the first two adult probation officers in 1922, but progress was slow and there were only eight of them altogether in Ontario between 1930 and World War II (McFarlane 1966:31-32). These were the only adult probation officers in the entire country (Canada 1956:13-14; Sheridan and Konrad 1976:254). Only 14 officers in all had been appointed in Ontario by 1951 (McFarlane 1966:62). Then, suddenly, between 1952 and 1956, the complement grew from 15 to 94 (*Ibid* 1966:67). By 1965 there were 167 (*Ibid* 1966:96-97). Subsequent developments in admissions can be seen from Appendix Table VI. While jail admissions outnumbered probation admissions by 9:1 in

1965, this ratio had dropped to under 7:1 by 1972, to under 3:1 by 1976, down to just over 2:1 in 1979, where it has hovered since. At the same time, the rate of probation admissions grew from about 98 per 100,000 population in 1965 to 367 per in its peak year of 1982. Another indication of the rate of growth is that between 1951 and 1979 Ontario's adult probation officer complement went from 15 to 429 (including supervisors) (Hatt 1985:300).

Other provinces shared this experience. Alberta was the second province with adult probation services in 1940 and British Columbia followed in 1946 (Sheridan and Konrad 1976:254). The number of probation officers in British Columbia just about doubled every five years from 1950 through 1975, from 6 officers to 266, an increase in rate from about .5 per 100,000 British Columbia population to 11 per 100,000 (*Ibid* 1976:254-255). The adult probation system in British Columbia employed 350 officers in 1979-1980 (13.5 per 100,000 population) (Hatt 1985:300). National probation figures do not exist for earlier than 1978-1979, and since that time they have remained fairly stable, with probation accounting for roughly one in every four admissions to the correctional system (Appendix Table VIII) (Ontario's roughly one in three is high on the national scale.)

But *admission* rates are nothing compared to *average daily population* rates (Figure 2). Somewhere between 1965 and 1972, the number of adults on probation in Ontario, which had been insignificant, indeed verging on non-existent prior to 1950, surpassed the number of adults in prison. By 1975 the figure, which had more than doubled in relation to Ontario's total population, was also more than twice as high as the prison population. By 1979 it was more than three times as high, and by 1983 Ontario's adult probation population was more than four times its adult prison population (Appendix Table VII).⁸ Once again the national dimensions are similar, if slightly more modest, with the adult probation population at approximately three times the prison population (Appendix Tables IX).

We can now return to our comparison with the Great Depression. During the 1980s (1980-1988), the average daily adult population under judicially ordered control and supervision, including prison, probation, parole and mandatory supervision, was 429.8 per 100,000 (422.4 for 1979-1988), with a high of 462 in 1987. If deportations are added to this, the total "repression rate" can be calculated at 446.8 per 100,000 for 1980-1988 with a high of 471.6 in 1986-1987. This is 3.5 *times* our best estimate for the 1930s, a rate of between 121.3 and 127.8. The particularly repressive years of 1984-1988 had an average rate of 465.8 per 100,000, more than 3 *times* the

most repressive Depression years of 1930-1934, with an estimated rate of between 146.4 and 153.1. The peak year of 1987, with a rate of 471.6, was more than 2.5 *times* the Depression high rate of between 178.7 and 186 in 1932.

It is true that there was some minor Depression probation activity which probably should be added to the figures we have already calculated, if only for the sake of completeness. They do not change the picture at all, however. There were only 8 probation officers operating in Ontario during the Depression compared to 429 in 1979. Ontario accounted for all of the Depression probation for adults, but only about 52 per cent of probation in the 1980s (Statistics Canada 1987-1988:125). There was also a form of parole in the pre-War period, but it was entirely lacking in enforceable conditions, or the parole officers to enforce them. This means that probation/parole levels during the Depression could be no more than about 1 per cent of what they are now, even assuming constant caseloads, which seems very unlikely, as caseloads appear to have more than doubled between 1965 and 1979 alone.⁹ But even assuming constant caseloads, this would mean a maximum of about 900 cases in total during the Depression, or about 9 per 100,000; adding this to the figures for the 1930s does not change things at all. The 1980s remain more than 3 times as repressive as the 1930s, the late 1980s 2.9 times as repressive as the early 1930s (the worst years of the Depression), and 1987 2.4 times as repressive as 1932, which, until the 1980s had been Canada's worst year for repression.¹⁰ In other words, the 1980s were easily the most repressive years in Canada's history.¹¹

Understanding Decarceration

Official ideologists have described the community corrections movement in the most glowing terms imaginable:

Diversion is a promise!

It is a promise that the poor, the uneducated, the disadvantaged and the abandoned who come in conflict with the law will receive the support and compassion of their communities (Canada 1978:10).

Even among left-wing criminologists it is possible to find the rising rate of repression and the proliferation of community corrections treated as "contradictory" or as "a momentous liberal compromise" (Taylor 1985:331). It is obvious that community corrections is neither promise nor compromise. The level of imprisonment has not

only not abated, but has actually increased with community corrections, which have added to the arsenal of the state techniques of repression that are sometimes as intrusive as the traditional forms--indeed indistinguishable from them in some cases--and often more insidious. One thinks, for example, of the electronic bracelet to keep the probationer or parolee under constant Orwellian surveillance; or of the "probation hostel," minimum security prisons where persons under sentence of probation mix with persons under sentence of imprisonment (*R.v Degan* 1985). The community corrections phenomenon has expanded the power of the state's repressive apparatus, and has been predictably employed to increase enormously the proportion of the population under criminal sentence and surveillance, with no observable impact on the level of crime. It is hard to imagine a more important object of criminal law reform than the reversal of this trend. In Foucault's words:

If there is an overall political issue around the prison, it is not therefore whether it is corrective or not; whether the judges, the psychiatrists or the sociologists are to exercise more power in it than the administrators or the supervisors; it is not even whether we should have prison or something other than prison. At present, the problem lies rather in the steep rise in the use of these mechanisms of normalization and the wide-ranging powers which, through the proliferation of new disciplines, they bring with them (1977:306).

In order to stop something, though, you usually have to know why it is happening in the first place. Do we know what is causing all of this repression? Do we know anything about what causes variations in the repression rate?

What strikes even the casual student of the history of punishment in the twentieth century is how closely changes in the repressive rate seem to parallel changes in economic conditions or what is often called the "business cycle." The Great Depression of the 1930s, and the recessions of the late 1950s and the early 1980s have all been accompanied by a steep rise in the rate of repression. The recovery periods of the late 1930s and the mid 1960s were both periods of falling repression. During the sustained period of rising repression that Canada has experienced since the Second World War, there has been an "upward drift" of unemployment rates; in other words "the unemployment floor has been at a successively higher level" (Ostry and Zaidi 1979:146).

Greenberg (1977) has shown a striking correlation between oscillations in the annual unemployment rate for ages 16 and over and annual admissions to Canadian penitentiaries during the years 1945-1959, a correlation of 92 per cent with only a slight time lag of imprisonment behind unemployment. U.S. data are reported to be remarkably similar. In fact, the relationship between unemployment and repression is fairly well-established in the criminological literature (Crow *et al.* 1989). What is not so well-established is the mechanism at work. Most conventional explanations of the connection between repression and unemployment are via an assumed relationship between *crime* and unemployment. The conventional explanation is that economic recession causes crime, and this rather predictably brings forth more repression. For example, Ehrlich argues that high unemployment and an otherwise contracting economy create greater material incentives for property crime and diminish disincentives such as the loss of earning capacity one might experience from a sentence of imprisonment (1973:529-30, 538-39, 555). Tepperman has provided a more subtle analysis of the Great Depression in Canada along similar lines: severe conditions resulted in crimes of protest, crimes of "day-to-day survival" and crimes of just plain "craziness" (1977:176-79).

The problem with the conventional explanation is the persistently weak relationship shown between the crime rate and the unemployment rate. In Greenberg's (1977) study, the rate of penitentiary admissions had nothing to do with the criminal conviction rate and little to do with the crime rate itself. The relation between the homicide rate and the unemployment rate, though substantial (.22), was too weak to support the changes in penitentiary admissions. Greenberg concluded that:

It thus appears that in both Canada and the United States, changes in commitments to prison can be explained almost entirely by changes in the unemployment rate. Changes in the number of cases entering the criminal justice system and potentially available for imprisonment seem to be unimportant, as does the crime rate (1977:650).

Like American rates, Canadian rates of reported crime since 1960 bear no apparent relation to the oscillations of the prison population over the same period. Crime rates have risen more or less steadily, while repression rates have fluctuated with the business cycle. The same was true during the Great Depression: conviction rates had been rising steadily from the beginning of the century and merely

continued to rise through the Depression, albeit at an accelerated rate in some categories (Tepperman 1977:181, 216).

Such observations have led to more complicated hypotheses. Some studies have emphasized the sentencing system. For example, one study found that when controls for average prison sentences were imposed, the amount of variation in U.S. federal prison population explained by the unemployment rate dropped from 70 per cent to 54 per cent. Thus, a little more than one-fifth of the connection between prison population and unemployment was explained by sentencing, with nothing explained by the conviction rate (Yeager 1979). Greenberg, too, concluded that the answer lay in the sentencing system. Though he doubted that judges consciously "orient their sentencing policies to the requirements of the labour market and that they agree on how this can best be done" (1977:650), he was willing to "speculate" along two lines: either that "judges are less willing to grant probation to offenders when they are unemployed, or that unemployment affects levels of community tolerance toward offenders, to which judges respond in sentencing" (*Ibid* 1977:650).

Both hypotheses have their adherents. A recent study of English courts emphasized the way "unemployment restricts options" in sentencing (Crow *et al.* 1989:27). Controlling for offence and record, the authors found that an offender's employment status made a significant contribution to the severity of the sentence: an unemployed offender was less likely to be fined and was more likely to get probation, a community service order, or prison. The effect varied from community to community. It was most pronounced in traditionally low unemployment areas, in punitive courts, and in areas where unemployment was increasing from low to high (*Ibid* 1989:47). Even where unemployment was high, it made a difference in a negative way: judges felt it important to keep an employed person out of jail so as not to jeopardize employment status (*Ibid* 1989:61-62).

In Canada, employment status is both an empirically observable and legally accepted factor in determining a sentence, despite the lack of any plausible philosophical justification (Mandel 1984). On the other hand, employment status is not considered by judges as an end in itself, but rather as a part of the assessment of the offender's "character." "Fault," even in matters of unemployment, is an important part of this. It seems far too legalistic--especially since sentencing is the most "illegal" aspect of criminal law--to let the courts off the hook by assuming that they would *inadvertently* ignore the general economic climate in assessing the offender's character.

The hardening of official, including judicial, attitudes seems a more likely explanation of increased repression. Tepperman makes a strong case for an increase in "official punitiveness," as well as in real crime during the Depression, with sentencing severity and conviction rates rising to unheard-of heights in the early thirties and then falling back again (1977:62-65). The most striking evidence is the execution rate. As Appendix Table IV shows, the years 1931-1935 had the most executions for any five year period before or since, but they had fewer homicides and murder charges than the prior five year period. What they had was an 89 per cent higher conviction-to-charge rate for murder charges, and a 50 per cent higher likelihood of a death sentence being carried out. In other words, despite the lower homicide rate, a person charged with murder was almost twice as likely to be executed during 1931-1935 than during 1926-1930.

The Depression was a period not only of severe deprivation but of extremely high working class militancy. The Communist Party achieved its greatest popularity and influence, the Co-operative Commonwealth Federation was founded, and the real fear of revolution led to severely repressive actions on the part of the government. This included the outlawing of the Communist Party, the imprisonment of its leaders, and violent confrontations between workers and police, such as during the "On-to-Ottawa Trek" (Thompson and Seager 1985:222-35):

With mounting discontent with the way Canada was being run during the Depression, the government, police and courts may have organized more tightly to punish and control the discontent throughout the country (Tepperman 1977:176).

Tepperman's general hypothesis is that "the worse socioeconomic conditions become, the more punitive judges and juries become" (1977:63). Stephen Box has advanced a version of this to explain a similar rise of repression in the 1980s in the United Kingdom, where prison sentence admissions rose from 117 per 100,000 population in 1956 to 187 in 1983, and the average prison population went from 64 to 87 per 100,000 during the same period (1987:12). Box demonstrates that increases in the official crime rate, while reflecting real increases in crime (as shown by victimization studies) greatly exaggerate them.¹² One United Kingdom study showed that about 85 per cent of the increase in burglary between 1972 and 1983 was attributable to increased reporting (*Ibid* 1987:18-21). Box argues that some of this is due to increased willingness to report crime on

behalf of victims and better record keeping by police, but that it also reflects greater official punitiveness and fear of rebellion:

As unemployment rises, so the surplus labour force becomes a body viewed more suspiciously by the governing elite, not because it actually does become disruptive and rebellious, but because it *might* (1987:62).

