

DECARCERATION IN CANADA: A RADICAL ANALYSIS

by

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A thesis submitted to the Faculty of Graduate Studies of
the University of Manitoba in partial fulfillment of the requirements
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INTRODUCTION

Since the nineteenth century society has segregated many of its criminals, mentally ill, senile, aged, and poor in prisons and hospitals. In the last twenty years, however, much literature and discussion in the field of corrections have been focused on the re-integration of the offender into the community. Although the traditional objective of punishment as a deterrent is still a dominant consideration, attention is being directed at alternatives to incarceration. These alternatives to incarceration are usually presented as an essentially humane and beneficent social reform.

Andrew Scull (1977) in Decarceration, Community Treatment and the Deviant--A Radical View has recently examined and analyzed the decarceration movement, a state sponsored policy to control "problem" populations by alternative means other than incarceration. In the theoretical framework of merging state control efforts of social, political, and economic structure, Scull reveals the deficiencies and inadequacies of the traditional interpretations of the trend to decarcerate and shows that in practice social reform bears remarkably little resemblance to liberal rhetoric on the subject.

Scull has argued that the radical changes in correctional practices are intimately entrenched with what O'Connor (1973) has termed the "fiscal crisis of the state." Building on O'Connor's analysis, Scull states that advanced capitalist countries, such as Britain, United

States, and Canada, have been required to socialize more and more of the costs of production. This is most clearly evident in the development of the welfare state. Accordingly, welfare capitalism creates structural pressures to curtail spending, including spending on costly systems of segregative control such as mental hospitals and correctional institutions. At the same time, the development of the welfare state makes available a system for managing elements of the surplus population in the community. These constraints and pressures, it is argued, lead the state to divest itself of expensive institutions and to develop an alternative system of "care" in the community. The accounts about the ineffectiveness and inhumanity of correctional institutions that, in the popular view, account for the rise of community corrections are, according to Scull, an ideological camouflage that allows economy to masquerade as benevolence. Essentially, Scull's major criticism of this movement is that it reflects economical and structural pressures to relieve the cost of segregative control in the face of a growing fiscal crisis.

The intent of this thesis is to critically explore and investigate the accuracy of Scull's explanation of the decarceration movement in Canada. The thesis will examine the decarceration movement in the context of adjudged criminals. The origin, impact, and consequences of this process are explored through an analysis of time trend data of federal government expenditures, sentence dispositions, criminal justice expenditures and prison populations. These data will be interpreted within a conceptual framework which borrows in part from Scull's theory of decarceration, O'Connor's thesis of the fiscal crisis of the state,

and Rusche and Kirchheimer's orientation for understanding the history of penal reforms.

As Cohen (1979), Matthews (1979), Ignatieff (1978), and Foucault (1977) suggest, penal reform, like welfare reform, is the product of many forces--among them, social structural arrangements, the intellectual and ideological climate, cultural, individual and idiosyncratic factors. Although economic factors are the major variables in this case, this should not be taken to imply that the other elements can be reduced to mere epiphenomena. To the contrary, it is recognized that only one of many explanatory variables is to be dealt with which explains the underlying impetus of the decarceration movement.

The focus of attention is the post Second World War period, with special emphasis on the last two decades. The analysis will be concerned, therefore, with the era of the rapid rise of the welfare state in Canada. It is not the intention of this thesis to demonstrate an immediate causal link between the economic order and the vicissitudes of the decarceration movement but to present illustrative historical and contemporary material and statistics which would provide strong evidence and a persuasive alternate argument for the existence of the decarceration movement other than the one advocated and propagandized in the name of "rehabilitative" considerations.

Chapter one of this thesis will present both an examination and critique of the labelling perspective in deviancy theory. The ideological significance of this theory is acknowledged since it is felt that this perspective has been instrumental in the justification for, and ascendancy of the decarceration policy. The second chapter will be

devoted to a descriptive and explanatory analysis of the social, historical, political and economic functions (together with the shaping of themes) of the decarceration movement. In Chapter three, the methodology of the analysis will be profiled with the presentation of the analysis and results outlined in the fourth chapter. Finally in the last chapter, the research will demonstrate the inadequacies and shortcomings of the economic functionalist explanation of decarceration with recommendations and implications for further research.

CHAPTER ONE

The sociology of deviance has produced a plethora of typologies, developments, and directions towards the study of crime, criminality, and the systems and agents of social control. In fact, agencies of social control have increasingly been defined as one of the focal points of research in the sociology of deviance. This is due in part to the fact that these agencies (police, criminal justice system, prisons, penitentiaries, juvenile justice system, etc.) are such an omnipresent feature of modern society and that they regulate and dispose of large quantities of resources and people. More significantly however, contemporary literature (Goffman, 1961; Garfinkel, 1967; Lemert, 1972; Erikson, 1964) on deviance has viewed the systems of social control as inextricably involved in the process by which people become defined and redefined as deviant. As Kitsuse suggests,

Forms of behaviour per se, do not differentiate deviants from non deviants; it is the responses of the conventional and conforming members of the society who identify and interpret behaviour as deviant which sociologically transforms persons into deviants. (Kitsuse, 1962:253)

Inevitably then, attention comes to be fixed on what agencies of control claim to be doing in relation to what they, in fact, achieve.

Among proponents of the labelling theory--interchangeably termed the societal reaction approach and interactionist perspective--the existence of a mutual relationship between deviance and social control has come to be seen as almost axiomatic. Work in the tradition, gleaned from the

works of Becker (1974), Lemert (1972), Erikson (1964) and Scheff (1975) has consisted of the elaboration and documentation of the paradoxical notion that social control leads to deviancy.

Deviant activities often seem to derive support from the very agencies designed to suppress them. Prisons.....and similar agencies of control, provide aid and shelter to large numbers of deviant persons, sometimes enhancing their survival chances in the world as a whole. But beyond this, such institutions gather marginal people into tightly segregated groups, give them an opportunity to teach one another the skills and attitudes of a deviant career, and often provoke them into employing these skills by reinforcing their sense of alienation from the rest of society. (Erikson, 1964:15-16)

While most criminologists have been investigating how deviant behaviour affects social control, labelling theorists have been busy investigating the conditions under which the reverse proposition holds. Attention tends to be fixed on the role of the agencies in selecting and processing the deviant population with emphasis on to how their activities in these respects serve to redefine and remake the identity of the individual deviants. Consistent with these general orientations, the labelling theorists have argued that the penalties of, and reactions to, such agencies increase and condition the forms taken by deviance.

In rendering social control so acutely problematic, this perspective, though not without criticism, represents a considerable theoretical advance in the sociology of deviance. More specifically, however, labelling theory has provided the major theoretical support for the ascendancy of the decarceration movement. It is therefore essential to outline the main thrust of the theory's arguments, which explicitly directs attention to the ways society unintentionally creates or aggravates deviance in the very process of attempting to control it; and which implicitly states that "deviants" are simply a product of official

labelling who would be much better off if they were left unregulated (i.e. decarcerated).

Chapter one of this thesis will review and criticize the deviancy labelling theorists, counterpointing an historically-informed, macro-sociological perspective (inspired by radical criminology theory) which articulates the regulation of criminality, deviancy and the systems of social control to the social organization of the political economy. Furthermore this thesis will counter the labelling "laissez-faire" criminological theory with an argument that community treatment usually means a cutback in social services.

For many years, sociologists regarded deviance as a given--social problems were seen as generating social responses, but only rarely as reflecting those responses. In such a framework, a skeptical orientation such as the labelling school was considered clearly liberating and intellectually challenging. No longer satisfied to support traditional images of deviance with pseudoscientific and psychologistic trappings, the new theoreticians began to question the conventional notion that the societal reaction to deviance represented no more than a benign and defensive response to individual pathologies. Their more critical orientation produced a pronounced shift away from an obsessive preoccupation with the characteristics of individual deviants towards a more far reaching interest in the social process.

Deviance is not a quality of the act a person commits but rather a consequence of the application by others of rules and sanctions to an offender. The deviant is one to whom the label has successfully been applied; deviant behaviour is behaviour that people so label. (Becker, 1963:9)

Deviance, therefore, could not be divorced from the wider social context within which it occurred.

In the general theme of process, in the concentration on deviant roles, and in the development of self-conceptions, one can clearly see the indebtedness of labelling theory to the theoretical perspective of symbolic interactionism. The usage of social psychological terms is pervasive: the mortification of self, stigma, degradation, discretion and drift, typing and stereotyping, moral career, etc. It is with this rich detail of the ethnographic description that labelling theorists outline the neophyte deviant's passage through a public degradation ceremony. This ceremony imposes a master status upon deviants and much of their behaviour is interpreted by others in light of this status. The very process of being apprehended and publicly labelled as deviant sets in motion an inexorable self-fulfilling prophecy. For instance, Goffman (1961) suggests that a recruit to a penal institution is confronted by a:

series of abasements, degradations, humiliations, and profanations of self. His self is systematically....mortified. He begins some radical shifts in his moral career, a career composed of the progressive changes that occur in the beliefs that he has concerning himself and significant others. (Goffman, 1961:14)

Once having acquired this inchoate but self-fulfilling identity, it is very difficult to relinquish the deviant status both because of the hesitation by the community at large to accept the deviant and because the experience usually culminates in a deviant world view. In this fashion, the societal reaction allegedly produces a kind of role imprisonment which locks the deviant into a symbolic jail.

As well as displaying great interest in these dramatic face to face encounters between the deviant and the "normal" individual, the labelling theory elicited a shift in research and theoretical perspective more relevant to this discussion-- a much greater concern with aspects of the formal social control apparatus. A perspective which viewed deviance as primarily a result of the reaction of others and which directed attention to the way society unintentionally creates deviance in the very process of attempting to regulate it, could hardly avoid examining the agencies and institutions making up this formal social control apparatus. And, in fact, many of the labelling theorists have come to see the deviant's interaction with, and processing by, formally constituted agencies of social control as perhaps the single most vital context in which unorganized deviation comes to be stabilized (Scull, 1977). In essence, this perspective reflect findings that it is "through these macrocosmic, organizational forces of social control which public and private agencies actively define and classify people, impose punishment, restrict or open access to rewards and satisfactions, set limits to social interaction and induct deviants into special, segregated environments" (Lemert, 1967:4). Moreover, as Rubington and Weinberg (1968:11) suggest, it is precisely within these contexts that deviants come under the regulation of hierarchy, impersonality, specialization and systematic formal rules. In this paradigm's more rigid and caricatured version, the deviant is deviant only because society, and more particularly the total institution representing society, treats him as deviant. Decarceration, it is argued, will eliminate the institutional reinforcers maintaining the deviant self-image and career.