Nevertheless, even those advancing a "punitiveness" hypothesis have attributed at least *some* of the increase in repression to real increases in crime. Recent studies have suggested that it may be stronger than we have thought and that the problem with the studies so far is that they have not been sufficiently sensitive to different *types* of crime. When crime rates are "disaggregated" into different types, a much closer relationship between repression and crime can be observed. A sophisticated cross-national study has found that prison rates correlate with serious crimes (homicide, robbery, aggravated assault, fraud) but not with minor ones (theft, burglary) (Moitra 1987:71, 86). This difference is something we should expect from the changing roles of prison and probation mentioned above. Furthermore, disaggregated unemployment data has shown a closer relationship between unemployment and crime: certain age groups are more vulnerable than others to being affected by unemployment, and their situation is better grasped by certain measures of unemployment (eg. participation rates) rather than others (Crow *et al.* 1989:6-10). Once again, there is clearly an exaggeration effect: for example, unemployed people are searched more often by police (*Ibid* 1989:10-11).

There is much skepticism among eminent criminologists about the reality of the increase in crime. Chan and Ericson have shown that most of the post-war increase in minor crime can be accounted for by increases in per capita policing alone (Chan and Ericson 1981:51-53). Furthermore, the steady rise in official U.S. crime rates has not been matched by victimization surveys which show the crime rate stable through the 1970s and actually falling through the 1980s (Hagan 1986:59; Siegel 1989:62-63; Chambliss 1988:32-35). On the other hand, victimization surveys exclude the homicide rate, which has also increased substantially. This increase is extremely unlikely to be artificial because of the difficulty in manufacturing homicides that have not really occurred and the high likelihood that those that occur will come to official attention. There is very little doubt, even among statistic skeptics, about the reality of the homicide increase (Chambliss 1988:40-41; Hagan 1986:175). Indeed, the homicide rate

during the late 1920s and the early years of the Depression, though a historical high water mark until the mid 1960s, was far below the averages Canada has experienced for the last two decades. Homicide averaged 1.1 per 100,000 between 1936 and 1966, while for the 1930s, the average was 1.4 per 100,000. The worst five years for homicide in the Depression era (1928 to 1932) averaged 1.7 per 100,000; since the 1970s, the homicide rate has averaged 2.6 per 100,000 population, and the murder rate (only the most serious homicides), 2.4. The worst year for homicide during the Depression was 1930, with a rate of 2.1 per 100,000; since 1972, the *murder* rate in Canada has *never fallen below* 2.1, and the homicide rate, never below 2.3 (Reed 1983:Z21-27). Indeed, it has been argued that homicide rates *underestimate* the increase in the rate of lethal violence:

Faster ambulances, better communications, transportation, and emergency room service meant better treatment for seriously injured persons, so that many who previously would have been homicide statistics were surviving (Hagan 1986:177).

It is worth noting that the *attempted* murder rate increased more than four times as rapidly as the murder rate between 1962 and 1987 (Dominion Bureau of Statistics 1962a, 1965, 1968; Statistics Canada 1971b, 1975a, 1980, 1983a, 1984, 1985a, 1986e, 1987b).

If murder has genuinely increased, there is good reason to believe that violence in general has as well, even if some part of the official increase is a reporting phenomenon. On the other hand, it is also clear that violent offenders make up a small part of the clientele of the total population under sentence, and can in no way account for either the increase in prison populations or, for the explosion in probation. Thus it is clear from the sheer numbers that many of those in community corrections would never have gone to prison. Furthermore, with what we know about the increasing punitiveness and intrusiveness of community corrections, it is also clear that those who would not have gone to prison would not have been subject to anything like the supervisory regime they now experience. This also lends support, indirectly, to the notion that much of the conduct now attracting probation would not even have reached the level of official notice before. It is hard to see the incentive for the police bothering to take notice of things about which nothing or virtually nothing is going to be done.

None of the alternatives--increased crime, increased repression, or both--is very appetizing, of course. Either we are more repressed

because we are more victimized or we are merely more victimized by being more repressed. But on the best evidence, we seem to be left with this: downturns in the business cycle cause real crime to rise, and this is met by increased repression, but in a way that exaggerates, sometimes to a great extent, the real increase in crime. How is it though, that we are now more punitive than during the Depression? If unemployment is responsible, then the Depression should have been far more repressive than our own era. The Depression was a "total and massive disruption of the economy" with unemployment rates reaching more than 19 per cent, almost twice the worst post-Depression rate of 11.8 per cent in 1983.

It is possible to dispute the comparability of unemployment figures. Modern statistics clearly underestimate unemployment by excluding "discouraged workers," those who have given up actively looking for work because there are no jobs (Chen and Regan 1985:20-21). Also, unemployment rates do not take into account the growing substitution of part-time for full-time jobs. Between 1975 and 1985 part-time workers as a percentage of all workers increased from 10.6 per cent to 15.2 per cent (Rinehart 1987:165-66; van Cleef 1985). On the other hand, it is clear that there was nothing in the 1980s to match the severity or abruptness of the economic downturn of the early 1930s, when unemployment, however measured, increased threefold between 1929 and 1930 and sixfold between 1929 and 1933, and when average per capita income was cut in half between 1928 and 1933 (Thompson and Seager 1985:350-51). Furthermore:

The unemployed of that period were mainly adult males--the sole family earner--and there was no "safety net" of unemployment insurance or other income-support measures which today greatly reduce the disastrous economic effects of unemployment on the working population (Ostry and Zaidi 1979:145).

In other words, the reasons for the greater repressiveness of our era must be sought outside of the short-term economic fluctuations, which have been the object of most studies of crime and unemployment. The reasons must have something to do with long-term differences between our era and the Depression.

Several theorists have postulated a kind of self-perpetuating expansion of the repressive capacity of the state, which is supposed to have an inbuilt tendency to spread from the enclosed institutions and to penetrate society ever more deeply. The foremost proponent of

this thesis was Foucault. Foucault argued that the disciplinary technique, which first flourished in factories, schools, hospitals, and prisons, from very early on exhibited a "swarming" tendency, a "tendency to become 'deinstitutionalized,' to emerge from the closed fortresses in which they once functioned and to circulate in a 'free' state" (1977:211). At the beginning of the penitentiary system in the late eighteenth century one already sees the use of disciplinary mechanisms, not in the form of enclosed institutions, but "as centres of observation disseminated throughout society." Foucault gave the example of the Paris charity associations that sent out their missionaries on regular family visits for the purpose of reforming proletarian life (1977:212):

On the whole, therefore, one can speak of the formation of a disciplinary society in this movement that stretches from the enclosed disciplines, a sort of social 'quarantine,' to an indefinitely generalizable mechanism of 'panopticism' (1977:216).

For Foucault the prison held a special place in the disciplinary design. It was the mechanism which fashioned the "delinquent" (the dangerous individual--whose dangerousness does not reside solely in the offence--needing supervision) from the "offender" (the mere violator of laws needing no supervision). Delinquency, "with the generalized policing that it authorizes, constitutes a means of perpetual surveillance of the population: an apparatus that makes it possible to supervise, through the delinquents themselves, the whole social field." Foucault argued that this surveillance was at first "able to function only in conjunction with the prison" because of the powers of surveillance it authorized over the prisoner and ex-prisoner population (1977:281). But soon there began to develop a "carceral archipelago," a series of institutions "beyond the frontiers of criminal law" (*Ibid* 1977:298). The frontiers of criminal law:

tended to disappear and to constitute a great carceral continuum that diffused penitentiary techniques into the most innocent disciplines, transmitting disciplinary norms into the very heart of the penal system and placing over the slightest illegality, the smallest irregularity, deviation or anomaly, the threat of delinquency. A subtle, graduated carceral net, with compact institutions, but also separate and diffuse methods, assumed responsibility for the arbitrary, widespread, badly integrated confinement of the classical age (1977:297).

The formation of this "archipelago" had for Foucault some important implications. One of these was the tendency to dissolve the distinction between crime and abnormality. Instead:

A certain significant generality moved between the least irregularity and the greatest crime; it was no longer the offence, the attack on the common interest, it was the departure from the norm, the anomaly; it was this that haunted the school, the court, the asylum or the prison . . . You will end up in the convict-ship, the slightest indiscipline seems to say; and the harshest of prisons says to the prisoners condemned to life: I shall note the slightest irregularity in your conduct (*Ibid* 1977:299).

Extending the carceral system beyond legal imprisonment succeeded "in making the power to punish natural and legitimate, in lowering at least the threshold of tolerance to penalty" (*Ibid* 1977:301). It did this by giving legal legitimacy to all of the disciplines through their connection with the law (*Ibid* 1977:302) and by freeing legal punishment from the appearance of excess and violence:

Between the latest institution of 'rehabilitation', where one is taken to avoid prison, and the prison where one is sent after a definable offence, the difference is (and must be) scarcely perceptible. There is a strict economy that has the effect of rendering as discreet as possible the singular power to punish, the carceral 'naturalizes' the legal power to punish, as it 'legalizes' the technical power to discipline. By operating at every level of the social body and by mingling ceaselessly the art of rectifying and the right to punish, the universality of the carceral lowers the level from which it becomes natural and acceptable to be punished. (*Ibid* 1977:302-03).

The spread of disciplinary power involved its fragmentation and dispersal to ubiquitous practitioners:

The judges of normality are present everywhere. We are in the society of the teacher-judge, the educator-judge, the 'social worker'-judge; it is on them that the universal reign of the normative is based. . . The carceral network. . . has been the greatest support, in modern society, of the normalizing power (*Ibid* 1977:304).

Foucault's vision of the localized penitentiary mechanism inexorably dissolving into the invisibly carceral city is obviously a profoundly disturbing one. An ever larger section of the population comes under the sway of an increasingly superior means of exercising power, superior because it is more subtle, more finely tuned, less visible and, therefore, more acceptable. The central locus of Bentham's "Panopticon" turns out to have limited its ability to "see without being seen." Most disturbing of all is the implication that the growth of this power is inevitable and completely detached from the history of political struggle that (even on Foucault's account) gives rise to it. It represents an inevitable technological impulse which, once set in motion, we are powerless to stop. Though Foucault did counsel opposition, nothing in his work provides any theoretical foundation for it actually to occur. Indeed, in his view, if discipline had not already eliminated politics altogether, it eventually would.

There are a number of reasons, however, to doubt this bleak view. If there are really no political forces driving these mechanisms, how is it that the decarceration boom had to await the aftermath of the cataclysmic events of the mid-twentieth century? Why does repression rise and fall with the business cycle? How is it that these community measures are compatible with a great expansion in the traditional overt, "compact" repression of the penitentiary? Why has the growth of the carceral city not seen the decline of the penitentiary? Has Foucault unduly neglected the purely repressive features of imprisonment, of the penitentiary as an institution for punishment, in his concern with the disciplinary "addition"? Repression implies resistance, or at least a lack of discipline. How can an increasingly "disciplinary society" also be an increasingly chaotic one where resort must increasingly be had to undisguised repression?

A useful contribution to a resolution of these contradictions has been made by Santos who argues that there is a "structural combination" between the community therapy of decarceration and the retributive renaissance in punishment (1980:386). Both, he argues, are ways of replicating the social status quo while appealing to symbols of autonomy. Santos relies on the notion of "chaosmic power" to describe the repressive aspects of decarceration and other forms of informal or community justice. By leaving people to their own devices, these reforms *replicate* and therefore reinforce social power. They "integrate the sanctioning power in the ongoing social relationships connecting cosmic power to the chaosmic power which up until now had been outside its reach" (*Ibid* 1980:391). Where

retribution legitimizes the status quo through the fiction of free will, community therapy does so by prescribing the status quo (the "community") as therapy. In other words, it is the "community" not the "therapy" that is the key to the concept.

In using the community, the state *"is expanding through a process which on the surface appears to be a process of retraction"* (emphasis in original):

In other words, the state is expanding in the form of civil society and that is why the dichotomy of state/civil society is theoretically not useful anymore if ever it was. And because the state expands in the form of civil society, social control may be exercised in the form of social participation, violence in the form of consensus, class domination in the form of community action. In other words, the state power expands in a kind of indirect rule. (*Ibid* 1980:391).

The community corrections movement fits this description very well. Whereas the prison was meant to be the egalitarian penalty (Foucault 1977:232), probation represents the fruition of the penitentiary technique's replication of the inegalitarianism of the private sector. Probation is an infinitely *flexible* instrument for the distribution of offenders. It can use the entire community, with its diversity, to situate the offender in the proper designated role. The desired power relations can be enforced (or not enforced as in the case of privileged offenders) *in situ*, where and when they are supposed to take place, not, as with prison, after some period of preparation. One not only teaches the delinquent habits of industry, one actually puts the delinquent to work.

Apart from the enormous growth in the *dimensions* of the penal system which can be credited to the advent of community measures--"net widening," et cetera--this added flexibility itself represents a net increase in power. Indeed, flexibility is what unites the developments in probation with the expansion and elaboration of the prison itself. Increases in the use of both probation and imprisonment have been accompanied by further changes in the nature of both imprisonment and probation. Both have become more fungible, in the sense that each measure contains such great variety in levels of intrusiveness that imprisonment can be very much like probation and probation very much like imprisonment. Flexibility means that the differences within the notions of prison and community become as important as the differences between them. The specific designation of the sanction is increasingly

irrelevant. Even the conviction itself is of decreasing importance as the conviction melts into the discharge which melts into the diversion program with no admission of guilt. All of these form a great continuum along which offences and offenders can be subtly distributed, according to their prescribed role in structure of social power relations.

Thus, while in the case of *R. v Malboeuf* (1982), in which the defendant was a young Native in need of "stabilization," probation meant the equivalent of a minimum security prison for his breaking and entering, for businessman A. (*R. v A.* 1974), it meant a \$1000 payment as "restitution" to the employee he tried to rape; and while for thousands of Ontario offenders, probation meant menial tasks such as snow-shovelling, for Keith Richards, caught in Toronto with 22 grams of heroin, it meant two free concerts for the blind at the earliest convenience of the Rolling Stones (*R. v Richards* 1979).

Accepting that we have a new, insidious form of power to contend with, we are still left trying to explain why this should be happening now. One attempted explanation comes from the frequently heard official defence of community corrections in terms of economics, i.e., that they constitute a great money savings over imprisonment. The embrace of community measures coincided with the "fiscal crisis" of deficit financing that hit Western governments in the nineteen-seventies, so many commentators have sought to explain community corrections this way. Santos himself favours a fiscal crisis explanation, supplemented by the ideological appeal of notions of "community" in an era in which real community is disappearing. Legitimacy in a time of economic contraction is more a matter of symbols than of "goods and services," thus the appeal to "transcendental values" (Santos 1980:391) such as "community" and "responsibility" (Law Reform Commission of Canada 1976a, 1976b; Canada 1977:Chapter 4). Santos believes that "state sponsored community organization will be the specific form of disorganization [of the oppressed classes] in late capitalism" (Santos 1980:390). Like Foucault, Santos foresees:

a dislocation of power from formal institutions to informal networks. Social networks will then become the dominant unit of power production and reproduction, a source of power which is diffuse and interstitial and which as a consequence is as familiar as it is remote (1980:392).

probation as expansion of system

The fiscal crisis explanation has also been adopted by Scull (1977, 1984) who treats "decarceration" as a form of carceral "privatization."

Privatization has both fiscal and correctional aspects. It is the ideal-term designation of the 1980s movement by right-wing provincial and federal governments, following the example of the United Kingdom, to raise billions of dollars by selling off large chunks of the public sector, often at bargain-basement prices (Corcoran 1990); at the same time, the private sector itself has been turned over to the free play of market forces, through such deregulation initiatives as the Canada-U.S. Free Trade Agreement. The movement has many counterparts in the correctional system. One of these is the delivery of correctional services by private enterprise.

In the United States privatization of prison services, indeed of entire prisons in some states, has been a way governments have attempted to solve the problem of the costs of building new prisons to cope with overcrowding (Wilson 1989:175ff.; *Globe and Mail* July 24, 1986:A11, July 25, 1986:A8). In Canada, privatization has so far been restricted to community corrections, but that has meant that most of the expansion of such services has come in nongovernmental form, through agencies of both the "not-for-profit" and, increasingly, the "for-profit" form (Griffiths and Verdun-Jones 1989:592-93). In Ontario, all community residential centres and agencies are privately run on contract with the government, as are two-thirds of the community service order programs (Ontario 1985:46). In the mid-eighties, the federal government also began to contract agencies run privately for profit to provide parole supervision and half-way houses (*Globe and Mail* December 9, 1986:A19).

When public services are privatized by right-wing governments under a free market ideology, they generally operate more in accordance with market principles, which means a deterioration in those services delivered primarily to poor people. Even when the government is the main consumer in privatized service, the quality is reduced, because the government is seeking to reduce costs (often in wages to skilled, unionized employees), and because the private service exists to make profit. But the prison is not just another social service; besides meeting the needs of its clientele, it must also control and discipline them. Thus, we should not be surprised to learn that in the context of prison, privatization can mean something quite different from what it means in the context of other social services; in fact, prison privatization means quite the opposite of neglect.

When a major privatization initiative in parole supervision was announced in 1986, the government reassured the public by promising that the reporting requirements for parolees had been *doubled* (*Globe and Mail* September 20, 1986:A11). So privatization in corrections does not entail a loosening of the grip on offenders; on the contrary, it gives the government "more bang for its buck" and thus becomes a form of expansion and intensification of penal discipline.

Privatization takes other forms. The rather sudden concern by the penal system for "the victim" can be seen in this light. Victims and their grievances are obviously not new; what is new is the attention paid to them by the penal system. Practically, this has meant making restitution an important part of punishment, usually as part of a probation order. In Ontario, restitution orders are included in 15 per cent of all probation orders, amounting to \$5 million worth for adult offenders and another half million dollars for young offenders in 1987 alone (Ontario 1987:12,16). Restitution orders seem to function both as an alternative to prison for respectable offenders with the ability to pay (Jackson 1982:23-24), and as a means of toughening up an otherwise non-incarcerative sentence, in either case placating actual and potential victims. Both the community service order and the restitution order appeared with the denunciatory rationale of punishment (Law Reform Commission of Canada 1974a, 1974b, 1975, 1976a), and were conceived as *punitive*, not therapeutic, devices. A greater role in sentencing is also being given to the victim through "victim-impact" statements (*Criminal Code*, section 735 (1.1) in force January 1, 1989) and mediation alternatives (Baskin 1988). As with community service orders and other community measures, it appears that the offenders sentenced to restitution are drawn primarily from offenders who would not have gone to prison in the first place. The authors of one study of a popular Ontario restitution/mediation program concluded:

On the whole VORP [Victim/Offender Reconciliation Program] has contributed little to sparing offenders imprisonment. Instead of avoiding problems created by the use of the prison system, another sentencing option has been implemented which pulls a different set of offenders deeper into the system of social control and inevitably increases cost (Dittenhoffer and Ericson 1983:346).

The net result of the restitution initiative is to leave the punishment increasingly to a negotiation between victim and offender. No less

than in the case of economic privatization, the private sphere is not an equal one; negotiation is inevitably influenced by the bargaining strength of the parties. The availability and onerousness of a restitution order depends on the financial status of the offender (*R. v Hudson* 1981; *R. v Sugg* 1986; *R. v Collard* 1987; *R. v Wilcox* 1988). The more the offender can pay, the more likely the offender will be able to buy off a more intrusive sentence. Furthermore, the more the offender can pay, the more likely it is that the victim can be persuaded to ask the court to make a restitution order instead of ordering a prison sentence (*R. v A.* 1974; *R. v Davies* 1988). If the offender cannot pay, then the offender works, either for the victim, or more often, under a community service order. The latest development combines restitution and community service through fines. Increasingly, offenders without money are given the choice of working off their fines instead of serving the time in prison (Ontario 1986:13; *R. v Hebb* 1989; *Globe and Mail* February 10, 1989:A11). These fines in turn are being earmarked for victim-assistance programs, as in the 1989 "victim-fine surcharge" amendment to the *Criminal Code* or the 1985 "fine-option" amendment (*Criminal Code*, ss. 718.1; 727.9). Of course, people who can afford their fines (which are still not set according to ability to pay) just pay them. This seems rather appropriate for our economic system: those without property must work while those with property need not bother.

We have been examining the "fiscal crisis" explanation of community measures. The problem with *purely* fiscal explanations of this phenomenon, however, is that it has not resulted in a diminution of traditional repressive measures; it is part of the expansion, not the contraction, of the state's repressive capacity. In other words, though community measures clearly cost less than prisons, when both are expanding, the explanation cannot be restricted to governments trying to save money (Chan and Ericson 1981).

In their important work on the origins of the penitentiary system, Melossi and Pavarini (1981) have also offered a plausible interpretation of the developments we have been examining. Their main point is to show how changing productive relations can account for the rise of the penitentiary as the specific form of social control in competitive capitalism; but they also argue that the radical changes which have since taken place in productive relations in the twentieth century can similarly account for the nature of modern social control. They point to the concentration, centralization and changing organic composition of capital, the rise of unions, state involvement in the economy and the disintegrating effect this has all had on the

once firm lines between public and private spheres. In late capitalism the market place becomes more and more the object of organization by business, union, and state:

The sphere of circulation and consumption were subjected to the direct rule of capital: decisions on prices, the organization of the market and at the same time of a consensus, all became part of one and the same thing. Not only were the traditional instruments of social control strengthened--those areas of "the sphere of production" outside the factory from capitalism's inception--but also new instruments were created. The new strategy was towards dispersion, towards the extension and pervasion of control. Individuals are no longer locked up; they are got at where they are normally locked up: outside the factory, in society as a whole. Propaganda, the mass media, a new and more efficient network of police and social assistance, these are the bearers of a new kind of social control (*Ibid* 1981:6).

More control of the marketplace is necessitated by ever more severe market dislocations, such as that of the Great Depression itself; inefficiency and unemployment abound and capital can no longer afford to follow its own logic. Rising unemployment even diminishes the need to prepare people for the factory; more and more what they have to be prepared for is idleness in the community. Community measures become part of this attempt to organize the community coercively when it can no longer be relied upon to regulate itself efficiently. This was, in fact, the express rationale of those who advocated an increased role for probation in the 1940s in Canada. Blaming rising prison populations on the breakdown of "proper home training during the past quarter century," the call went out for better funding, co-ordination and "legal authority" for the state's efforts to "step in and apply the necessary remedy where parents are failing in their duties" (Ontario 1943:6):

Parents who have failed are rather likely to fail again unless they are sufficiently strengthened and helped by probation officers and others who are capable. Very often that support and help are non-existent. In much of this province there are no regular probation officers, and where there are their time and energies are spread over too many cases (Ontario 1945:6-7).

Not for one moment was probation to be confused with leniency in punishment; it was *more* and not less intervention that was being called for:

Probation without proper supervision is dangerous. Too frequently it is worse. . . . Akin to the abuse of probation is the practice of suspending sentences without a proper follow-through. Generally there is no follow-through. Delinquents and criminals are well aware of that fact. The chance that they will be brought back and sentenced for breach of recognizance or the offence on which sentence is suspended is so small that they boldly ignore it and pursue their way (Ontario 1945:6-7).

Thus the ideology underpinning the rapid expansion of the Ontario probation system in the early 1950s was an explicitly *disciplinary* one. The increase in prison population was blamed on a lack of proper supervision *in situ*, which could only be solved by state intervention in the form of probation supervision. Probation was advocated as a kind of penal Keynesianism, a state intervention into a malfunctioning private sphere. It is thus no coincidence that the great post-war increases in the proportion of economic activity taking place through the state and the increase in public sector employment coincide with the dramatic increase in community measures. But, rather than one causing the other, they turn out both to be products of the same underlying contradiction, the increasing inability of an economy structured upon private profit to (a) reproduce itself without violence, and (b) meet our basic economic needs. Instead of the full development and use of the energy and talent of the entire population, improved standards of living, and decreasing inequality, we have precisely the opposite: ever higher levels of unemployment (Ostry and Zaidi 1979), a stagnating economy (Statistics Canada 1988:21-22, 28) and increasing inequality (Ross and Shillington 1989:34; CALURA 1988:28-29, 56; Davis 1987:36; *Globe and Mail* December 30, 1989:E11).