The portrait and preoccupation of the deviant as "a passive nonentity who is responsible neither for his suffering nor its alleviation--who is more sinned against than sinning" (Gouldner, 1968:106) runs like a connecting thread throughout the societal reaction literature. Practically it has been of enormous significance. The labelling school has provided an account of the failings and brutal effects of such "total" institutions as prisons, penitentiaries, mental hospitals, smoothing the way towards an abandonment or at least a major modification of segregative control systems and enabling this development to be presented as motivated by concern for the deviant as well as for the community as a whole.

The establishment and advent of community based alternatives and graduated release programs (such as probation, parole, halfway homes, community correctional centres, work release programs, etc.) undoubtedly reflects a growing awareness on the part of correctional administrators and social policy makers of the "total" institution treating and reinforcing him/her as deviants and of the problems created by isolating the convicted offender from the community to which they plan to return. Decarceration, diversion, de-criminalization, are increasingly being used as the humanizing alternative to conventional imprisonment. In fact, laissez-faire criminologists determined to humanize the correctional process ideally declare that maintaining the offender in the community is more humane, less costly, and a more effective vehicle of rehabilitation. Their touted idealism presumably stems from the heralded view that the institution is irredeemably evil--a symbol of atrocities and debasements; and the community,

unequivocally good, oozing with virtues of adaptability and understanding. It is essential to debunk the notion that the real "community" in community treatment has anything to do with the consensual and committed interpersonal bonding associated with the concept of "community". The notion presupposes the existence of a cohesive and benevolent community which often does not, in fact, exist. The notion that the increased contact between the community and the convicted offender will improve the latter's self-image, attitude, world view, and chances for post-release success is not uncommon. What is uncommon is substantial, empirical justification for the superiority and beneficent reform of community based approaches.

Theoretically, the concentration on the view of social life as process and the stress on interaction have produced a neglect or even a denial of the relevance of structural factors such as the division and stratification of society into classes or the nature of its political and economic organization. While it is true that society consists of individuals, and therefore that all relations between social institutions occur through individuals, this does not mean that these relations can be understood solely in terms of individual encounters (Rock, 1974:143). Yet societal reaction theorists often speak and act as though this were the case, ignoring the larger social, political, and economic contexts within which the encounters they are describing are embedded. The theoretical fascination with rich detailing--romanticizing the passive deviant--mystifies and discourages the social structural analysis necessary for a systematic understanding of the functioning and supporting ideology of social control mechanisms in the

contemporary social order. In fact, the almost exclusive attention to the impact of organizations on the individual results in an inadequate attention to the structure of the organizations themselves and in an almost total neglect of the overall structural context within which particular agencies of social control operate. When the labelling theorists do attempt to grapple with why the social apparatus takes the form it does and what accounts for the transformations in the nature of social control, their work remains flawed by the inclination to "trivialize the unexaminable features of the larger world" (Rock, 1974:39). While labelling theory is not the only social science theory which finds the "total" institutions to be fruitless as a vehicle for effecting rehabilitation, it has nevertheless provided decisive, theoretical and ideological support for the ascendancy of the decarceration movement. It is my contention that adequate theoretical work in this area clearly demands the development of an historically informed macrosociological perspective on the interrelationships between deviance, control structures, and the nature of the wider social systems of which they are both a part and an essential support.

As Taylor, Walton and Young (1973) maintain, one of the formal and necessary requirements of a fully social theory of deviance, which is almost totally absent in the existing literature, is an effective model of the political and economic imperatives that underpin, on the one hand, the lay ideologies and, on the other, "crusades" and initiatives that emerge periodically either to control the amount or level of deviance. There are efforts underway to combat the liberal underpinnings of criminology and its role in helping to manufacture and perpetuate the

"legitimacies" of the criminal justice system. By abandoning the precepts of psychologistic, labelling, and cultural theories of liberal criminology, radical criminological theory has challenged conventional analysis and the hegemony of liberal and positivistic approaches. Although labelling theory itself once represented a radical, critical stance, the social production of crime, criminality and the agencies of social control is not questioned or challenged within the framework of the existing political and economic order. Critics of the labelling perspective such as Liazos (1972) and Platt (1973) have argued that analysis by this school continues to focus upon the individual deviant and his milieu. Close examination reveals that the writers of labelling theory still fail to relate the phenomenon of deviance to larger historical, political, and economic contexts. The emphasis is still on the "deviant" and the "problem" he represents to himself and others, not on the society within which he operates and emerges (Liazos, 1972:104).

Consistent with this view of the underdog as victim, is the related conception of him as someone who has to be managed better, and should be managed better, by a bureaucratic apparatus of official care-takers. In short, it conceives of the underdog as someone maltreated by a bureaucratic establishment whose remedial efforts are ineffectual, whose custodial efforts are brutal, and whose rule enforcement techniques are self-interested. While labelling theory sees deviance as generated by a process of social interaction, it does not regard deviance as resulting from the specific total institution of the larger society (Gouldner, 1968:70). For instance Becker's work (1963), on moral entrepreneurs, the most influential in this area, only reflects an

individualistic and personalistic approach to "deviant careers", neglecting a detailed examination of the social context within which new forms of social control emerge.

Radical criminology requires a redefinition of the subject matter, concerns and commitments that reflect the reality of the criminal justice system based on the present political and economic organizations. Since the adoption and application of the political, historical, and economic constructs of radical criminology to the decarceration movement will be presented throughout this thesis, the formal definition of this theory will be brief. Radical theory involves a Marxist approach to issues of crime and crime control. Initially it will be productive to expand on the definition of radical criminology indirectly by discussing why it is not referred to as "new," "conflict," "socialist," or "critical" criminology. First, stating that radical criminology is "new" criminology gives no indication of its contents. The "new" criminology is a term which mediates some incongruities since its theoretical origins are in the early writings of Karl Marx. The second option "conflict" criminology is rejected by the radical criminologists (Garafalo, 1979) themselves, who see conflict theory as a diluted and "laundered" form of the Marxism. (Platt, 1973). Third, although the label "socialist" criminology may be descriptive of what is called radical criminology, one must avoid confusing radical criminology with the state sponsored criminology that is found in Eastern European countries and the Soviet Union (i.e. in "actually existing" socialism).

There is also a specific reason for avoiding the fourth label, "critical" criminology: the word has the connotation of negativism, that

is, simply criticism or critical appraisal of the traditional and standard approaches in criminology--and radical criminology is not just simple criticism, it also offers criticism of both the accumulated knowledge of criminal justice, criminology in general, and the institutions that are the subject matter of criminal justice. From the perspective of radical criminology, such criticism and opposition is necessary because the technocratic knowledge and existing institutions of criminal justice serve essentially malign purposes. This negative judgement does not stem from an evaluation of the knowledge and institutions as a closed system. That is, the negative judgement is not based on the contention that the knowledge and institutions come up short relative to the goals that are implicit within them. Rather, radical criminology's position is based on how the criminal justice system fits into the broader social, economic, and political framework. To develop this idea, it is necessary to describe briefly the scope and focus of analysis advocated by radical criminology.

The application of a radical criminological perspective poses entirely new questions about the nature of the state and crime in a capitalistic society. Radical criminology views the state as a coercive and repressive apparatus which utilizes the police, courts, prisons, legal codes, and judicial sanctions to repress and confine the victims of exploitative social relations and economic inequality. Labelling theorists, operating within the confines of a liberal ideology, have conducted studies on police, courts, prisons, etc.; however, they have omitted the analysis of how the operations of these agencies are influenced by the workings of the state. According to radical

criminologists, (Platt, 1973; Taylor, Walton, and Young, 1973) the apprehension of these links is essential for a total understanding of social control and deviancy. Furthermore, the realm of behaviour sanctioned as crime and the agencies of social control are arbitrarily subjected to changes in social relations and economic conditions (Platt, 1973; Chambliss and Seidman, 1971; Scott and Scull, 1974). When Quinney (1977:31-32) states that the crucial phenomenon to be considered is not crime per se but the historical development and the operation of the capitalist economy, he highlights the divergence between radical criminology and other criminological theories in terms of where analytic interest resides. Radical criminology seeks not only to examine the state and state defined crime; it also attempts to locate the phenomenon of crime and crime control within the broader historical, political and economic contexts in which it occurs. Crime, and in particular crime control, is viewed as a product of historically-changing economic and social relations (Rusche and Kirchheimer, 1939).

In terms of the field of criminal justice, interest is focused on the nature and functioning of the institutions of the criminal justice system. Economic, social and political phenomena that are outside the system receive only peripheral attention--attention that is activated only when those phenomena have a bearing on some specific criminal justice issue, and attention that takes those phenomena for granted rather than questioning their basic structure (Quinney, 1975). Radical criminology turns this focus inside out--the economic structure is of primary interest providing the reference point from which the totality of society is analyzed; and the criminal justice system and its

component parts are taken as a focus within which the contradictions of the economic system are reflected, as those in power attempt to control the population and to maintain their own dominant position. Platt (1973:4) contends that,

while the labelling and conflict theorists, like Skolnick or Turk are critical of social control mechanisms and institutions, their policy proposals are invariably formulated within the framework of corporate capitalism and the welfare state, and in effect help to shape new adjustments to existing political and economic arrangements.

Much of the discussion presented in this chapter has unavoidably been abstract. As Scull suggests, however, abstract polemics about the merits of an alternative approach are no substitute for a practical demonstration of its analytical utility. The latter is what this thesis hopes to achieve in the succeeding chapters. By placing the decarceration movement in an historical and economic framework, this thesis will empirically demonstrate that the shift in social controls and practices are not a therapeutic reform but a short-run budgetary scheme that is dependent upon, and a reflection of, deep-seated changes in the social and structural organization of Canada.

CHAPTER TWO

2:1 THEORETICAL ASSUMPTIONS UNDERLYING DECARCERATION POLICIES

Since the 1950's a major trend in corrections in Canada has been the development of alternatives to incarceration which allow the offender to be reintegrated into the community subject to certain conditions which, if not adhered to, may result in incarceration. Literature on correctional and penal policy has long suggested that traditional forms of incarceration frequently increase the likelihood that convicted offenders will persist in criminal activities after their release from prison. This understanding is spawned in part by the realization that simple incarceration frequently isolates the inmate from the larger community, thereby minimizing his/her exposure to "legitimate" influences and maximizing his/her exposure to "criminal" norms. The potential harmful effects upon inmates' attitudes engendered by this isolation have been expressed in studies of "prisonization" (Cloward, 1960; Sykes, 1960; Messinger, 1960; Goffman, 1961; Irwin, 1970) and may account in part for the observation that increased contacts between the inmate and the larger community could strengthen tendencies toward a positive change in attitude during the latter phases of incarceration. This possibility is coupled with the fact that over 90% of incarcerated offenders are released to the community within two years (Outerbridge, 1973:74) and evidence indicating that a large number of offenders who are candidates for incarceration can be dealt with in the community with

no greater risk and at far less expense than if they were imprisoned (Empey and Lubeck, 1970).