This leads to a much different assessment than the one offered by Foucault (1977), who saw "decarceration" as a purely technological movement detached from politics and bound to fix humanity in a seamless web of inescapable discipline. Instead of an invincible movement, decarceration becomes merely a strategy for holding on to an increasingly unstable social situation, a strategy which seems, furthermore, to be fraught with its own contradictions, such as escalating costs and the debasement of the coinage of punishment through overuse (Matthews 1979). The community measures

phenomenon can be seen as the late capitalist breakdown in the separation between public and private spheres as applied to the penitentiary system: an attempt to expand state discipline ever more deeply into the community as capitalism becomes ever less capable of "standing on its own two feet" and traditional penal measures and levels of punishment become ever less capable of holding things together.

NOTES

1. As adult and juvenile regimes become more alike, the justification for considering adult repression separately, as the present study does, diminishes; however, for most of Canada's history adults and children have been subjected to very different legal punishment regimes.

2. If we leave out the low year of 1969 to make the comparison more symmetrical, the difference is slightly less: 105.6 to 100.4.

3. If we assume that the relationship between adult imprisonment and juvenile imprisonment was more or less constant between 1930-34 and 1961-1965, an adult rate for 1930-1934 can be estimated by applying the known adult/total ratio of 1961-1965 to the figures for 1930-1934. This would give an adult rate of $(103.6/123.2 \times 117.3 = 98.6)$.

But was the relationship constant? There seems no statistical way of knowing this for sure. The relative use of training school as a disposition for those found delinquent was similar for the periods 1930-1934 (3464/38815 or 8.9 per cent) and 1961-65 (9771/87096 or 11.2 per cent), but not identical (Reed 1983:Z283-291). On the other hand, the per capita use of training school as a disposition was 6.6 per 100,000 in 1930-1934, while it was 10.3 in 1961-1965. Per capita use of a disposition is a far cry from institution population per capita, but these figures still suggest that a higher proportion of the later than of the earlier total institutional population involved training schools, which means that the assumption of constant ratios *underestimates* the severity of the repression of adults in the 1930s.

To attempt to correct for this, we can apply the 1930-1934/1961-1965 disposition ratio of 6.6/10.3 to the proportion of the population during the 1961-1965 period that we know constituted juvenile detention: $123.2 - 103.6 = 19.6$, or 15.9 per cent of the total institutional population for 1961-1965. At most training school seems to have been used 6.6/10.3 less in 1930-1934 than in 1961-1965, so the juvenile component of the 1930-1934 population can be reckoned at $6.6/10.3 \times 15.9$ per cent = 10.2 per cent. Therefore, to estimate the 1930-1934 adult population, the period's total population should be deflated by only 10.2 per cent = $.898 \times 117.3 = 105.3$ per 100,000 population. This is well below the average for the worst five-year period of the 1980s which was 111.3 per 100,000.

4. On the assumption of a constant ratio between adult and juvenile imprisonment: $126.1/125.9 \times 105.5 = 105.7$; on the more generous deflator outlined in the prior footnote: $126.1 \times .898 = 113.2$.

5. On the assumption of a constant ratio between adult and juvenile imprisonment: $99.7/118.7 \times 113/1 = 95.0$; deflated by the formula of endnote 3 (which works out to .897 in this case): $.897 \times 113.1 = 101.5$.

6. Imprisonment figures just released show a rise in the per capita adult prison population for the fiscal year 1988-1989; it had fallen slightly in 1987-1988. The rise, not adjusted for the effect of the Young Offenders Act, was 1.9 per cent for all institutions and 3.2 per cent for penitentiaries (Statistics Canada 1988-89).

7. A study recently reported in the press, but not yet available to me, claims that prisoner deaths are at an all-time historical high (*Globe and Mail* May 3, 1990:A8).

8. The reason for the difference between admission and daily population ratios is the fact that probation terms are generally so much longer than prison terms, meaning that fewer admissions result in higher average daily populations. The median prison sentence for provincial admissions (more than 90 per cent of all admissions) in 1984-1985 was 32 days, whereas the median probation term was 12 months (Statistics Canada 1984-1985:165,173).

9. McFarlane reports 244 probation officers in Ontario in 1965 with an adult probation population of 5225 (McFarlane 1966:90), while the 429 Ontario probation officers reported by Hatt for 1979 had to take care of at least 26,362 adult probationers (Hatt 1985:300; Appendix Table VII).

10. It is possible that the early 1960s surpassed the Depression, or at least equalled it, but lacking better figures on probation it is difficult to be sure.

11. Probation figures just released show a rise in the per capita adult probation population for the fiscal year 1988-1989; it had fallen slightly for the two prior years. The rise, not adjusted for the effect of the Young Offenders Act, was 1.1 per cent. However, a simultaneous fall in the parole population kept the total non-custodial supervised population at a constant per capita level (Statistics Canada 1988-1989).

12. There are parallel Canadian data on crime rates and social class area. It appears that the higher reported crime rates of lower social class areas are accounted for partly, but only partly, by higher rates of victimization. Another important contributing factor is the level of policing which, in effect, exaggerates the higher level of crime (Hagan, Gillis and Chan 1978).

REFERENCES

- Bala, N.
1988 "The Young Offenders Act: A Legal Framework." In Joe Hudson, Joseph P. Hornick and Barbara A. Burrows (eds.), *Justice and the Young Offender in Canada*. Toronto: Wall and Thompson.
- Baskin, D.
1988 "Community Mediation and the Public/Private Problem." *Social Justice* 15: 98.
- Beattie, J.M.
1986 *Crime and the Criminal Courts in England 1660-1800*. Princeton University Press.
- Blumstein, A.
1988 "Prison Populations: A System Out of Control?" In Michael Tonry and Norval Morris (eds.), *Crime and Justice: A Review of Research, Volume 10*.
- Bochel, D.
1976 *Probation and After-care, Its Development in England and Wales*. Edinburgh: Scottish Academic Press.
- Box, S.
1987 *Recession, Crime and Punishment*. Totowa, New Jersey: Barnes and Noble Books.
- Braithwaite, J.
1979 *Crime, Inequality and Public Policy*. London: Routledge and Kegan Paul.
- CALURA.
1988 *Annual Report of the Minister of Supply and Services Canada under the Corporations and Labour Unions Returns Act. Part I - Corporations 1986*.
- Canada
1938 *Report of the Royal Commission to Investigate the Penal System of Canada*. Ottawa: King's Printer.
1956 *Report of a Committee Appointed to Inquire Into the Principles and Procedures Followed in the Remission Service of the Department of Justice of Canada*. Ottawa: Queen's Printer.
1969 *Report of the Canadian Committee on Corrections. Toward Unity: Criminal Justice and Corrections*. Ottawa: Queen's Printer.
1977 *Third Report of the Sub-Committee on the Penal System in Canada, House of Commons Standing Committee on Justice and Legal Affairs*. Ottawa: Queen's Printer.
1978 *Diversion: A Canadian Concept and Practice. A Report of the First National Conference on Diversion October 23-26, 1977, Quebec City*. Ottawa: Solicitor General of Canada.
1979/80 *Annual Reports*. Ottawa: Employment and Immigration Canada.
to 1987/88
1982 *The Criminal Law in Canadian Society*. Ottawa: Government of Canada.
1983 *Sentencing Practices and Trends in Canada: A Summary of Statistical Information*. Ottawa: Department of Justice Canada.
1984 *Sentencing*. Ottawa: Government of Canada.
1987 *Sentencing Reform: A Canadian Approach. Report of The Canadian Sentencing Commission*. Ottawa: Minister of Supply and Services Canada.
1988 *Taking Responsibility. Report of the Standing Committee on Justice and Solicitor General on its Review of Sentencing, Conditional Release and Related Aspects of Corrections*. Ottawa: Minister of Supply and Services Canada.
- Canadian Bar Association
1988 "Imprisonment and Release." *Justice Report* 5, 4: 9.
- Caputo, T. and D.C. Bracken
1988 "Custodial Dispositions and The Young Offenders Act." In Joe Hudson, Joseph P. Hornick and Barbara A. Burrows (eds.), *Justice and the Young Offender in Canada*. Toronto: Wall and Thompson.
- Chambliss, William J.
1988 *Exploring Criminology*. New York: Macmillan Publishing Company.
- Chan, Janet B.L., and R.V. Ericson
1981 *Decarceration and the Economy of Penal Reform*. Toronto: University of Toronto Centre of Criminology.
- Chen, Mervin Y.T. and T.G. Regan
1985 *Work in the Changing Canadian Society*. Toronto: Butterworths.

- van Cleef, D.
1985 "Persons Working Long Hours." in Statistics Canada, *The Labour Force*, May.
- Clement, W.
1975 *The Canadian Corporate Elite: An Analysis of Economic Power*. Toronto: McClelland and Stewart.
- Collier, P. and R. Tarling
1987 "International Comparisons of Prison Populations." *Home Office Research and Planning Unit Research Bulletin* 23: 51.
- Conklin, J. E.
1989 *Criminology*. 3rd edition. New York: Macmillan Publishing Company.
- Corcoran, T.
1990 "The Big Sell-Off." *Globe and Mail Report on Business Magazine*, January 1990: 25.
- Correctional Service of Canada
1983 *Directory of Community-Based Residential Centres in Canada 1983-84*. Ottawa: Minister of Supply and Services Canada.
- Crow, I., P. Richardson, C. Riddington and F. Simon
1989 *Unemployment, Crime, and Offenders*. London: Routledge.
- Culhane, C.
1985 *Still Barred from Prison: Social Injustice in Canada*. Montreal: Black Rose Books.
- Davis, L.J.
1987 "The Next Panic: Fear and Trembling on Wall Street." *Harper's Magazine* 274: 35, (May).
- Dittenhoffer, T. and R.V. Ericson
1983 "The Victim/Offender Reconciliation Program: A message to correctional reformers." *University of Toronto Law Journal* 33: 315.
- Dominion Bureau of Statistics
1940 *The Canada Year Book 1940*. Ottawa: King's Printer.
1957-59 *Crime Statistics, 1962, 1965, 1968*. Ottawa: Queen's Printer to 1970
1962a *Correctional Statistics 1957-59; 1960-61; 1962; 1963; to 1964; 1964-65; 1965-66; 1966-67; 1967-68; 1968-69; 1969-70, 1969-70; 1970*.
1968 Ottawa: Queen's Printer.
- Ehrlich, I.
1973 "Participation in Illegitimate Activities: A Theoretical and Empirical Investigation." *Journal of Political Economy* 51: 521.
- Ekstedt, J.W. and C.T. Griffiths
1984 *Corrections in Canada: Policy and Practice*. Toronto: Butterworths.
- Foucault, M.
1977 *Discipline and Punish: The Birth of the Prison*. Alan Sheridan, trans. New York: Pantheon.
- Galbraith, J.K.
1987 "The 1929 Parallel." *The Atlantic Monthly* 62: 259 (Jan).
- Glasbeek, H.J.
1988 "The Corporate Social Responsibility Movement--The Latest in Maginot Lines to Save Capitalism." *Dalhousie Law Journal* 11: 363.
- Granatstein, J.L., I.M. Abella, D.J. Bercuson, R.C. Brown and B.J. Neatby
1986 *Twentieth Century Canada*. Second Edition. Toronto: McGraw-Hill Ryerson Limited.
- Greenberg, David F.
1977 "The Dynamics of Oscillatory Punishment Processes." *The Journal of Criminal Law and Criminology* 68: 643-51.
- Griffiths, C.T. and S. Verdun-Jones
1989 *Canadian Criminal Justice*. Toronto: Butterworths.
- Hagan, F.E.
1986 *Introduction to Criminology: Theories, Methods, and Criminal Behaviour*. Chicago: Nelson-Hall.
- Hagan, J., A.R. Gillis and J. Chan
1978 "Explaining Official Delinquency: A Spatial Study of Class, Conflict and Control." *The Sociological Quarterly* 19: 386.
- Hatt, K.
1985 "Probation and Community Corrections in a Neo-Correctional Era." *Canadian Journal of Criminology* 27: 299.
- Hay, D.
1975 "Property, Authority and the Criminal Law." In D. Hay, et al. (eds.), *Albion's Fatal Tree: Crime and Society in Eighteenth Century England*. London: Allen Lane.
- Hornick, J.P., B.A. Burrows, J. Hudson and H. Sapers
1988 "Summary and Future Directions." In Joe Hudson, Joseph P. Hornick and Barbara A. Burrows (eds.), *Justice and the Young Offender in Canada*. Toronto: Wall and Thompson.
- Hunter, Alfred A.
1981 *Class Tells: On Social Inequality in Canada*. Toronto: Butterworths.
- Jackson, M.A.
1982 *Judicial Attitudes Towards Sentencing Options*. Toronto: Ontario Ministry of Correctional Services.
- Jaffe P.
1985 "Young Offenders System Tougher than Adult Court." *Ontario Lawyers' Weekly* 7: 4.
- Kulig, P.
1990 "Lawyers Knock Report Suggesting Counsel to Blame for Increase in YOA Custody Rate." *Law Times*, April 9-15: 8.
- Landerville, P., M. Hamelin and S. Gagnier
1988 *Opinions of Quebec Inmates Regarding Questions Raised by the Mandate of the Canadian Sentencing Commission*. Ottawa: Department of Justice Canada. Research Reports of the Canadian Sentencing Commission.
- Law Reform Commission of Canada
1974a *Working Paper No. 3: the principles of sentencing and dispositions*. Ottawa: Information Canada.
1974b *Working Papers 5 and 6: restitution and compensation; fines*. Ottawa: Information Canada.
1975 *Working Paper 7: Diversion*. Ottawa: Information Canada.
1976a *Community Participation in Sentencing*. Ottawa: Information Canada.
1976b *Report: Our Criminal Law*. Ottawa: Information Canada.
- Leacy, F.H., ed.
1983 *Historical Statistics of Canada*. 2nd ed. Ottawa: Minister of Supply and Services Canada.
- Leschied, A.W. and P.G. Jaffe
1988 "Implementing the Young Offenders Act in Ontario: Critical Issues and Challenges for the Future." In Joe Hudson, Joseph P. Hornick

- and Barbara A. Burrows (eds.), *Justice and the Young Offender in Canada*. Toronto: Wall and Thompson.
- Lynch, J.P.
1988 "A Comparison of Prison Use in England, Canada, West Germany and the United States: A Limited Test of the Punitive Hypothesis." *The Journal of Criminal Law and Criminology* 79: 180.
- Madden P.G. and C.A. Carey
1982 *Bail Verification and Supervision in Ontario*. Toronto: Ontario Ministry of Correctional Services.
- Madden P.G. and S. Hermann
1983 *The Utilization of Community Resource Centres*. Toronto: Ontario Ministry of Correctional Services.
- Mandel, M.
1975 "Rethinking Parole." *Osgoode Hall Law Journal* 13: 501.
1983 "McDonald and the R.C.M.P." In *The Canadian Broadcasting Corporation Ideas: Law and Social Order*. Toronto: CBC Transcripts. Part I: 1.
1984 "Democracy, Class and Canadian Sentencing Law." *Crime and Social Justice* 21-23: 163, also In Stephen Brickey and Elizabeth Comack (eds.), *The Social Basis of Law in Canada: Critical Readings in the Sociology of Law*. Toronto: Garamond Press, 1986.
1985 "Democracy, Class and the National Parole Board." *Criminal Law Quarterly* 27: 159.
1986 "The Legalization of Prison Discipline in Canada." *Crime and Social Justice* 26: 79.
1987 "Relative Autonomy' and the Criminal Justice Apparatus." In R.S. Ratner and John L. McMullan (eds.), *State Control: Criminal Justice Politics in Canada*. Vancouver: University of British Columbia Press.
1989 *The Charter of Rights and the Legalization of Politics in Canada*. Toronto: Wall and Thompson.
- Marx, K.
1853 "Capital Punishment." In Maureen Cain and Alan Hunt (eds.), *Marx and Engels on Law*. London: Academic Press.
- Mason, B.
1988 "Implementing the Young Offenders Act: An Alberta Perspective." In Joe Hudson, Joseph P. Hornick and Barbara A. Burrows (eds.), *Justice and the Young offender in Canada*. Toronto: Wall and Thompson.
- Matthews, R.
1979 "'Decarceration' and the fiscal crisis." In Bob Fine et al. (eds.), *Capitalism and the Rule of Law: From Deviancy Theory to Marxism*. London: Hutchinson & Co.
- McFarlane, G.G.
1966 *The Development of Probation Services in Ontario*. Toronto: Queen's Printer.
- Melossi, D. and M. Pavarini.
1981 *The Prison and the Factory: Origins of the Penitentiary System*. G. Cousin, trans. London: The Macmillan Press Ltd.
- Moitra, S.D.
1987 *Crimes and Punishments: A Comparative Study of Temporal Variations*. Freiburg i. Br.: Max Planck Institute for Foreign and International Penal Law.
- Nettler, G.
1982 *Killing One Another*. Cincinnati: Anderson Publishing Company.
- Niosi, J.
1985 "Continental Nationalism: The Strategy of the Canadian Bourgeoisie." In Robert J. Brym (ed.), *The Structure of the Canadian Capitalist Class*. Toronto: Garamond Press.
- Ontario
1891 *Report of the Commissioners Appointed to Inquire into the Prison and Reformatory System of Ontario*. Toronto: Legislative Assembly of Ontario.
1941-45 *Annual Reports 1941, 1942, 1943, 1945*. Department of Reform Institutions of Ontario.
1968-70 *Annual Report of the Minister 1968, 1969, 1970*. Department of Correctional Services of Ontario.
1981-88 *Annual Reports of the Minister 1981-1988*. Ministry of Correctional Services.
1987 *Corrections in Ontario: Everyone's Business*. Toronto: Ontario Ministry of Correctional Services.
- Osberg, L.
1981 *Economic Inequality in Canada*. Toronto: Butterworths.
- Ostry, S. and M.A. Zaidi
1979 *Labour Economics in Canada*. Third Edition. Toronto: Macmillan of Canada.
- Pate, K.J. and D.E. Peachey
1988 "Face-to-Face: Victim-Offender Mediation under the Young Offenders Act." In Joe Hudson, Joseph P. Hornick and Barbara A. Burrows (eds.), *Justice and the Young Offender in Canada*. Toronto: Wall and Thompson.
- Pease, K.
1980 "Community Service Orders." In *International Conference on Alternatives to Imprisonment Report* Solicitor General of Canada, (Workshop 6: 41). Ottawa: Minister of Supply and Services Canada.
- Polonski, M.L.
1981 *The Community Service Order Programme in Ontario. 4. Summary*. Toronto: Ontario Ministry of Correctional Services.
- Powell, C.M.
1976 *Arrest and Bail in Canada*. 2nd ed. Toronto: Butterworths.
- Reed, P.
1983 "Section Z: Justice." In F. H. Leacy (ed.), *Historical Statistics of Canada*, 2nd ed. Ottawa: Minister of Supply and Services Canada.
- Rinehart, J.W.
1987 *The Tyranny of Work: Alienation and the Labour Process*. 2nd ed. Toronto: Harcourt Brace Jovanovich.
- Roberts, B.A.
1988 *Whence They Came: Deportation from Canada 1900-1935*. Ottawa: University of Ottawa Press.
- Roberts, J.
1988 "Early Release From Prison: What Do the Canadian Public Really Think?" *Canadian Journal of Criminology* 30: 231.
- Ross, D.P.
1980 *The Canadian Fact Book on Income Distribution*. Ottawa: The Canadian Council on Social Development.

- Ross, D. P. and E. R. Shillington
1989 *The Canadian Fact Book on Poverty-1989*. Ottawa: The Canadian Council on Social Development.
- Rusche G. and O. Kirchheimer
1938 *Punishment and Social Structure*. New York: Russell and Russell.
- Santos, B.
1980 "Law and Community: The Changing Nature of State Power in Late Capitalism." *International Journal of the Sociology of Law* 8: 379-397.
- Schwendinger, J. and H. Schwendinger
1981 "Rape, Sexual Inequality and Levels of Violence." *Crime and Social Justice* Winter: 3.
- Scull, A.T.
1977 *Decarceration: community treatment and the deviant: a radical view*. Englewood Cliffs, N.J.: Prentice-Hall.
1984 *Decarceration: community treatment and the deviant: a radical view*. 2nd ed. New Brunswick, N.J.: Rutgers University Press.
- Sheridan A.K.B., and J. Komrad
1976 "Probation." In W. T. McGrath (ed.), *Crime and Its Treatment in Canada*, 2nd edition. Toronto: Macmillan.
- Siegel, L.J.
1989 *Criminology*, 3rd edition. St. Paul, Minnesota: West Publishing Company.
- Solicitor General of Canada
1979 *National Inventory of Diversion Projects*. Ottawa: Solicitor General of Canada.
1980 *International Conference on Alternatives to Imprisonment Report*. Ottawa: Minister of Supply and Services Canada.
1981-85 *Annual Reports 1981-82, 1982-83, 1983-84, 1984-85*. Ottawa: Minister of Supply and Services Canada.
& 1984-85
1983 "Victims of Crime." *Canadian Urban Victimization Survey*, Bulletin No. 1.
1984 *Long Term Imprisonment in Canada. Working Paper No. 1: An Overview of the Long Term Prisoner Population and Suggested Directions for Further Research*. Ottawa: Ministry of the Solicitor General of Canada.
1985 *Ministry Facts*. Ottawa: Minister of Supply and Services Canada.
1987 "Patterns in Violent Crime." *Canadian Urban Victimization Survey*, Bulletin No. 8.
1988 "Patterns in Property Crime." *Canadian Urban Victimization Survey*, Bulletin No. 9.
- Statistics Canada (listed by title date, not publication date)
1971a *Correctional Institutions Statistics 1971; 1972; 1973; 1974; 1976; 1977; 1978; 1979*. Ottawa: Information Canada (1974-75); no publisher (1976, 1979); Minister 1974 of Supply and Services Canada (1979-81).
1971b *Crime Statistics*. Ottawa: Information Canada (1973).
1971c *Traffic Enforcement Statistics*. Ottawa: Information Canada (1973).
1973b *Statistics of Criminal and Other Offences 1973*. Ottawa: no publisher (1978).
1975a, & 1980 *Crime and Traffic Enforcement Statistics*. Ottawa: Information Canada (1977); Minister of Supply and Services Canada (1982).
1975b *Penitentiary Statistics 1975*. Ottawa: no publisher (1978)
- 1980-86 *Vital Statistics, Part IV: Causes of Death*. Ottawa, Minister of Supply and Services Canada.
- 1980-88 *Adult Correctional Services in Canada 1980-81; 1981-82; 1982-83. 1983-84; 1984-85; 1985-86; 1986-87; 1987-88*. *Canadian Centre for Justice Statistics*. Ottawa: Minister of Supply and Services Canada (1982, 1983, 1984, 1986, 1986, 1987, 1988).
1983a *Canadian Crime Statistics 1983-1987*. Ottawa: Minister of Supply and Services Canada (1985, 1985, 1986).
1984
1985a
1983b *Homicide Statistics 1983*. Ottawa: Minister of Supply and Services Canada (1984).
1985b *Historical Labour Force Statistics-Actual Data, Seasonal Factors, Seasonably Adjusted Data, 1985*. Household Surveys Division. Ottawa: Minister of Supply and Services Canada (1986), 205, 228.
1986 *A Description of Bail: Verification and Bail Supervision Programs in Western Canada*.
1986a *Criminal Injuries Compensation 1986*. Canadian Centre for Justice Statistics. Ottawa: Minister of Supply and Services Canada.
1986b *Juristat Service Bulletin*. Vol. 6, No. 1.
1986c *Policing in Canada 1986*. Ottawa: Minister of Supply and Services Canada.
1986d *A One-Day Snapshot Profile of all Persons in Provincial Adult Correctional Institutions*. Ottawa: Canadian Centre for Justice Statistics. May, 1986.
1987 *Income after tax, distributions by size in Canada 1987*. Household Surveys Division. Ottawa: Minister of Supply and Services Canada, 1989.
1987a *Homicide in Canada 1987: A Statistical Perspective*. Ottawa: Minister of Supply and Services Canada.
1988 *Income Distributions by size in Canada 1988*. Household Surveys Division. Ottawa: Minister of Supply and Services Canada.
1989a *Income Distributions by Size in Canada 1988*. Household Surveys Division. Ottawa: Minister of Supply and Services Canada.
1989b *Labour Force Annual Averages 1981-1988*. Household Surveys Division. Ottawa: Minister of Supply and Services Canada.
- Taylor, I.
1985 "Criminology, the Unemployment Crisis, and the Liberal Tradition in Canada. The Need for Socialist Analysis and Policy." In Thomas Fleming (ed.), *The New Criminologies in Canada: State, Crime and Control*. Toronto: Oxford University Press.
- Tepperman, L.
1977 *Crime Control: The Urge Toward Authority*. Toronto: McGraw-Hill Ryerson.
- Thomas, M.
1987 "Why This Is 1929 All Over Again." *The Nation* 244: 641 (May 16).
- Thompson, J. H. with A. Seager
1985 *Canada 1922-1939: Decades of Discord*. Toronto: McClelland and Stewart.
- Tonry, M.H.
1987 *Sentencing Reform Impacts*. Washington: U.S. Department of Justice National Institute of Justice.
- Urquhart M.C. and K.A.H. Buckley, eds.
1965 *Historical Statistics of Canada*. Cambridge: University Press.