In the literature on community treatment itself, two sets of assumptions are repeated with regularity. The first set of assumptions are based on "common sense" or on the irrefutable results of empirical research: 1) Prisons and juvenile institutions are simply ineffective, they do not successfully deter nor rehabilitate. They actually make things worse by strengthening criminal commitment. 2) Community alternatives are much less costly and 3) the latter are more humane than any institution can be; prisons are brutal, cruel and beyond reform. Therefore, community corrections must "obviously be better," "should at least be given a chance," or "can't be worse."

The second set of assumptions appeals to, and is entrenched in, number of sociological and political beliefs, which are perhaps not as self evident as the previous set: 1) Theories of stigma and labelling have demonstrated that the further the deviant is processed into the system, the harder it is to return him to normal life; therefore measures designed to minimize penetration into the formal system, and to keep the deviant in the community as long as possible, are desirable. 2) The causal process leading to most forms of deviance originate in society, (family, community, school, economic system)--therefore prevention and cure must be in the community and not in artificially created agencies constructed on a model of individual intervention. 3) Liberal measures, such as reformatories, the juvenile court and the whole rehabilitative model are politically suspect, whatever the benevolent motives which lie behind them. The state should be committed

to doing less harm--therefore policies such as decriminalization, diversion, and decarceration should be supported.

2:2 CORRECTIONAL STRATEGIES ASSOCIATED WITH DECARCERATION

The usage of community correctional programmes has been so pervasive at every stage of the correctional process that it has come to denote a wide variety of correctional dispositions. There are two separate but overlapping strategies; firstly certain forms of intensive intervention located "in the community" i.e., sentencing options which serve as initial alternatives to being sent in an institution or later options of release from institutions, and secondly, those programs set up at some preventive, policing, or pre-trial stage to divert offenders from even initial processing by the conventional systems of justice. Essentially the "decarceration" denotes a reduced degree of segregation from ordinary social life and includes traditional probation and parole, as well as newer programmes such as halfway homes, group homes, pretrial releases and work release programmes. Explicitly rehabilitative programmes may or may not be present. Because community corrections is used to describe such a wide variety of efforts at every stage of the correctional process, the phrase "community based corrections" has generally lost all descriptive usefulness except as a code term with connotations of "advanced" correctional thinking, implied value judgements against the locking up and isolation of the offender, and the indispensibility of increased community responsibility for the control of crime and delinquency.

Community based correction programmes popularized by the terms of decarceration, diversion, and de-institutionalization are increasingly being implemented as the "humanizing" alternative to conventional imprisonment.

Decarceration is shorthand for a state sponsored policy of closing down asylums, prisons, and reformatories. Mad people, criminals and delinquents are being discharged or refused admission to the dumps in which they have been traditionally housed and instead they are left at large, to be coped with "in the community." (Scully, 1977:1)

2:3 HISTORICAL PRECEDENTS AND RECENT TRENDS IN DECARCERATION

Although some may see decarceration as outlandishly permissive and dangerous, such community based treatment alternatives have in fact been in operation for a long time now, mainly in the form of probation (enacted in Canada, in 1889 by the "Act to Permit the Conditional Release of First Offenders") and parole (enacted Canada, 1899 by an "Act to Provide for the Conditional Liberation of Convicts"). Recent data from the United States, notably Florida, reveal that probation and parole began to be used in an historically unprecedented fashion from the late 60's onward. Between 1964-1965 and 1973-1974, the numbers placed on probation annually rose dramatically from 3,430 to 49,424, an increase ammounting to a dizzying 1,340 percent. Between 1966-1967 and 1973-1974, the numbers sent to prison in any given year rose from 3,208 to 5,022, an increase of some 56 percent, while the numbers released on probation rose from 2,761 to 18,502, an increase of 560 percent (Florida Parole and Probation Commission, 34th Annual Report, 1974:14). Similarly, in the area of juvenile delinquency, the most intensive effort to move toward a community based correctional system was the

decision of the Massachusetts government to close all state run facilities. As Coates, Miller & Ohlin (1973:128) document, the initial plans were drawn up only three to four weeks before their implementation, and the final decision to go ahead took place only days before the closure began.

Such a dramatic change of social policy had deeper roots. In the years prior to their closure, the Massachusetts state-run facilities exhibited overcrowding, brutal behaviour by custodial staff, and inflated costs per child ranged as high as \$11,500, twice the national average. Despite this, and for all the "liberalism" of the state's political elite, Massachusetts allegedly possessed a recidivism rate of 80 percent. During the 1972 legislative recess, when political counteraction was least likely, Director Jerome Miller suddenly and without warning used all his discretionary powers as commissioner to empty and officially close all juvenile institutions.

The trend towards decarceration in Canada parallels the trend in the United States. Statistics from the Canadian Penitentiary Service reveal that from 1968 to 1970, the penitentiary population increased from 7,161 to 7,373, an increase of only 2.9 percent, while the numbers on parole rose from 1,324 to 2,720, an increase of 105 percent (Statistics Canada, The Criminal in Canadian Society--A Perspective on Corrections, 1973. Parole in Canada has now developed to the point where it is becoming the norm rather than the exception for release of inmates from prison. It is no longer appropriate to talk about parole as being an exercise of grace, as being a privilege rather than a right, or as being a contract entered into by the inmate to obtain his freedom. Perhaps more than in

any other area of social policy, crime control has allowed the trend to decarceration to be swept up in a tidal wave of enthusiasm. There is little doubt that the rhetoric and ideology of community control is both pervasive and quite secure. And as Cohen (1979) suggests, whatever may be happening to overall rates of incarceration, most industrialized countries will continue to see a proliferation of various schemes in line with this ideology.

2:4 DECARCERATION: THEORY VERSUS PRACTICE

Despite such optimistic claims, the establishment and development of community based corrections for otherwise incarcerated individuals has often met with considerable opposition and resistance from the communities in which they are located. (As noted previously, "community" in community treatment programmes usually has little to do with the consensual and committed interpersonal bonding associated with the concept "community". The notion presupposes the existence of a cohesive community which often does not in fact exist). Community opposition appears to be associated with a fear of the havoc and danger such offenders might wreak, a fear that property values will decline if a community residential centre is located in residential areas and the belief that admission into such a centre does not involve sufficient punishment. As a consequence of such intolerance and resistance, there has been little choice but to locate community correctional centres and community residential centres in less than desirable areas-- "deviant ghettos"--characterized by a high degree of social disorganization and social pathology. This emergence into "sewers

of human misery" (Scull, 1977) is hardly appropriate if the aim is to integrate or reintegrate the offender into community life and encourage the offender to embrace a way of life which is associated with socially acceptable legitimate behaviour. This aside, the validity of these assumptions (see page 19) from which community correctional programmes are derived warrant examination.

With respect to the first claim that community alternatives prevent and deter crime is still open to argument and lacks strong empirical support. Although Usher (1978:5) found that 97% of the day paroles granted to inmates are successfully completed, this may only serve to indicate that the prospect of being returned to prison with a subsequent denial of full parole if the conditions and regulations of day parole are not adhered to, may act as a deterrent. While some may counter that such a result is an outcome of effective treatment, Outerbridge's (1973:16) Task Force of Community-Based Correctional and Residential Centres found that treatment in such centres is diffusely defined, consisting of once-a-week group meetings and that "after sitting in one some of these therapy or group sessions we concluded that the depth of counselling was not as great as we have been led to believe." Moreover, the Task Force noted that residents stay an average of sixty-nine days. Therefore, how can one expect personality changes in so short a time, particularly since most residents who are ex-offenders need time simply to "shake down" after several years in prison (Outerbridge, 1973:16). Furthermore, the Outerbridge Report went so far as to suggest that the rhetoric of treatment and rehabilitation appears to be used primarily to justify funding and allocation of resources. Group therapy, the

treatment most commonly used in such centres has not proven to be effective in dealing with offenders (Kasselbaum, et. al, 1971). The development of psychotropic drugs was a breakthrough which allowed mental patients to be returned to the community; to date corrections has yet to experience a similar development (Scull, 1977). This conclusion is reflected in Greenberg's claim (1975:4) that community based correctional programmes are no more effective in combating recidivism than those conducted in prison. Nor have elaborate rehabilitational programmes conducted in the community proved themselves to be markedly superior to ordinary probation, sometimes they appear to have been markedly worse (Ibid:4).

The conclusions reached by Waller (1977) in Men Released from Prison reveal that the rehabilitational success derived from parole is dubious. The depressing picture to be drawn from this study includes the finding that within a period of two years following release, one out of two men released on parole were re-arrested and convicted or had their parole revoked. Within a period of three years, the aforementioned proportions were expected to increase further. The length of sentence bears no relationship to the probability of reconviction following release, with or without parole. Counter to Usher's findings (1978), the threat of revocation of parole affects the behaviour of parolees only marginally. As Scull comments,

The contention that treatment in the community is more effective than institutionalization is an empty one... The claim that leaving deviants at large cures or rehabilitates them is just that--a claim. Little or no solid evidence can be offered in its support. Instead it rests uneasily on a cloud of rhetoric and wishful thinking. Most people's conception of the humane does not embrace turning loose the perpetrators of violent crimes, under conditions which guarantee that they will receive little or no supervision. Yet as decarceration

has been implemented this is what has been happening. (Scull, 1977:1)

The second assumption used to justify community based corrections is that community based corrections for offenders are less costly to operate and maintain than prisons. The Task Force (Outerbridge, 1973:11) found that the cost in operating community based corrections and prisons were about the same. Cohen and Garringer's (1976) report examined the per diem costs of running the Saskatchewan Community Correctional Centre and the Regina and Prince Albert Correctional Centres. The community correctional centre cost \$23.41 per day for each resident as compared to the \$24.51 in the Regina Institute and \$19.57 in Prince Albert. Data made available by the Prairie Regional Headquarters of the National Parole Service show that its average daily cost of maintaining an inmate at a community correctional centre in the 1975-1976 fiscal year was \$24.04, compared with \$36.64 in minimum, \$37.49 in medium, and \$48.90 in maximum security (Operation Principles of Osborne Centre, 1977). Finally, it is argued that if community based centres are cheaper to operate and the rise of such centres results in a reduction of the prison population, then the taxpayers will be saved money since the justification given for such centres is that they are financially viable alternatives than prisons (Scull, 1977:41-65). This argument tends to ignore that there are fixed costs associated with operating and maintaining a prison and a 20% reduction in the prison population will probably not result in a 10% decrease in the cost of operating a prison. Decentralization of facilities may well increase costs. This principle, of course also has implications for community based centres.

Cost-effective evaluations tend to assume that cost of programmes and rates of return to crime are the only criteria relevant for an evaluation. According to Rose and Hamilton (1970:2), if this were the case, all offenders could be released without supervision since this would cost nothing at all.

While it may be assumed that community corrections are more humane than prisons, C.S. Lewis' (1953) dictum, "of all tyrannies, a tyranny expressed for the good of its victim may be the most oppressive," directs attention to the need to judge the extent to which something is really humane from the victims's point of view. While less restrictive than prison, community correctional centres still represent a measure of custodial coercion. Inmates are likely to feel resentful in a community based correctional programme because their presence is experienced as an added punishment. They believe that when they are released from prison they should not be subject to further restrictions on their liberty. In this circumstance, the contrast between the brutality of the prison and the alleged humanitarianism of the community-based correction is not clear-cut, because the community based alternative functions not only as a replacement to the prison but also as a supplement. The offender is coercively exposed to both the prison and the community alternative. The same holds true for parole. Residents are typically expected to conform to rules and regulations (ie. abstention from alcohol, drugs, and a strictly enforced curfew) which are likely to be resented by all but the most straitlaced.

The wide acceptability of the rhetoric of rehabilitation used to promote community based treatment programmes, lingering attachments to

the concept of community involvement a certain vagueness as to what community corrections actually means a growing conviction among a substantial part of the population that prisons are needlessly cruel, costly, and more likely to corrupt than to cure, have allowed these programmes to proliferate largely free of critical scrutiny. Even where programmes have been evaluated, the criteria used to determine programme success have escaped serious analysis. They are either blandly descriptive or else evaluative only in the sense of using the pseudo-scientific language of "process," "feedback," "goals," "input," etc., to decide whether this or that programme works or is cost beneficial. Little of this promotes an understanding of the basic structural and ideological trends.

2:5 SCULL'S EXPLANATION OF THE DECARCERATION TREND

Endeavoring to illustrate the inadequacies and defects which characterize standard accounts of the sources of the movement to decarcerate the "deviant" is insufficient; there remains the obvious obligation of providing a more satisfactory explanation of this alleged policy change. Andrew Scull in Decarceration, Community Treatment and the Deviant--A Radical View, presents a theory which seeks to give a comprehensive fiscal structural explanation for the emerging hegemony of the movement to decarcerate. Scull argues that the various standard and conventional accounts of decarceration have provided ideological camouflage for a community treatment movement which is most comprehensively understood to be a function of welfare capitalism: the movement is not a rehabilitative reform but a short-run budgetary

scheme. Scull's explanation of the trend to decarcerate rests heavily on "fiscal" considerations, relying largely on the work of James O'Connor (1973) in The Fiscal Crisis of the State. According to O'Connor, governmental expenditures overwhelm and increase more rapidly than governmental revenues, creating a "structural gap" or what he calls the "fiscal crisis" of the state. The fiscal crisis reflects the contradictions inherent in the dual government functions of "accumulation" and "legitimization." The state must create an environment in which profitable accumulation is possible and an environment which fosters the conditions whereby there is a "perceived harmony of interest." These two functions, accumulation and legitimization, are often mutually contradictory functions precisely because,

a capitalist state that openly uses its coercive force to help one class accumulate capital at the expense of other classes loses its legitimacy and hence undermines that basis of its loyalty and support. But a state that ignores the necessity of assisting the process of capital accumulation risks drying up the source of its own power, the economy's surplus production capacity, and the taxes drawn from this surplus and other forms of capital (O'Connor, 1973:6).

The state budget is composed of two basic economic categories which corresponds to the process of accumulation and legitimization--"social capital" expenditures and "social expenses" expenditures. Social capital expenditures are required for profitable capital accumulation and they encompass two subcategories--social investment and social consumption. Social capital investments are expenditures promoting profits or providing services that increase the productivity of certain sectors of the labour force, in order to increase the rate of profit (e.g. the need to upgrade labour skills). Social consumption consists

of projects and services that reduce the costs of reproducing the labour force, thereby increasing the rate of profit (e.g. government-financed job development programs for ex-inmates, health care, and education). Social expenses consists of projects and services (e.g. welfare benefits) designed to maintain a perceived harmony of interests among the population, to mitigate political opposition to government authority, and to lend legitimacy to government apparatuses, notably law enforcement agencies and correctional systems.

O'Connor (1973) argues that state spending is both a cause and effect of economic policy and development and that tendencies toward political and economic crises are in part an outcome of the contradictory state functions of accumulation and legitimization. Accordingly, the state attempts to attenuate these contradictions in a number of ways. Within this general framework, decarceration in the form of halfway homes, community correctional centres, probation, and parole are designed to reduce costs while simultaneously giving state policy a benevolent gloss. In particular, the decarceration movement reflects structural pressures to decrease the cost of segregative control, once welfare payments make available a viable alternative to management in an institution. These structural pressures are intensified by the fiscal crisis: a crisis engendered by advanced capitalism's need to "socialize" more and more of the costs of production, the welfare system being one feature of the process of socialization of costs. And to take this argument further, it is the pervasiveness and intensity of these pressures, and their mutually reinforcing character, which account for most of the characteristic features of the new system of community "care

and treatment." which explains the continued adherence to this policy even where it provokes considerable opposition (Scull, 1977:152).

In O'Connor's terms, social welfare represents a dual capitalist strategy at taxpayer's expense; a social investment to raise the productivity of labour but also a social expense in securing harmony. Welfare buys the allegiance of skilled workers-- promising them aid and support when out of work--and copes with threats of disorder in the growing surplus population. A critical result, the economic crisis follows. This is the product of increasing public services, and a higher proportion of the aged, sick and other dependent people in the population. Added to these already serious costs--are financial pressures resulting from the unionization of government employees and the success of class action suits by inmates which require institutions to meet minimal treatment standards and to restrict the exploitation of an unwaged and incarcerated labour force (Scull, 1977:138-139). According to Scull, these factors make the continued maintenance of penal institutions unfeasible. The result is decarceration in the face of both considerable public opposition (citizens fear for their safety) and increasing evidence of the failure of decarceration to provide for the needs of former inmates.

The contemporary decarceration movement follows not from humanitarian concerns, nor from the availability of new treatment methods, but from the changing demands for pacification of the offender, the increasing reliance on welfare as an important component in "managing" the labour force and the emergence of a fiscal crisis. The government's welfare expense is a "social concession" that plays a particular and critical

role "in anticipation of popular discontent and struggle" (Scully, 1977:136). The consequence of this policy includes cancelled construction plans and the diversion of millions of taxpayers' dollars to halfway homes, community correctional centres, and other agencies, as well as the dumping of the decarcerated individuals into decaying urban centres.

Scully stresses that decarceration reflects neither the progress of social scientific understanding nor improvement in medical technology. The critics of the total institutions have not really won; their ideological "victory" is merely the apologia for the new policy. In this analysis, economy masquerades as benevolence, neglect as tolerance.

2:6 HISTORICAL CONSIDERATIONS

From a theoretical perspective, contemporary penal policies, such as decarceration, cannot be explained without an historical framework, for recent reforms are to a great extent comprehensible only through an appreciation of their origins and development (Platt, 1973). Accordingly, an historically-informed macrosociological perspective is necessary to gain a deeper grasp of the interrelationships between deviance and social control. Furthermore, by disclosing the structural forces which ignited the adoption of specific social control practices, these historical constructs will hopefully demonstrate how closely changes in the character of the social control apparatus are linked to changes in the nature of the social system within which it is embedded.

Most of the traditional historical studies of penal styles and practices are presented as the "unfolding of an idea": penological

developments and policies are inextricably bound together with the liberal ideological notions of 'progress and reform.' Implicit in this is the often erroneous belief that the history of penal reform has been a process of forward linear progress away from medieval brutality and repression to modern day treatment based on psychoanalysis and rehabilitation. The contemporary prison is one of several institutions in which liberal mythology has a heavy investment (Kirkpatrick, 1964; Kidman, 1937). Probation, parole, work release programs and the correctional community have been described as having evolved as a result of democratic or humanitarian progress, historic growth, gradual scientific or technical progress, promoted by compassionate and well-intentioned reformers. Of course, anyone with knowledge about the history of penal reform will recognize that non-institutional alternatives were developed from the point at which the penitentiary was founded. The history of criminal control since the mid-eighteenth century has been the history of a proliferation of control measures which involve varying degrees of classification, segregation and containment (see Foucault, 1977; Rothman, 1980; Matthew, 1979). As Jackson (1967:213) observes,

We have hanged thieves, chopped off their right hands, used branding, stocks, pillory, transportation, penal servitude, imprisonment, whipping, fines, probation, and discharge, absolute or conditional. And that is not a complete list. Thieving continues.

The traditional and standard historical accounts, moreover, are limited in the sense that they fail to lead to an indictment of the political economic order, and thus the conditions described as conducive to penal reform are treated in an apolitical and antiseptic manner which obscures

the reality of the situation. A more sophisticated understanding of the history of penal practices and styles requires that one considers penal changes in relation to changes in social structure.

The transformation in penal systems cannot be explained only from changing needs of the war against crime, although this struggle does play a part. Every system of production tends to discover punishments which correspond to its productive relationships. It is thus necessary to investigate the origin and fate of penal systems, the use or avoidance of specific punishments, and the intensity of penal practices as they are determined by social forces, above all by economic and fiscal forces. (Rusche and Kirchheimer, 1937:5)

Among the first to demonstrate and examine forms of penal styles and practices in particular historical periods (in relation to social, economic, and political changes), and the related development of penal ideologies were Rusche and Kirchheimer (1937) in their classic analysis, Punishment and Social Structure. Their theory of punishment, according to which every socio-economic system of production tends to discover punishments which correspond to its particular social relations of production, provides the starting point of this discussion.