West, W.G.
 1984 *Young Offenders and the Canadian State: A Canadian Perspective on Delinquency*. Toronto: Butterworths

Wilson, D.G.
 1989 "The Impact of Federal Sentencing Guidelines on Community Corrections and Privatization." In Dean J. Champion (ed.), *The U.S. Sentencing Guidelines: Implications for Criminal Justice*. New York: Praeger.

Yeager, M.
 1979 "Research Note: Unemployment and Imprisonment." *The Journal of Criminal Law and Criminology* 70, 586-88.

Zay, N.
 1965 "Section Y: Justice." In M.C. Urquhart and K.A.H. Buckley (eds.), *Historical Statistics of Canada*. Cambridge: University Press.

STATUTES

An Act for the More speedy Trial and Punishment of Juvenile Offenders 20 Victoria, c. 29 (1857)

An Act to Permit the Conditional Release of First Offenders in Certain Cases S.C. 1889 c. 44

The *Bail Reform Act 1972*, R.S.C. 1970 (2nd Supp.), c.2

The *Criminal Code* R.S.C. 1970, c. C-34

The *Criminal Records Act* R.S.C. 1970, c. 12 (1st Supp.)

The *Juvenile Delinquents Act*, R.S.C. 1970, Chap. J-3 (originally, 7-8 Edward VII, c. 40, 1908)

The *Narcotic Control Act* R.S.C. 1970, c. N-1

The *Opium and Narcotic Drug Act*, S.C. 1929, c. 49

The *Parole Act*, R.S.C. 1970, c. P-2

The *Young Offenders Act*, R.S.C. 1985, c. Y-1

CASES

R. v A (1974), 26 C.C.C. (2d) 474 (Ontario High Court of Justice)

R. v Collard (1987), 39 C.C.C. (3d) 471 (Manitoba Court of Appeal)

R. v Davies (1988), 26 O.A.C. 382 (Ontario Court of Appeal)

R. v Degan (1985), 20 C.C.C. (3d) 293 (Saskatchewan Court of Appeal)

R. v Drew (1978), 45 C.C.C. (2d) 212 (British Columbia Court of Appeal)

R. v Hebb (1989), 47 C.C.C. (3d) 193 (Nova Scotia Supreme Court)

R. v Hudson (1981), 65 C.C.C. (2d) 171 (Ontario Court of Appeal)

R. v Jones (1975), 25 C.C.C. (2d) 256 (Ontario County Court)

R. v Kergan (1985), 21 C.C.C. (3d) 549 (Alberta Court of Appeal)

R. v Malboeuf (1982), 68 C.C.C. (2d) 544 (Saskatchewan Court of Appeal)

R. v Richards (1979), 11 C.R. (3d) 193 (Ontario Court of Appeal)

R. v Sidley (Le Roy versus Sr. Charles Sidley) (1675), 82 E.R. 1036

R. v Sugg (1986), 28 C.C.C. (3d) 569 (Nova Scotia Supreme Court, Appeal Division)

R. v Wilcox (1988), 43 C.C.C. (3d) 432 (Northwest Territories Supreme Court)

A P P E N D I X

Figure 1

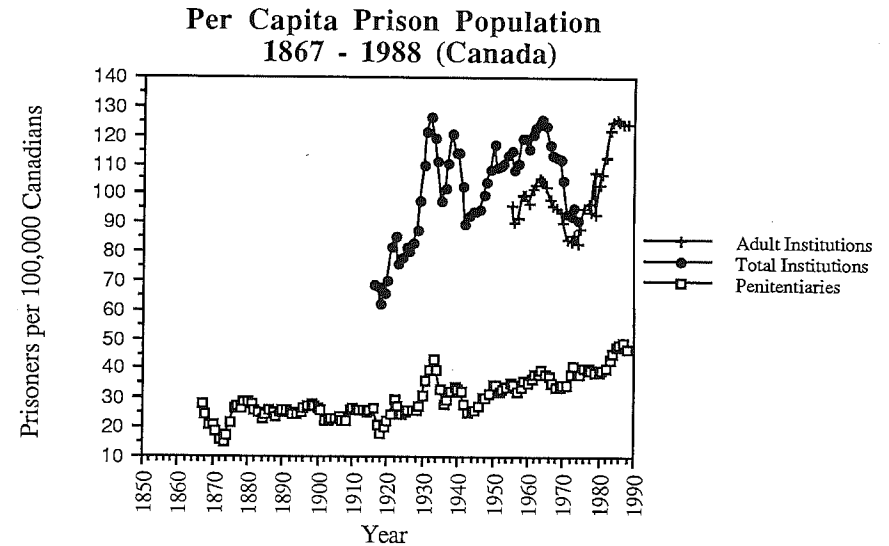
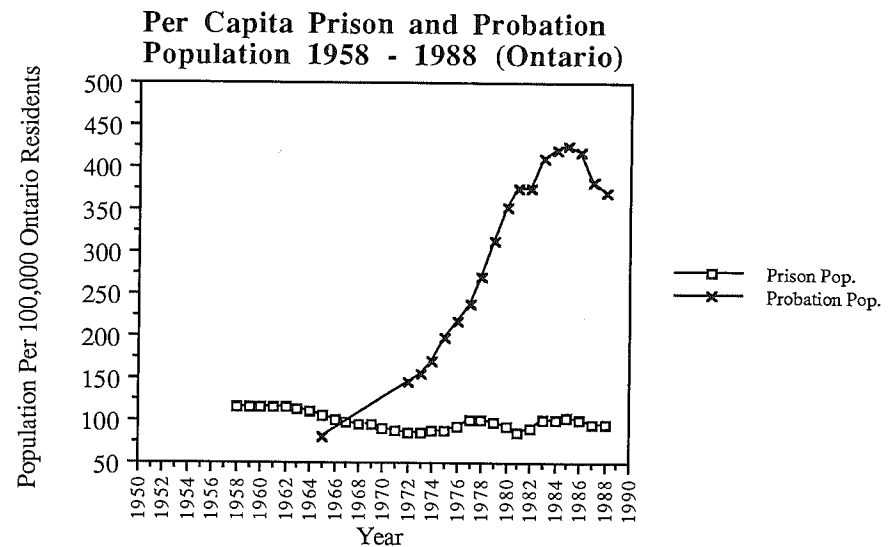


Figure 2



I - ADULT INSTITUTION POPULATION 1955-1988

	Daily Adult Institution Population Population On register (Actual count)	Rate per 100,000 Canadian	Actual Count Adjusted for YOA Effect*
1988	31,750(e) (26,634)	123.9 (103.9)	(28,873e) (112.7)
1987	31,378(e) (26,893)	124.0 (106.2)	(28,864e) (114.0)
1986	31,647(e) (27,392)	124.8 (108.0)	(28,277e) (111.5)
1985	31,540(e) (27,634)	125.5 (110.0)	
1984	30,992(e) (26,980)	124.5 (108.4)	
1983	30,044(e) (26,924)	122.0 (109.3)	
1982	27,484(e) (24,064)	112.9 (98.9)	
1981	25,678(e) (22,502)	106.8 (93.6)	
1980	24,539(e) (21,936)	103.3 (92.4)	
1979a	25,201(e) (21,956e)	107.2 (93.4)	
1979b	22,076	92.9	
1978	22,034	93.7	
1977	22,337	96.4	
1976	21,821	94.9	
1975	20,009	88.2	
1974	18,484	82.7	
1973	18,913	85.8	
1972	18,259	83.7	
1971	18,165	84.2	
1970	19,218	90.2	
1969	19,655	93.6	
1968	19,712	95.2	
1967	19,506	95.7	
1966	19,695	98.4	
1965	20,141	102.5	
1964	20,210	104.8	
1963	19,974	105.5	
1962	19,222	103.4	
1961	18,559	101.8	
1960	17,240	96.5	
1959	17,461	99.9	
1958	16,962	99.3	
1957	15,171	91.3	
1956	14,503	90.2	
1955	15,053	95.9	

Sources: Statistics Canada, 1979, 1982-1983, 1983-1984, 1984-1985, 1985-1986, 1986-1987, 1987-1988; Reed, 1983:Z292-304; Chan and Ericson, 1981:77.

"On register" includes prisoners temporarily out of the institution, whereas "actual custody" does not. The on-register figures are estimates based on figures for the federal government and all provinces excluding: B.C. for the whole period, NWT for the whole period except 1982, Ontario for 1979a-1985 and the Yukon for 1988. It includes day paroles (69 per cent of those on register but not in custody in the federal system for 1987-88: Statistics Canada, 1987-1988:91), unlawfully at large (12 per cent), in hospital (5 per cent), at court (7 per cent), out on bail (2 per cent), temporary absence (1 per cent) and unspecified (4 per cent). Figures in the table prior to 1979 are from a different series of publications which purport to be based on the same principle, viz. "on register" whether or not in actual custody, but notice the similarity between "actual count" of 1979a (new series) and "on register" of 1979b (old series). On the other hand, the same does not hold for penitentiary statistics where there is a divergence between the on-register population of the old series and the actual count of the new (see Table III).

e Both sets of figures for 1979a-1988 are average daily or less frequent count for the fiscal year ending March 31st of the year named. In 1972-1979b the prison population is as of December 31st of the year named. For 1971 it is December 31st for federal and Quebec institutions and March 31st for all other provincial institutions. For 1955-1970 it is March 31st. The Canadian population bases for the rates are as of June 1st of year named 1955-1979b and as June 1st of the year before the year named 1979a-1988.

The "YOA effect" is the effect on the prison population of changing (as of April 1, 1985) the age of adulthood so far as the penal system is concerned: 16 and 17 year olds, who were classified as adults before that date, now became young offenders. An adjustment has been made to correct for the fact that 16 and 17 year olds are still being imprisoned, but under a different label. The adjustment is not a projection; it is based on the number of 16 and 17 year olds actually imprisoned during the years mentioned. The difference is that they are now imprisoned under the authority of the Young Offenders Act. On the other hand the figures are only estimates based on data pertaining to the Ontario system only. These figures have undergone complicated calculations in order to derive a national figure. One perhaps controversial move is to treat "open custody" as part of the institutional population. There are good legal and practical grounds for doing this, though the differences are not great. If open custody had been treated as non-institutional, the figures for 1986-88 would have been: 1988:28,009 (109.3); 1987:28,168 (111.3); 1986:28,277 (110.9).

II - TOTAL INSTITUTIONAL POPULATION 1916-1974

Daily Population of All Penal Institutions Including Training Schools		Rate per 100,000 Canadian Population	Daily Population of All Penal Institutions Including Training Schools		Rate per 100,000 Canadian Population
1974	20,407	91.2	1944	11,212	93.9
1973	0,966	95.1	1943	10,862	92.1
1972	20,136	92.4	1942	10,451	89.7
1971	20,124	93.3	1941	11,763	102.2
1970	22,329	104.8	1940	12,951	113.8
1969	23,448	111.7	1939	12,874	114.3
1968	23,368	112.9	1938	13,348	120.5
1967	23,111	113.4	1937	12,208	110.5
1966	23,455	117.2	1936	11,154	101.9
1965	24,179	123.1	1935	10,550	97.3
1964	24,288	125.9	1934	11,899	110.8
1963	23,512	124.2	1933	12,657	119.0
1962	22,747	122.4	1932	13,255	126.1
1961	21,960	120.4	1931	12,549	120.9
1960	20,628	115.4	1930	11,223	109.9
1959	20,790	118.9	1929	9,796	97.7
1958	20,382	119.3	1928	8,561	87.0
1957	18,301	110.2	1927	7,964	82.6
1956	17,352	107.9	1926	7,593	80.3
1955	18,048	115.0	1925	7,543	81.2
1954	17,369	113.6	1924	7,126	77.9
1953	16,383	110.4	1923	6,849	76.0
1952	15,846	109.6	1922	7,601	85.2
1951	15,295	109.2	1921	7,191	81.8
1950	16,012	116.8	1920	6,004	70.2
1949	14,573	108.4	1919	5,442	65.5
1948	13,454	104.0	1918	5,026	61.7
1947	12,481	99.4	1917	5,468	67.8
1946	11,651	94.8	1916	5,459	68.2
1945	11,334	93.9			

Sources: Reed, 1983:Z198-208; Z292-304; A1-14.

Figures are for the last day of the fiscal year: for 1916-1948 this is September 30th, excepting Ontario (March 31st), Nova Scotia (November 30th) and Quebec (December 31st); for 1949-1970 it is March 31st except for Quebec (December 31st); for 1971 it is March 31st excepting training schools, federal penitentiaries and Quebec (all December 31st); for 1972-1974 it is December 31st with no exceptions.

III - PENITENTIARY POPULATION 1867-1988

Daily Penitentiary Population		Rate per 100,000 Canadian Population	Daily Penitentiary Population		Rate per 100,000 Canadian Population
On register (Actual Count)			On register		
1988	11,969 (10,557)	46.7 (41.2)	1941	3,688	32.1
1987	12,318 (11,106)	48.7 (43.9)	1940	3,772	33.1
1986	12,281 (11,214)	48.4 (44.2)	1939	3,803	33.8
1985	11,872 (10,857)	47.2 (43.2)	1938	3,580	32.1
1984	11,359 (10,438)	45.6 (41.9)	1937	3,264	29.6
1983	10,638 (9,775)	43.2 (39.7)	1936	3,098	28.3
1982	9,765 (8,938)	40.1 (36.7)	1935	3,586	33.1
1981	9,452 (8,651)	39.3 (36.0)	1934	4,220	39.3
1980	9,305 (8,465)	39.2 (35.6)	1933	4,587	43.1
1979a	9,219 (8,370)	39.2 (35.6)	1932	4,164	39.6
1979b	9,290	39.1	1931	3,714	35.8
1978	9,309	39.6	1930	3,187	31.2
1977	9,335	40.1	1929	2,769	27.6
1976	9,285	40.4	1928	2,560	26.0
1975	8,700	38.3	1927	2,480	25.7
1974	8,499	38.0	1926	2,474	26.2
1973	9,111	41.3	1925	2,345	25.2
1972	8,253	37.9	1924	2,225	24.3
1971	7,483	34.7	1923	2,486	27.6
1970	7,337	34.5	1922	2,640	29.6
1969	7,117	33.9	1921	2,150	24.5
1968	7,026	33.9	1920	1,931	22.6
1967	7,167	35.1	1919	1,689	20.3
1966	7,438	37.2	1918	1,468	18.0
1965	7,514	38.2	1917	1,694	21.0
1964	7,651	39.7	1916	2,118	26.5
1963	7,219	38.1	1915	2,064	25.9
1962	7,156	38.5	1914	2,003	25.4
1961	6,738	36.9	1913	1,970	25.8
1960	6,344	35.5	1912	1,895	25.6
1959	6,295	36.0	1911	1,865	25.9
1958	5,770	33.8	1910	1,859	26.6
1957	5,432	32.7	1909	1,765	26.0
1956	5,508	34.3	1908	1,476	22.3
1955	5,507	35.1	1907	1,423	22.2
1954	5,120	33.5	1906	1,439	23.6
1953	4,934	33.2	1905	1,367	22.8
1952	4,686	32.4	1904	1,328	22.8
1951	4,817	34.4	1903	1,250	22.1
1950	4,740	34.6	1902	1,214	22.1
1949	4,260	31.7	1901	1,382	25.7
1948	3,851	30.0	1900	1,424	26.9
1947	3,752	29.9	1899	1,445	27.6
1946	3,362	27.4	1898	1,446	27.9
1945	3,129	25.9	1897	1,383	27.0
1944	3,078	25.8	1896	1,361	26.8
1943	2,969	25.2	1895	1,277	25.4
1942	3,232	27.7	1894	1,223	24.6

Appendix III continued

Appendix III continued					
Daily Penitentiary Population	Rate per 100,000 Canadian Population		Daily Penitentiary Population	Rate per 100,000 Canadian Population	
On register (Actual Count)			On register		
1893	1,194	24.2	1879	1,200	28.7
1892	1,228	25.1	1878	1,110	26.9
1891	1,249	25.8	1877	1,108	27.3
1890	1,251	26.2	1876	1,069	26.7
1889	1,195	25.3	1875	848	21.4
1888	1,094	23.4	1874	679	17.4
1887	1,159	25.1	1873	567	14.8
1886	1,200	26.2	1872	605	16.1
1885	1,112	24.5	1871	692	18.8
1884	1,039	23.2	1870	756	20.9
1883	1,113	25.1	1869	745	20.9
1882	1,127	25.8	1868	861	24.5
1881	1,218	28.2	1867	972	28.1
1880	1,213	28.5			

Sources: Statistics Canada, 1979, 1982-83, 1983-84, 1984-85, 1985-86, 1986-87, 1987-88; Reed, 1983: Z173-174; A1-14; Z-292-304.

The 1980-88 figures are average daily counts for the fiscal year ending March 31st of the year named; they are in all respects like the figures in Table I; the 1979a figures are estimates derived from a census figure reduced by the proportion of average population to census given in the 1982-83 report for the year 1980 for which we have both figures (Actual Count: $8465/8627 \times 8530 = 8370$; On Register: $9305/9519 \times 9431 = 9219$); the 1960-1979b figures are a single census taken on December 31st; the 1906-1959 figures are as of March 31st; 1877-1905 figures are as of June 30th; 1867-1876 figures are as of December 31st. Canadian population bases for the rates are as of April 1st from 1867-1901 and as of June 1st from 1902-1987.

IV - EXECUTION STATISTICS

	Number of Executions	Per Death Sentences	Per Murder Charges	Per Homicides
1879-80	11	.579(19)	.180(61)	---
1881-85	30	.508(59)	.216(139)	---
1886-90	23	.535(43)	.198(116)	---
1891-95	14	.412(34)	.135(104)	---
1896-1900	26	.591(44)	.234(111)	---
1901-05	29	.580(50)	.206(141)	---
1906-10	42	.656(64)	.204(206)	---
1911-15	51	.405(126)	.166(308)	---
1916-20	47	.420(112)	.162(290)	---
1921-25	49	.538(91)	.166(295)	---
1926-30	46	.523(88)	.190(242)	.058(796)
1931-35	83	.783(106)	.359(231)	.108(772)
1936-40	42	.477(88)	.205(205)	.062(674)
1941-45	34	.523(65)	.198(172)	.054(626)
1946-50	62	.544(114)	.232(267)	.085(731)
1951-55	41	.554(74)	.198(207)	.056(735)
1956-60	10	.159(63)	.053(190)	.019(945)
Average (excluding 1956-8)		.539	.203	.071

Source: Zay, 1965:649 (Y61-67); Reed, 1983: Z21.

V - DEPORTATION AND IMPRISONMENT 1929/1939-1980/1988

Year	Deportation		Prison	Total of Deportation and Prison
	Number	Rate per 100,000 Population	Average Daily Population per 100,000 Population	
(All institutions)				
1929	1,964	19.6	97.7	
1930	3,963	38.8	109.9	
1931	6,583	63.4	120.9	
1932	7,647	72.8	126.1	
1933	5,138	48.3	119.0	
1934	1,701	15.8	110.8	
1935	675	6.2	97.3	
1936	605	5.5	101.9	
1937	421	3.8	110.5	
1938	439	3.9	120.5	
1939	413	3.7	114.3	
(Adult Institutions)				
1979-80	5,107	21.5	92.4	
1980-81	5,376	22.4	93.6	
1981-82	5,191	21.3	98.9	
1982-83	5,197	21.1	109.3	
1983-84	5,099	20.6	108.4	
1984-85	3,950	15.8	110.0	
1985-86	2,467	9.8	111.5	
1986-87	2,446	9.6	114.0	
1987-88	2,809	11.0	112.7	
Average	1930-39	26.2	95.1*	121.3*
		26.2	101.6**	127.8**
	1930-34	47.8	98.6*	146.4*
		47.8	105.3**	153.1**
	1932	72.8	105.9*	178.7*
		72.8	113.2**	186.0**
Average	1980-88	17	105.6	122.7
	1984-88	13.4	111.3	124.7
	1983			130.4

The figures with asterisks have been adjusted to make them comparable with figures for adult institutions only as per footnote 3 in the text

* denotes deflator of 99.7/118.7

** denotes deflator of .898.

Sources: Roberts, 1988:38; Dominion Bureau of Statistics, 1940:160; Employment and Immigration Canada, Annual Reports 1979/80-1987/88.

VI - ADULT PRISON AND PROBATION ADMISSIONS IN ONTARIO 1965-1988

	Annual Admissions				Adjusted for YOA Effect			
	Prison	Probation	(Rate)	Ratio	Prison	Probation	(Rate)	Ratio
1987-88	66,170	24,168	(261)	2.7:1	72,093	30,266	(326)	2.4:1
1986-87	64,311	23,237	(255)	2.8:1	69,719	29,296	(322)	2.4:1
1985-86	64,466	24,555	(271)	2.6:1	68,166	28,999	(320)	2.4:1
1984-85	67,785	30,053	(336)	2.3:1				
1983-84	68,138	28,997	(329)	2.3:1				
1982-83	71,090	29,500	(338)	2.4:1				
1981-82	65,576	31,665	(367)	2.1:1				
1980-81	65,776	31,107	(361)	2.1:1				
1979-80	60,701	29,775	(350)	2.0:1				
1978-79	61,834	27,822	(329)	2.2:1				
1977-78	59,072	21,413	(256)	2.8:1				
1976-77	59,362	18,851	(228)	3.1:1				
1975-76	54,791	19,323	(235)	2.8:1				
1974-75	54,721	17,386	(215)	3.1:1				
1973-74	56,072	13,691	(172)	4.1:1				
1972-73	56,754	11,225	(143)	5.1:1				
1971-72	65,664	10,270	(133)	6.4:1				
1970-71	76,284							
1969-70	66,595							
1968-69	62,097							
1967-68	61,120							
1966-67	61,343							
1965-66	58,230	6,547	(97)	8.9:1				
1964-65	58,431							

Sources: Ontario, 1967, 1968, 1969, 1970, 1981, 1982, 1983, 1984, 1985; Statistics Canada, 1976, 1977, 1978, 1979, 1982-1983 through 1987-1988; McFarlane, 1966:89 (for 1965); Reed, 1983:Z175-197.

All admissions save probation admissions for 1965-1966 are for the fiscal year ending March 31st. Probation admissions for 1965-66 are for the calendar year 1965. The Canadian population bases for the rates are as of June 1st of the fiscal year comprehended by the admissions.

The YOA effect is calculated as in Table I, with "open custody" treated as imprisonment. Had it not been so treated, the differences would again be small, with the ratios for 1986-1988 each being 2.3:1 instead of 2.4:1.

VII - AVERAGE DAILY ADULT PRISON AND PROBATION POPULATION - ONTARIO 1957-1988

	Prison (Rate)	Probation (Rate)	Ratio	Adjusted for YOA		
1987-88	8,701(94)	34,493(371)	1:4.0	9809(106)	40853(e)(441)	1:4.2
1986-87	8,610(95)	34,868(383)	1:4.0	9575(105)	41,187(453)	1:4.3
1985-86	8,927(99)	37,771(417)	1:4.2	9372(103)	39,915(441)	1:4.3
1984-85	9,090(102)	37,974(425)	1:4.2			
83-84	8,741(99)	36,902(419)	1:4.2			
82-83	8,739(100)	35,666(409)	1:4.1			
81-82	7,864(91)	2,406(376)	1:4.1			
80-81	7,334(86)	32,011(374)	1:4.4			
79-80	7,779(92)	29,941(352)	1:3.8			
78-79	8,236(98)	26,362(312)	1:3.2			
77-78	8,437(101)	22,631(271)	1:2.7			
76-77	8,254(100)	19,672(238)	1:2.4			
75-76	7,538(92)	17,838(218)	1:2.4			
74-75	7,010(87)	15,832(197)	1:2.3			
73-74	6,899(87)	13,561(171)	1:2.0			
72-73	6,567(84)	12,044(154)	1:1.8			
71-72	6,464(84)	11,237(146)	1:1.7			
70-71	6,669(88)					
69-70	6,746(91)					
68-69	6,811(94)					
67-68	6,812(96)					
66-67	6,749(97)					
65-66	6,748(99)					
64-65	6,934(105)	5,225(79)	1.3:1			
63-64	7,157(110)					
62-63	7,205(113)					
61-62	7,232(116)					
60-61	7,072(116)					
59-60	6,791(114)					
58-59	6,712(115)					
57-58	6,475(115)					

The prison data are a combination of the population of Ontario correctional institutions and federal penitentiaries located in Ontario. For 1978/9-1987/8 they consist of average daily counts for the fiscal year ending March 31st; for 1957-1958 to 1969-1970 they are the average of the counts for March 31 of each year; for 1970-1971 to 1977-1978 they are the average of the counts for March 31st of each year for the provincial prisons only, while for the federal penitentiaries they are the count for December 31st of the first year mentioned. The probation data are the average daily counts for 1978-1979 to 1984-1985; for 1970-1971 to 1977-1978 they are the average of the counts for March 31 of each year; for 1964-65 they are the population under supervision for January 1, 1965; Rates are per 100,000 Ontario population as of June 1st comprehended by the fiscal year.