2:7 PENAL SYSTEMS: HISTORICAL AND CLASS SPECIFICITIES

Penal systems are designed to control those classes of individuals who pose a threat to the status quo. Rusche and Kirchheimer assert that if one considers the actual structure of modern society, the principal targets of punishment are the underprivileged social strata. "Penalties must be of such a nature that the latter still fear a further decline in their mode of existence" (Ibid, 6). The specific form of punishment corresponds to a specific stage of economic development; enslavement as a punishment requires a slave economy; prison labour is virtually

impossible without manufacture and industry; and a system of monetary fines for all classes of society requires a money economy. When a given productive system disappears, the corresponding punishments become inapplicable. Quite simply, transformations in the socio-economic order must be effected before new penal systems can be incorporated into the social structure. The "house of correction" reached its peak during the age of mercantilism and was intimately related to this stage of transition from feudalism to capitalism. The rise of industrial capitalism and the factory system diminished the economic importance of the sixteenth century houses of correction and, in turn, produced new forms of penal practice. The transition to modern industrial society brought with it a free labour market and this minimized the economic importance of convict labour. As inmate labour became less and less important to production, the choice of penal methods was derived largely from fiscal considerations. As Scull (1977) asserts, punishment systems, most notably parole and probation, depend heavily upon the financial prerequisites of the state. This has meant attempts to decrease the costs of punishments, (through decarceration), while providing an ideological camouflage for a community treatment movement which is most comprehensively understood to be a function of the "fiscal crisis" of the state.

The history of penal methods can be divided into several epochs in which entirely different systems prevailed. For instance, penance and fines were the only forms of punishment in the early Middle Ages (a system of cruel, corporal punishment and death sentences), which in turn, made way for prison sentences in the seventeenth century. The

modern period (as presented in this thesis) is characterized by an intricate system of imprisonment, fines, and supervised release systems such as probation and parole. What follows will be devoted to a sketch of the changes in social structure that accompanied various penal "reforms" in these epochs.

The early medieval system of fines and penance corresponded to the needs of a thinly populated peasant economy. The traditional social structure of the early Middle Ages tended to promote social cohesion and mitigate social tensions. The possibility of settling on free land hindered any strong social pressure on the lower classes and led to a relatively even distribution of society's wealth. Thus there were few crimes against property, for a farmer would hardly take things from his neighbour which he could produce himself at a much lesser cost in "psychic expenditures." Rather, as Rusche and Kirchheimer (1937) state, crimes were rooted in the primitive stirrings of sexuality and hatred. A real deterrent at this time was the fear of private revenge by the injured party. In order to prevent this situation from degenerating into blood feuds and anarchy, society strove for accommodation. Crime was regarded as a form of war and the goal of legislators was the reconciliation of the enemies on the basis of recognized principles rather than through crime "control" as one knows it today. A well balanced system of social dependence supported by religious conceptions that legitimated the established order made formal criminal law relatively unimportant as a means of preserving the social hierarchy.

During this period, fines and the costs of legal proceedings produced revenue that sometimes included the offender's confiscated property.

Rusche and Kirchheimer believe that the attempt to extract revenue as part of the administration of justice was one of the principle factors in transforming the private system of arbitration into a public system of centralized authority.

In the late Middle Ages, the situation changed. There was a growth in population, the land was settled and a crowding of the available living space occurred. A radical separation of classes into rich and poor began, property-less workers drove down wages; and for the first time, a quasi-capitalistic mode of production emerged; armies of beggars, social unrest and revolts, culminating in the peasant wars resulted. (Polanyi, 1944). The nature of criminality was changed; a rapid increase in property crimes occur and hordes of beggars, thieves, and robbers flourish. As a result, the sphere of action of criminal justice had to be completely altered. If in the Middle Ages fines were preferred over corporal punishment, now the traditional system of monetary fines had outlived its usefulness because these criminals had no possessions with which they could pay. Gradually traditional punitive methods was replaced by whippings, mutilation, and killings. Later this became a universal means of punishment, of and protection against the criminality of the gathering crowds of have-nots (Sellen, 1944). "Execution, mutilation, and flogging were not introduced at one stroke by any sudden revolutionary change" (Rusche and Kirchheimer, 1937:18). The system of punishment in the late Middle Ages reflected the fact that there was no labour shortage. Wages declined, and the value placed upon human life by the ruling classes decreased. The system of punishment intensified the struggle for existence among the poor. Criminologist Han Von Hentig

(1937) argues that the function of this type of penal system was to destroy those whom the ruling elite considered unfit for society.

The penal system of the late Middle Ages did not slow the increase in crime. But neither was it a mere reflection of human irrationality. "Brutal punishments cannot be ascribed simply to the primitive cruelty of an epoch now vanished. Cruelty itself is a social phenomenon which can be understood only in terms of the social relationship prevailing in any given period" (Rusche and Kirchheimer, 1937:23).

Around 1700, the conditions of the labour market again changed fundamentally. The supply of labour was reduced as a result of the expansion of trade and new markets. There was an influx of precious metals from the New World which expanded production and the demand for labour, and wars and plagues (Ibid). A period of noticeable shortage of workers occurred, worker's wages rose and the standard of living of the lowest class improved considerably. People became "valuable" and workers thought twice before putting their labour at anybody's disposal. As the gains of the contractors receded and the "economy" declined, force replaced economic incentive. The whole structure was determined by this effort, and as a consequence of it, the system of mercantilism emerges (Ibid, 25). From this perspective, it is easy to interpret the well known fact that until then it had been easy to collect soldiers in sufficient numbers simply through the "propoganda drum". But now, they had to be enlisted with force and trickery because they could find more favourable conditions outside the military. In light of this situation of chronic labour shortage, where everybody's labour was now valuable, it became (economically) "senseless cruelty" to destroy criminals.

Confinement to prison succeeds corporal punishment and death sentences; "humanitarianism" replaces cruelty, wherever there used to be gallows, prisons now stand. This "humanitarianism" was unquestionably profitable. Supporting this notion, Scott and Scull (1978:153) assert, "we cannot help but see that such institutions placed at the disposal of the state a large and ready source of cheap labour that could easily be exploited at exactly the moment in history in which the labour shortage was most acute."

This "humanitarian" system of punishment lost its utility when the Industrial Revolution (the relative displacement of workers by machines), at the turn of the 18th century, eliminated the scarcity of workers, and the industrial reserve army came into existence (Rusche and Kirchheimer 1937:85). The lower classes sank into misery, underbid each other on the labour market and consequently, compulsory measures lost their value. Prisons were suddenly no longer profitable. Wages were high, bringing high gains, but when workers voluntarily offered their labour for a minimal existence, it was no longer reasonable to pay the cost of confinement and supervision. The proceeds of prisoners' labour were not even sufficient for the upkeep of the building and the maintenance of the guards and prisoners. In the Middle Ages, the criminality of the pauperized masses rose and the penitentiary no longer terrorized them. Some advocated the return to medieval methods of punishment; but it did not materialize because hard earned humanitarian ideals hindered it and political wisdom kept the ruling class from overstraining an already potentially revolutionary situation with such an open provocation. Penal punishment became a legacy of a previous

epoch, but adjusted by necessity to changing needs. Increasingly, institutions of forced labour, and penitentiaries became places of pure torture, suitable to deter even the most hard core criminal (Scott and Scull, 1978). Prisoners were insufficiently clothed and were cramped together. Work, having become unprofitable, served as torture--loads of stone had to be lugged without purpose from one place to another by the prisoners. The discipline of this routine was reinforced by the deterrent effect of beatings. The work of prisoners was no longer a source of cheap labour. Imprisonment meant more than the mere deprivation of liberty; it included pain and utter degradation.

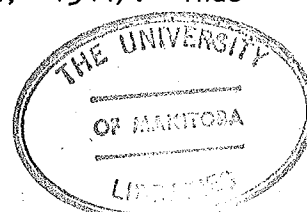
The introduction of solitary confinement was only an apparent reform. It, too, was a punitive device which could arouse fear even in the hungry and act as a deterrent for people who did not know how to stay alive. There is hardly a greater torment than the feeling of total dependency and helplessness, of being cut off from all stimulations and distractions, which is induced by solitary confinement. Only in form did the idea of deterrence differ from the corporal punishments of the Middle Ages, but the "consciences" of the reformers could be at peace. In solitary confinement moreover, they could see, not torture, but the "reform" of the penitentiaries.

As Jankovic (1977) and Rusche and Kirchheimer (1937) state, punishment in America, in the nineteenth century, developed differently in Europe precisely because there was a greater demand for workers. Free land (the seemingly infinite frontier) and industrial development created a vacuum in the labour market which immigration could not fill. Everybody who was the least bit useful, could find work; wages were high

and the possibilities for upward mobility were not closed to any capable person. The lowest socially important class was composed of the unskilled, recent immigrants, and native workers. For the sick and the weak and those unable to work, private philanthropy was enough. The incidence of crime was low and the form of punishment could take this into account.

As under mercantilism, prisons became very profitable places of production whose main task was to transform criminals through education, into "useful members of society", i.e. into industrious workers. Consequently, reformers were able to make surprising gains--education, learning of skills, hygiene, indeterminate sentencing, conditional pardons, and separate treatment of juvenile delinquents all had their starting points here. Also scientific organizations investigated the individual and social causes of crime and method of crime control through welfare and prevention.

Only when the situation improved somewhat in Europe, when the pressure of mass unemployment which had weighed so heavily on the labour market since the Industrial Revolution slowly subsided, when unemployment as a phenomenon disappeared, when social welfare lessened the misery of the helpless and, therefore, the rates of criminality went down considerably, was the American example slowly and hesitatingly, followed, more perhaps, in theory than in practice. The development, for example, of effective aid for released prisoners in the period before the war was motivated by the scarcity of agricultural labour and employers' willingness to accept any labour force provided that they contented themselves with sufficiently low wages (Sellen, 1944). Thus



there was an urgent demand for vagabonds and criminals as well as foreigners.

After the war, when there was chronic unemployment, a breakdown of the labour market was avoided by unemployment assistance. Wages and the standard of living did not sink as low as they would have in an unregulated economy. Even those who dropped out of the production process were assured of satisfying their most immediate needs and generally, they did not need to become criminals. Consequently the penal system was saved from its traditional task, (which it had to perform several times in its history), because of the regular supply of food. Criminality did not rise above its pre-war level. As a result, penal reforms which began even before the war did not have to be given up, but were partially continued, as a result of the favourable political climate.

Rusche and Kirchheimer do not postulate a theory which attempts to explain twentieth century penal development, at least not to the same degree that they do for the earlier periods. Their lack of a clear and concrete extension of their theory to cover this century can be attributed to the scope of Rusche's original program, which spanned the period from the breakdown of feudalism to laissez-faire capitalism. However, historical documentation like Rusche and Kirchheimer's lends credence to the theory that penal practices are closely aligned to the social structural organization of a particular society.

Another historical work that gives validity to the relationship between policies and reforms and the social structure/economic order is the work of Pivan and Cloward (1971), in Regulating the Poor--The

Functions of Public Welfare. Although Pivan and Cloward's work extends to programmes of public relief, they contend that any public policy is best understood in terms of the utility it has for the larger economic order and political base of which it is a part. Their thesis suggests that basic changes or reform in society are initiated or promulgated during the occasional outbreaks of civil disorder produced by mass unemployment and are then abolished or contracted when political stability is restored. They conclude that political disorder and the deterioration of social control result in social change; however, they perceive the main and underlying causes of such dissent as being the political-economic relationships of society. In other words, relief policies like penal policies are liberal or restrictive depending on the problems of regulation in the larger society with which government must contend (Pivan and Cloward, 1971:13).

William Chambliss' analysis of the law of vagrancy demonstrates the relationship between particular laws and the social setting in which these laws emerge, are interpreted, and take form. Vagrancy statutes emerged as a result of changes in parts of the social structure in England in 1349. The prime mover for this legislation was the Black Death which struck England, decimating its labour force. There is little question that these statutes were designed for one purpose: to force labourers to accept employment at a low wage in order to insure the landowner an adequate supply of labour at a price he could afford to pay. Five years later, in 1353, the punishment of death was applied to the crime of vagrancy. During this period the focal point of the vagrancy statutes became a concern for the control of felons and was no

longer primarily concerned with the movement of labourers. These statutory changes had a direct response to changes taking place in England's social structure during this period. Feudalism was decaying rapidly and concomitant with the breakup of feudalism was an increased emphasis upon commerce and industry. The commercial emphasis in England at the turn of the 14th century was of particular importance to the development of vagrancy laws. With commercialism came considerable traffic, bearing valuable items. Such a situation called for the development of new laws which would facilitate the control of persons preying upon merchants transporting goods. The vagrancy statutes were created in order to fulfill such a purpose. Chambliss' analysis of the vagrancy laws therefore, indicated that when changed conditions create a perceived need for legal changes, alterations would be affected through the revision and re-focusing of existing statutes.

Rothman's (1890) historical sketch of the American Progressive movements suggests some convincing arguments that administrative expediency and convenience have often become the major forces behind reform policies. His analysis indicates that reform principles are often conveniently taken up by the various organizational components of the penal system to further their own interests. Rothman argues that the only major opposition to the introduction of probation and parole, apart from the prisoners themselves, was the police. The police found the whole exercise demoralizing and denigrative of their crime fighting efforts. The fact that probationers and parolees were usually supervised by probation and parole officers and not the police meant that the police were losing control over these people. The loss of control,

eventually, was more apparent than real. Probation and parole officers were carrying such heavy caseloads that the revocation rates were generally low, with the majority of revocations occurring after the probationers or parolees had been arrested on a new charge. The fact that offenders were allowed to roam the streets has arguably been an important justification for the expansion of police personnel and resources. In an indirect way then, probation and parole served the organizational interests of the police as well.

Another example Rothman cites is indeterminate sentencing. Indeterminate sentencing was unabashedly supported by wardens of penal institutions because it increased their discretionary prerogatives by giving them power to influence inmates' release time. Probation was viewed as a way of extending the discretionary authority of the judiciary and was therefore supported by judges, who tended to use probation as an alternative to the suspended sentence. Probation and parole made the prosecutor's jobs easier to carry out, allowing them more room to bargain for guilty pleas on the assumption that most people would rather suffer the inconvenience of probation than risk incarceration.

2:8 SUMMARY

There is a vigorous effort to reduce the penal institutions to the place of last rather than first resort. This new social policy, decarceration, has already had a considerable impact. the sixties and seventies have witnessed the expansion of community correctional centres, halfway homes, work release programmes and use of parole and

probation on an entirely novel scale and in historically unprecedented ways. The obvious question is: why has all this been happening?

The voluminous literature on community corrections rarely gives this question of origins more than passing notice since it is typically more concerned to propagandize on behalf of the policy to decarcerate than to analyze the social foundations of this change in penal practices and styles. Chapter two has critically examined the standard accounts of why decarceration is taking place. Such accounts are shown to rest on the claim that social science has demonstrated that prisons and penitentiaries are costly, brutal and generally counterproductive methods of dealing with lawbreakers; while measured in recidivism rates, community based alternatives for less money provides greater success in coping with the criminally "deviant". Chapter two demonstrates that this far-reaching change in social control styles and practices can be explained both more completely and more parsimoniously by reference to deep rooted structural pressures which are greatly intensified by the fiscal crisis--a crisis engendered by advanced capitalism's need to socialize more and more of the costs of production--the welfare system itself being one aspect of this process of socialization of costs. The historical materials as presented by Rusche and Kirchheimer, Pivan and Cloward, and William Chambliss reinforces this central insight by demonstrating in general how shifts in penal styles and practices and, more specifically, the state's receptivity in the modern era to decarcerate, can be traced back to fundamental transformations in the political/economic organizations of the wider social systems in which they are embedded.

CHAPTER THREE

Radical criminology theory argues that the shift in social control styles and practices must be viewed as dependent upon, and a reflection of, the structural pressures (in particular, the fiscal crisis) to curtail sharply the costly system of segregative control once welfare payments make available a viable alternative to the management of offenders in an institution. Further, it suggests, that the emergence and persistence of efforts to curtail expenditures for control of "problem" populations occurred at a time when general welfare expenditures in the form of a wide range of community correctional alternatives and programmes were expanding rapidly. Its essential thesis is that the expansion of the welfare budget made it possible and even necessary to reduce other forms of state expenditures.

The focus of attention is the post Second World War years, and particularly the period of the late sixties and early seventies, since this was the period of the full consolidation of the modern "welfare state." Significantly, this period also witnessed a tremendous expansion in welfare, crime control and other social control expenditures along with a corresponding growth in the ideological commitment to community alternatives to incarceration.

The research design for examination and testing of Scull's propositions for period will be discussed in this chapter. The research setting, selection and operationalization of the variables, data

sources, and methodological problems with institutional data and criminal correctional statistics in measuring the variables will also be examined.

3:1 RESEARCH SETTING

To empirically determine whether or not the trend to decarcerate is correlated with the growth of welfare expenditures, it is necessary to examine several sources of information on incarceration/ decarceration rates from approximately 1950-1976. The present study combines information and data from the federal government publications of Statistics Canada: Justice Statistics Division, Statistics of Criminal and Other Offenses, and Correctional Institution Statistics; Federal Management Data, National Income and Expenditure Accounts, and Federal Government Finance. The sources of data and information on incarceration/decarceration rates include statistics on:

- 1) Convictions by Sentence Offences Punishable on Summary Offenses 1957-1972
- 2) Persons convicted and sentenced on indictable offenses 1953-1973
- 3) Provincial and federal parole statistics 1959-1978
- 4) Adult prisoners per 100,000 population 1955-1977
- 5) Population of, Admissions to, and Releases from Canadian Penitentiaries 1955-1978
- 6) Criminal Justice Expenditures--Federal Government 1962-1978

The sources of information and data on welfare expenditures, government revenues, government expenditures, etc. include the statistics on:

- 1) The Growth of Government Spending in Canada 1947-1977
- 2) The Real Growth of Government Spending in Canada 1947-1977

- 3) Welfare expenditures as a percentage of Gross National Product 1930-1975
- 4) Federal Government Deficit and Welfare expenditures 1930-1977
- 5) Government Expenditures and Revenues, and the Budgets for Social Welfare and Protection of Persons and Private Property

Since the major focus of this study is the "fiscal crisis" period of the sixties and early seventies, a brief sketch of Canadian economic and welfare policies and development during this period is in order.¹

The end of World War II in Canada was characterized by the adoption and implementation of new social welfare policies by the state (Herman, 1971). Economic growth was rapid during the years following the war, with a particular sharp increase in the level of economic activity during the Korean War due to the high level of demand for Canada's raw material exports. The steady growth and stability of the economy continued with only minor dislocations until the recession of 1958 when the strong downturn in the American economy produced a similar effect on Canada. The slack state of the economy lasted until 1962 -- a performance which has been attributed to both the inadequate management of the economy by the Conservatives under Diefenbaker and to a decline in international

¹ This sketch relies heavily on "orthodox" (whether liberal or conservative) economic analysis of this period for two reasons: a) it is not the primary purpose of this thesis to provide a radical economic analysis of this period in Canadian economic history; b) government policy making is informed by and articulated in terms of orthodox theory. This latter point does not make orthodox theory "correct", but it does make it relevant to an understanding of perceived policy options. A very different approach to economic analysis is suggested by the fiscal crisis theorist O'Connor, Gough and Scull. The strengths and weaknesses of this approach will be examined in Chapter Five.

demand for the products of Canada's resource industries (Will, 1966). However, by 1962, the pace of economic development had begun to accelerate, and with the return to power of the Liberals in 1963, economic policy became more expansionary. The Economic Council of Canada's First Annual Review in 1965 provided justification for the continuation of a policy of sustained economic expansion. According to Wolfe (1977), the success of this policy can be seen in the succession of large annual increases in the gross national product which Canada experienced in the mid-sixties as well as in the generally low levels of unemployment. In the boom period from 1962 to 1965, profits rose at a faster rate than wages and salaries. However, during the later phase of the boom, wages began to catch up and to regain the share of national income which they had held previously. This new development provided the focus for economic policy in the late 60's and set the stage for what has proven to be the policy concerns of the recent period.

In the period from 1953 to 1973, the Canadian state also shifted its emphasis from warfare to welfare. In 1960, for example, old "defense" functions still accounted for 32% of the federal budget but by 1970 this share was reduced to 18%. Expenditures were redirected towards the expansion or creation of "welfare state" programmes such as community correction centres for "problem" populations, education, medical insurance, health care, old age pensions, etc. The pace of expansion of state expenditures on "social services" in Canada, therefore, increased markedly during the sixties and seventies. As it did so, the incentives to accelerate the movement towards decarceration likewise intensified. And it is precisely in this period, according to Scull, that the

momentum to close down institutions and minimize incarceration gathered strength.