The YOA effect is calculated as in Table I, with open custody assigned to prison and not to probation. If it were assigned to probation, the ratios for 1986, 1987 and 1988 would be 1:4.3, 4.5 and 4.4 respectively.

Sources: Dominion Bureau of Statistics, 1957-1959, 1960-1961, 1962, 1963, 1964, 1964-1965, 1965-1966, 1966-1967, 1967-1968, 1968-1969, 1969-1970, 1970; Statistics Canada, 1971a, 1972, 1973a, 1974, 1975, 1976, 1977, 1978, 1982-1983 through 1987-1988; Ontario, 1985; McFarlane, 1966:89.

VIII - YEARLY ADMISSIONS TO CUSTODIAL AND SUPERVISED POPULATION - CANADA 1978-1988

	Provincial Custody	Probation	Total	Rate Per 100,000 Canadian Population	Custody as % of Total
1987-88	196,552 (e)	53,521	250,073	976	78.6
	(208,607) (e)	(64,408)	(273,015)	(1,065)	(76.4)
1986-87	190,108	52,749	242,857	960	78.3
	(200,973)	(63,954)	(264,927)	(1,047)	(75.9)
1985-86	190,286	54,838	245,124	967	77.6
	(197,729)	(63,034)	(260,763)	(1,028)	(75.8)
1984-85	193,602	62,986	257,714	1,026	75.2
1983-84	199,852	63,567	263,419	1,058	75.9
1982-83	201,690	65,550	267,240	1,085	75.5
1981-82	183,450	66,245	249,695	1,026	73.5
1980-81	170,874	62,875	233,749	972	73.1
1979-80	160,078	58,631	218,709	921	73.2
1978-79	158,428	56,342	214,770	913	73.8

Admissions are "from liberty" not including transfers.

Figures in brackets are adjusted for YOA, assuming as in Table I that open custody should be assigned to prison and not to probation. If it were assigned to probation, the percentage custody for 1986, 1987 and 1988 would be 75.7 per cent, 75.3 per cent and 75.7 per cent respectively.

Sources: Statistics Canada, 1982-83 through 1987-88, Ontario, 1985.

IX - AVERAGE DAILY CUSTODIAL AND SUPERVISED POPULATION - CANADA 1978-1988

	Average Daily Probation Population	Parole and Mandatory Sup.	Total Non-Custodial	Custodial and Non-Custodial	Total Custodial
1987-88	66,405 (76,291)	11,526	77,931 (87,817)	26,634 (28,873)	104,565 (116,690)
1986-87	67,133 (77,078)	10,887	78,020 (87,965)	26,893 (28,864)	104,913 (116,829)
1985-86	72,249 (75,646)	9,994	82,243 (85,640)	27,392 (28,277)	109,635 (113,917)
1984-85	74,707	10,191	84,898	27,634	112,532
1983-84	74,386	10,042	84,428	26,980	111,408
1982-83	71,880	9,032	80,912	26,924	107,836
1981-82	65,123	9,182	74,305	24,064	98,369
1980-81	62,656	8,131	70,787	22,502	93,289
1979-80	59,248	8,037	67,285	21,936	89,221
1978-79	53,937	7,801	61,738	21,956	83,694

RATES PER 100,000 CANADIAN POPULATION

	Custodial	Non-Custodial	Total	Non-Custodial as % of Total
1987-88	104 (112.7)	304 (343)	408 (455)	74.5 (75.3)
1986-87	106 (114.0)	308 (348)	415 (462)	74.4 (75.3)
1985-86	108 (111.5)	324 (338)	432 (449)	75.0 (75.2)
1984-85	110	338	448	75.4
1983-84	108	339	448	75.8
1982-83	109	328	438	75.0
1981-82	99	305	404	75.5
1980-81	94	294	388	75.9
1979-80	92	283	376	75.4
1978-79	93	263	356	73.8

Figures in brackets are adjusted for YOA effect, assuming as in Table I that open custody should be assigned to prison and not to probation. If it were assigned to probation, the percentage non-custodial for 1986, 1987 and 1988 would be 75.3 per cent, 75.9 per cent and 76.0 per cent respectively.

Sources: Statistics Canada, 1982-1983 through 1987-1988, Ontario, 1985.

Note: The 1987-1988 Statistics Canada report excludes lock-up data for the first time. In the interests of comparability they have been included in the table nevertheless. This required an estimate to be made for 1987-1988, based on the Statistics Canada report for 1986-1987 where lockups for 1986-1987 are included and the report for 1987-1988 where lockups for 1986-1987 are not included. It was assumed that the proportion of lock-ups to ordinary imprisonment was the same for both years. Therefore the 1987-1988 figure of 190,141 without lock-ups was multiplied by 190,108/183,907 to get the total of 196,552. The same reasoning applies to daily population figures, but the numbers in this case are tiny due to the short duration of lockup imprisonment, so no attempt has been made to include them in the tables on population.

X - REPORTED CRIME PER 100,000 POPULATION 1962-1987

Year	Murder	Attempted Murder (Wounding)	Manlaughter	Sexual Assault	Aggravated Assault	Other Assault	Robbery	Break and Enter	Theft	NCA/FDA	Total Driving*	Impaired Driving**
1987	2.3	3.6	1.9	87	10.5	650	88	1,421	3,712	241	1,584	570
1986	2.1	3.5	1.7	81	11.4	603	92	1,440	3,656	222	1,599	585 ***
1985	2.6	3.4	1.9	73	11.0	558	90	1,418	3,593	227	1,630	609
1984	2.5	3.7	1.7	59	12.5	529	93	1,429	3,622	220	1,648	652
1983****2.5	3.6	3.6	2.1	48	14.6	507	98	1,462	3,700	221	1,662	671
1982	2.5	3.8	1.7	57	10.5	502	111	1,505	3,876	263	1,889	681
1981	2.5	3.7	1.8	55	11.1	486	101	1,509	3,797	309	1,894	721
1980	2.1	3.3	1.6	52	10.0	477	102	1,454	3,569	309	1,843	704
1979	2.5	3.2	2.4	53	9.7	466	88	1,248	3,274	273	1,843	692
1978	2.5	3.2	2.9	49	9.2	443	84	1,184	3,021	258	1,723	663
1977	2.7	3.0	3.3	47	8.9	438	84	1,163	2,944	283	1,655	666
1976	2.7	2.8	2.1	46	8.7	448	87	1,167	3,004	274	1,657	645
1975	2.8	3.0	2.8	48	9.4	440	94	1,148	2,988	245	1,622	649
1974	2.4	2.3	2.4	50	9.5	424	76	1,043	2,782	262	1,579	651
1973	2.2	2.2	3.0	54	8.5	407	60	898	2,493	239	1,410	585
1972	2.2	1.9	1.8	50	7.8	391	54	876	2,449	132	1,217	499
1971	2.0	1.6	2.2	52	8.6	385	52	874	2,468	111	1,082	449
1970	2.0	1.2	1.6	52	7.7	363	55	834	2,308	88	979	379 *****
1969	1.6	1.0	2.1	51	7.8	343	48	770	2,026	50	856	239
1968	1.5	.9	2.9	51	6.2	322	40	700	1,854	26	785	218
1967	1.4	.7	2.7	48	5.1	290	35	586	1,529	14	714	202
1966	1.1	.7	1.4	44	4.9	267	29	510	1,405	7	680	198
1965	1.2	.6	1.7	38	4.2	227	28	491	1,439	4	N/A	191
1964	1.1	.6	1.8	39	4.3	210	29	504	1,359	3	N/A	180
1963	1.1	.6	1.8	37	6.7	173	31	498	1,263	5	N/A	172
1962	1.2	.4	.26	36	6.8	150	27	442	1,263	5	N/A	176

Factor by which 1987 figure exceeds 1962 figure: (.7)

2.7 (est)

1.5

4.3

3.3

3.2

2.9

48.2

2.3 (66.87)

3.2 (est)

*Total Driving includes the offences of criminal negligence causing death, criminal negligence causing bodily harm, criminal negligence in the operation of a motor vehicle, driving while impaired or with more than the allowed alcohol/blood ratio (Criminal Code), failure to remain at the scene of an accident, dangerous driving, and driving while disqualified (Criminal Code and provincial statute)

**Driving while impaired or with more than the allowed alcohol/blood ratio and refusal to provide a breath sample.

***Commencing 1986, changes were made to the Criminal Code, which affect the comparability of driving offence statistics. Offences were expanded to include boats and aircraft as well as motor vehicles. In 1986 and 1987 such offences constituted less than one per cent of the total but, the way statistics are reported makes it impossible to determine the precise numbers. The figures in the table attempt to exclude offences committed with boats and aircraft. Including them would change the figures to 1589 and 572 for 1987, and 1604 and 587 for 1986. Also, as of 1986 the offences of impaired operation of a motor vehicle et cetera, causing bodily harm or causing death were added. Theoretically these should be included in the impaired offences because they would have constituted such offences before the change. But most certainly some of these offences, perhaps all of them, would have been prosecuted under other charges (criminal negligence causing death or bodily harm) before and to include them now would suggest more of an increase or less of a decrease in the impaired category than has actually occurred. I have therefore excluded them. If they were included, the figures for 1987 would be 579 (with boats and aircraft) or 577 (without) and for 1986: 594 (with) and 591 (without).

Calculations for 1986: Total driving: 406,635 (1604); without boats: 405,333 (1599); impaired driving: 150,571 (594); without harm: 148,794 (587); impaired driving without boats: 149,932 (591); impaired driving without boats and without harm: 148,316 (585).

Calculations for 1987: Total driving: 407,087 (1589); without boats: 405,836 (1584); impaired driving: 148,320 (579); without harm: 146,586 (572); impaired driving without boats: 147,741 (577); impaired driving without boats and without harm: 146,107 (570).

****In 1983 several changes in the Criminal Code came into effect which affect comparability. For the category of "sexual assault": the offences of "rape" and "indecent assault" were replaced by three categories of "sexual assault" in 1983; while the figures under "sexual assault" for 1962-1982 include not only rape and indecent assault but also various forms of sexual intercourse with minors, seduction, as well as the offences of "gross indecency" and "buggery and bestiality", the figures for 1983 and afterwards are restricted to pure sexual assault. For the category "Aggravated Assault (Wounding)": Wounding was redefined in 1983 and partially replaced by "aggravated assault". The figures under "Aggravated Assault (Wounding)" for 1962-1982 include all offences under the former section 228 of the Criminal Code, including discharging a firearm; but the 1983 offence of aggravated assault is somewhat narrower. However, separate statistics are now kept on discharging firearms and I have included these in the category for 1983 and following to maintain rough comparability. "Other Assault": this category excludes wounding before 1983 and aggravated assault after 1982; it includes unlawfully causing bodily harm in all years.

*****In 1969, the offence of driving while intoxicated was repealed and the offences of driving with a higher than permitted alcohol to blood ratio and of refusing to provide a breath sample were created. This appears to have led to an immediate increase in the reported offence rate.

Sources: Dominion Bureau of Statistics, 1962a, 1962b, 1965a, 1965b, 1968a, 1968b and Statistics Canada, 1971a, 1971c, 1975a, 1980, 1984, 1987a, *Juristat Service Bulletin*, Volume 7, No. 4 (September, 1987); for driving offences in 1986 and 1987: unpublished statistics kindly provided to me by the Canadian Centre for Justice Statistics of Statistics Canada.