In 1966 the increase in the number of strikes and in the number of contracts rejected by union members drew national attention to the increased urgency with which labour's wage demands were being put forward (Jamieson, 1973). The membership growth in the trade union movement increased to more than 500,000 between 1964 and 1968 in marked contrast to the labour movement's relatively static growth from the mid-fifties to 1964. The increased strength which the labour movement drew from this growth intersected the dynamic growth of the economy to lay the basis for a significant increase in labour income and a marked shift in the share of national income going to wages and salaries (Jamieson, 1973). The increased determination with which unions bargained in the latter part of the decade is reflected both in the significant wage gains which they made and in the record number of man days lost due to strikes in 1966 and again in 1969 (Canada-Department of Labour, Labour Organization in Canada, 1975). The labour movement demonstrated throughout this conjuncture of economic growth that it was prepared to press the claims of its members for a larger share in the country's increased economic prosperity. This self-confident orientation of the labour movement represented an important new factor in the Canadian economy (Wolfe, 1977). The militancy of organized labour in its approach to bargaining had a profound influence on government thinking with respect to the goals of economic policy.

Labour's new aggressiveness in pressing its wage demands was regarded with some dismay and discomfort by government policy makers charged with

the responsibility for ensuring that economic growth continued at a fairly strong pace. Moreover, the increasing rate of inflation, from 1.8 percent in 1964 to 4.0 in 1968, became a source of growing concern to the government. Accordingly the government attempted to cut back slightly in the overall level of demand by employing a more restrictive fiscal and monetary policy in 1966 and 1967. The government attempted to reduce the budgetary deficits by increasing taxes and restricting growth in public/social expenditures.

There is little doubt that cutbacks in spending have dramatically affected human service and social control programmes in Canada. Bergeron (1979) examined spending on such programs in Canada between 1962 and 1976. He found that, beginning in the early seventies, "spending on social programs in relation to both total government spending and the gross national product had decreased" (Ibid, page 17). In Saskatchewan, Riches (1979) examined provincial government expenditures on social service and social control programs from 1966 to 1977. He contends that the expectations of increased expenditures, common in the late 1960's and early 1970's, were displaced by a climate of restraint characterized chiefly by a tighter rationing of resources.

The correctional policies of the 1950's in Canada were characterized by the emergence of a number of new penological systems focusing on the provision of services or as alternatives to imprisonment. Two of these systems, parole and probation, grew into substantial services during the early 1960's. In order to illuminate the conceptualization of parole and probation, a brief historical note on the development and origins of each is required.

3:2 PAROLE

Parole is a well-recognized procedure which is designed to be a step in the reformation and rehabilitation of a person who has been convicted of an offence and, as a result, is undergoing imprisonment. It is a procedure whereby an inmate in an institution may be released, before the expiration of his sentence, so that he may serve the balance of his sentence at large in society, but under appropriate social restraints designed to ensure, as far as possible, that he will lead a law abiding life. It is a transitional step between close confinement in an institution and absolute freedom in society. The sanction that is imposed for failure to live up to the conditions that govern the release is the return of the inmate to an institution (Canada, Department of Justice, Committee Appointed to Inquire into the Principle and Procedures Followed in the Remission Service of the Department of Justice of Canada Fateux Report, Ottawa, Queen's Printer, 1956). While the concept of parole is not essentially one of clemency, there is no question that the original parole practices were related to clemency since their historical roots are found in the exercise of the ancient Royal Prerogative of Mercy. From the earliest times in Canada, some prisoners were released from custody through the Royal Prerogative of Mercy which rested with the Governor General. Practice advanced in the direction of parole when the Ticket of Leave Act was introduced into parliament in 1898 and passed the next year.

Prior to this time, convicts were released from custody before the expiration of their sentences by order of the Governor General (upon the advice of a Minister of the Crown) as an expression of the Royal

Prerogative of Mercy. With the passing of the Ticket of Leave Act in 1899, provision was made for the conditional release of inmates for the next sixty years. Conditional liberation was viewed as a method of bridging the gap between the control and restraints of institutional life and the freedom and responsibilities of community life.

In the period following the proclamation of the Ticket of Leave Act, it was difficult to provide supervision to parolees dispersed across a sparsely settled country. Supervision of parolees was limited to their monthly reporting to the local police. As a result, the early years were marked by a conservative policy with respect to the granting of Ticket of Leave.

Not unlike the situation today, in the mid-twenties the government came under attack for what was considered too liberal a policy in the granting of Tickets of Leave. This led to a reorganization and a more clear-cut formulation of the policy governing Tickets of Leave. During the depression years there was an increase in prison populations which resulted in pressure either to build more prisons or to grant more Tickets of Leave. Given the financial considerations at this time, the latter option was chosen.² Following the depression, special Tickets of Leave were granted to offenders so that they might join the armed forces to fight in World War II, or to work in the war industries.

² It is generally estimated that the cost of keeping an offender on parole is one tenth that of keeping the person in a penitentiary. This figure does not include the capital cost associated with new prison construction. Kent Institution, a maximum security penitentiary which was opened in British Columbia in 1979, cost approximately \$90,000 per cell to construct. (Griffith, Klein, Verdun-Jones, 1980)

The immediate post-war years were characterized by a considerable development in social services generally, and new resources both within and outside the institutions enabled a greater use of Tickets of Leave. The John Howard and Elizabeth Fry Societies, as well as the Salvation Army, expanded and developed their services and an increasing number of after-care agencies were organized and became active in this field. In 1957, the Remission Service regarded Tickets of Leave less as an exercise in clemency and more as a means of providing a supervised period of readjustment in the community. In 1953, the Minister of Justice appointed a "Committee to Inquire into the Principles and Procedures Followed in the Remission Service of the Department of Justice of Canada." This Committee, under the chairmanship of Justice Gerald Fauteux of the Supreme Court of Canada, in 1956, recommended the enacting of legislation to create a National Parole Board. At the same time the Remission Service became the National Parole Services. These recommendations were implemented on February 15, 1959, with the Proclamation of the Parole Act (Chapter 38 of the Statutes of Canada 1958) which provided for the federal system presently in operation in Canada.

3:3 PROBATION

Probation is defined as a disposition of the court whereby an offender is released to the community on a tentative basis subject to specified conditions, under the supervision of a probation officer (or someone serving as a probation officer), and liable to recall by the court for alternative disposition if the offender does not abide by the conditions

of his probation. Provision for probation in Canada is set out in Section 638 of the Criminal Code as follows

Where an accused is convicted of an offence and no previous conviction is proved against him, and it appears to the court that convicts him that hears an appeal that, having regard to his age, character, and antecedents, to the nature of the offence and to any extenuating circumstances surrounding the commission of the offence it is expedient that the accused be released on probation, the court may, except where a minimum punishment is prescribed by law, instead of sentencing him to punishment suspend the passing of sentence and direct that he be released upon entering into a recognizance with or without sureties.

Tracing the growth and development of probation suggests to speculation that probation as it exists today is not the product of a conscious, linear development. Probation in Canada has been characterized by a slow and uneven development. In Canada, adult probation apparently began with judges directing the release of certain offenders on recognizance rather than imposing sentence. The procedure, though not legal, was generally accepted. (Sheridan and Konrad, 1976:253) In 1899, however, this procedure received statutory and legal recognition with the passing of the "Act to Permit the Conditional Release of First Offenders" in certain cases, which allowed judges to suspend the passing of sentence and place an offender on "probation of good conduct." This Act, later to be inserted in the Criminal Code, provided strict and limited provisions as to when sentence could be suspended and did not provide for a genuine form of probation inasmuch as no mention was made of supervision while the person was under a suspended sentence. Probation did not truly emerge until 1921, when the Criminal Code was amended to allow the offender to report to any officer the court might designate, thus legally recognizing that there was

value supervising those released on suspended sentence. This amendment was the catalyst for the development of probation services in Canada. Legislation enabling the development and establishment of probation services was passed in Ontario in 1921, Alberta in 1940, B.C. in 1946, Saskatchewan in 1949, Nova Scotia in 1954, Manitoba in 1957, New Brunswick in 1959, the Yukon in 1964, Newfoundland in 1965, the Northwest Territories in 1966, Quebec in 1967, and Prince Edward Island in 1972.

The utilization of probation as an alternative to imprisonment was also restricted by the spotty development of probation services and facilities across Canada. This state of affairs was largely due to the fact that probation services have traditionally fallen within provincial jurisdiction. According to Konrad and Sheridan (1976:254), the rationale for this was never clear, nor has there been any case in the appellate courts to test its constitutionality. The federal government has seen fit to legislate in some areas related to the general field of the administration of criminal justice, particularly in relation to reformatories which are operated by the provinces but it has never seen fit to legislate directly on standards of probation that would apply throughout the country (Coughlin, 1963:12). Probation services are within provincial jurisdiction, and due to the unequal financial position of the various provinces and the dearth of federal/provincial cost sharing agreements, much variation exists in the quality of probation services provided to those involved in the criminal justice system (Griffiths, Klein, Verdun-Jones, 1979).

3:4 METHODOLOGICAL LIMITATIONS

The sources of data for this thesis are nearly all federal government publications. The employment of official statistics for criminological research has seen no shortage of criticism. The fundamental problem in the use of official statistics is their misapplication: official statistics do not serve as a valid base for theories regarding the crime problem or criminal behaviour, nor as a reliable measure of the actual incidence of crime.

The process of administration of criminal law is a discretionary one with a number of stages during which an individual can be phased out and/or further processed. At each step and in each subsystem of the criminal justice system (police, courts, corrections) discretion is applied, thus numerous contingencies occur between an offense and its statistical appearance in the official records. While there are many points within the criminal justice system where offenders and offences can exit or "disappear", the following ratios are the only ones that can be considered when using official statistics:

- 1) Number of offences reported to police to offences known to police
- 2) Offences known to police to offences cleared otherwise and cleared by charge
- 3) Offences cleared by charge to offences brought to court
- 4) Offences brought to court to offences resulting in conviction.
- 5) Offences resulting in conviction to sentencing and offences resulting in acquittal. (Connidis, 1979:398).

While most criminologists are aware of the amount of discretion employed at every stage of the criminal justice system, and while most

commentaries on criminal behaviour begin with doubts as to the reliability and validity of official statistics, researchers tend to present and interpret statistics as though they accurately portray the actual extent of crime in society (Giffin, 1964). Despite the acknowledged shortcomings with official statistics, some theorists, notably Young, suggest that a rejection of official statistics is equally in error:

The rejection of the statistics absurdly disqualifies the new deviance theorist from contributing to the topical and politically consequential debate, as to the significance of the crime rate, whether it is rising and in what way. (Young, 1975:22)

While such statistics should not be used to study crime and criminal behaviour per se (as they often are), they can be validly employed to study official responses to crime. Official statistics, current and historical, can reveal the behaviour patterns of those who invent, modify, and enforce norms (Kitsuse and Cicourel, 1963). Criminal statistics, while not representing crime, do represent "the end result of the deployment of social control agencies by the powerful" (Young, 1957:87). Rather than employing official statistics as an index of the actual rate of crime, they can be utilized as an index of social control operations whereby the official crime rate may be understood as a rate of socially recognized deviant behaviour (Black, 1970:235).

By shifting the focus of investigation from explaining deviant and "criminal" behaviour to the reactions of officials in imputing criminality, crime statistics become essential for examining how the power to ascribe criminality is used. Thus the official rates of prison incarceration/decarceration rates can be seen as "indices of the

incidence of certain forms of behaviour" (Kitsuse and Cicourel, 1963:17).

Most of the official statistics from Statistics Canada are drawn mainly from three subsystems or stages of the criminal justice system---police, courts, and corrections. The major difficulty inherent in the current system of crime and justice statistics is that the data relating to these different stages (police, courts, corrections) cannot be linked up for evaluative or comparative purposes because they do not refer to identical time periods or to the same group of offenders. There are still other shortcomings in official statistics, flowing from such factors as the lack of uniformity in the matter of counting districts, units of count, offence categorization, definitions, concepts and reporting practices (Connidis, 1979). As a result, almost all of the crime and justice statistics, including those published and collected by Statistics Canada are somewhat disjointed and diversified. It is therefore considered necessary to provide some insight into the meaning and nature of official statistics. General criticisms of official statistics from each subsystem as data sources will be reviewed briefly; however, a brief interpretive statement of each statistical subsystem is also in order.

3:5 POLICE STATISTICS

Statistical information acquired from operational police units provides a perspective on crime which differs significantly from that provided by court and correctional data. Police statistics, or crimes known to police, are the first level of reporting that states the amount of

business that officially comes to the attention of the police and how it is disposed of. The measurement of crime at this level is complicated by the number of different counting entities. One can count incidents of crime, alleged offenders, victims, or the number of violations of the law. In order to systematize the collection and reporting of police data, the Uniform Crime Reporting (UCR) programme was adopted in Canada in 1962. Up to that time there was no uniform police reporting; therefore, comparability of data to preceeding years may be misleading.

Statistical information for the monthly Uniform Crime Report to Statistics Canada is extracted from the daily records of operational police officers. The fundamental unit of count in UCR data is offences known or reported to the police. Offences, in general, are violations of the law and are counted for each victim. If one incident involves more than one specific type of crime, only the most serious one is tabulated in the UCR programme. The major or most serious crime is determined on the basis of maximum legal penalties.

This total count of offences represents only those crimes which come to the attention of the police and does not reflect the total amount of crime in Canada. The results of victimization surveys indicate that approximately 20% of crimes are reported to police. It is thus clear that UCR data is not an accurate measure of all Canadian crime but of only that part which comes to the attention of the police.

Actual offences are investigated and evidence is gathered. When the police feel that they know the identity of at least one of the persons involved in one offence, information is laid against the person and that person is thereby formally charged with the offence. From a statistical

point of view, the laying of an Information means that at least one actual offence can be cleared by charge, and this can happen even though the accused has not been apprehended by police. There is no simple relationship between the number of offences cleared by charge and the number of persons charged, since a number of offences may be cleared with the charging of one person and several persons may be charged with one offence.

Police statistics have been criticized for their neglect for the nature of crime, their lack of information on victims, and related details of the crime. Despite these shortcomings, criminologists (Giffin, 1976) generally agree that offences recorded at the police level are the most reliable indicators of the total volume of crime.

3:6 COURT STATISTICS

Court Statistics are the second level of reporting; they report the court's activities, proceedings, charges laid, convictions obtained, individuals charged and convicted, and appeals. Official statistics derived from this level are somewhat less accurate and representative than at the police level, since only a proportion (one who commits the more serious offences), are usually brought to court. The courts, however, are the first level at which information on the characteristics of offenders are provided. Information about persons convicted of indictable offences (such as age, sex, marital status, occupation, residence rural or urban, education, country of birth, religious denomination, and ethnic origin) is provided. For offences punishable on summary conviction, the only information reported has been the sex of the offender.

Changes in court statistics intended to be improvements, have resulted in discontinuities. In 1949, Statistics of Criminal and Other Offences shifted from "convictions" to "persons convicted" as the basic unit of reporting. Comparisons with earlier years must be based on convictions. While individuals may be charged with more than one offence, only one offence is tabulated for each person represented. This offence is selected according to the following criteria:

1. If the person was tried on several charges, the offence selected is that for which proceedings were carried to the furthest stage: conviction and sentence.
2. If there are several convictions, the offence selected is that for which the heaviest punishment was awarded.
3. If the final result of proceedings on two or more charges was the same, the offence selected is the most serious one, as measured by the maximum penalty allowed by law.
4. If a person was prosecuted for one offence and convicted of another (for example, charged with murder and convicted of manslaughter), the offence selected is the one on which the person was convicted (Ninety-eighth Annual Report of Statistics of Criminal and Other Offences, Justice Statistics Division).

This mode of measurement provides a less distorted picture of the characteristics of offenders but it also means that figures on characteristics prior to 1949 cannot be compared to succeeding years since the number of offences for which charges are laid or convictions obtained may differ from the number of individuals committing those offences. Convictions, rather than the count of persons remains the unit

of tabulation of summary conviction offences. Conviction rates reflect not only the actual scope of criminal acts but also the attitude of the public toward unlawful behaviour as well as varying methods of law enforcement in different areas.

Changes and improvements in collecting and processing source data may also affect the comparability of court statistics between years. Identical standards of technical adequacy cannot be assumed when considering series which cover a long period of time. With court statistics the figures reported do not represent, by any means, the total number of offences nor the total number of offenders. They relate only to offences which have been prosecuted. There are offences which are known only to the offender; aside from the offender, others are known only to those victims who do not want to report them. Furthermore, of those known to law enforcement or other social agencies, only a portion is prosecuted. However, time series analysis of crime based on court statistics can be made without knowing the actual amount of crime or the real number of offenders on the controversial assumption that the proportion of recorded offences (offenders) in the unknown whole remains fairly constant and that the proportion of prosecuted offences (offenders) in the total number of known offences (offenders) also remains fairly stable (Zay, 1965:635).

3:7 CORRECTION STATISTICS

Correction statistics represents a collection of data on the social characteristics and the legal aspects relating to persons incarcerated in provincial and federal adult correctional institutions. Information concerning population movements, admission, releases, profiles of the population, social characteristics and judicial information on persons incarcerated is provided by correction statistics. Here we will rely mostly upon correctional data and statistics supplied by the Justice Statistical Division of Statistics Canada, Canadian Penitentiary Services, National Parole Services, and the Ministry of the Solicitor General. In order to elucidate the reasons for this choice, a few comments on the nature of correction statistics are in order.

The division between federal and provincial penal institutions is such that persons sentenced to serve terms of less than two years are sent to provincial prisons while those serving two years or more go to federal penitentiaries. Federal inmates are initially classified on the basis of whether they belong in a minimum, medium or maximum security level institution. Once housed in an institution, however, inmates may subsequently be transferred to one at a different security level.

Inmates may also be transferred between federal and provincial institutions. It should be noted that due to the federal/provincial agreements there are exchanges of prisoners regardless of the sentence received. Those transferred to federal penitentiaries are generally difficult behavioral cases. Those transferred to provincial institutions are generally those who it is felt would profit from less restrictive institutionalization. Thus the population in correctional systems may reflect this situation.

As with all statistical systems which are primarily administrative in nature, certain problems arise when one wishes to use the correctional data base for non-administrative purposes. Statistical reports not essential to day-to-day operations have a tendency to come in late or to be less than ideally accurate. Since the data base is continually updated, statistics published by Statistics Canada may not match precisely with those published reports from the Ministry of the Solicitor General if the tables were generated at different points in time.

The system is further complicated by the existence of two independent correctional data bases, one for the penitentiary system, and one for the parole service. As may well be imagined, the numbers generated by one system do not always match those generated by the other. Thus, for example, the penitentiaries report releasing 2,553 inmates on mandatory supervision during 1976 while the Parole Board reports supervising 2,531 new releases. This discrepancy by no means implies that 22 convicted "criminals" were running around unsupervised. Slight differences in the units of count or in the reporting time periods almost inevitably arise, producing slight discrepancies in the statistical accounts.

Despite this limitation, reliable statistics reported and recorded by correctional institutions are easier to obtain for reasons specific to their organization (Giffin, 1976:83). From the weekly population movement reports and Inmate Record System, a computerized file system initiated by the Canadian Parole Services in 1970, allows for the routine availability of generally accurate statistics.

3:8 CONCEPTUALIZATION AND OPERATIONALIZATION OF VARIABLES

Types of Offences: Statistics relating to charges laid or convictions obtained arise from two types of offences, namely indictable offences and from offences punishable on summary conviction.

Indictable Offences: The definition of indictable offences is the sole prerogative of the Federal Parliament of Canada. These are generally the more serious crimes, for which the penalties prescribed by law are more severe, extending to life imprisonment. In general, indictable offence charges are handled in a more complex judicial fashion with a jury hearing and/or a Preliminary Inquiry to determine whether the evidence against the accused is sufficient to justify a trial. Further, in the case of the more serious indictable offences, the accused and his counsel are allowed the option of trial by jury (Clark, Barnhorst and Barnhart, 1977).

Summary Offences: Summary offences are generally considered to be of a less serious nature. This perceived lesser gravity is reflected in the fact that the maximum penalty assessed upon conviction of a summary offence is a jail sentence of six months or a fine of \$500.00 or both. Further evidence of the lesser gravity of these offences is the fact that summary offences are handled by the courts in a relatively expeditious fashion and do not involve jury trials. All offences contained within Provincial Statutes and Municipal By-Laws are summary offences. Examples of the former include Provincial Traffic and Liquor Control Acts, Fish and Game Regulations, and Social Welfare Legislation.

In addition to Provincial Statutes and Municipal By-Laws, the Canadian Criminal Code and Federal Statutes also contain summary offences.

Types of Sentencing: Institutionalization

Prison/Gaol/Institution: These interchangeable terms are used to denote custodial locations in which persons serve maximum terms of two years less a day. Provincial adult correctional institutions comprise provincial, district, county and municipal jails, reformatories, industrial farms, training and correctional centres. In addition to sentenced persons, these institutions house persons held on remand awaiting court appearance, trial or sentencing; persons held awaiting transfer to another penal institution, or persons held awaiting deportation.

Penitentiary: A penitentiary is a federal penal institution housing persons convicted and sentenced to imprisonment for a period of two years or more. Persons serving sentences of less than two years may serve their sentence in a penitentiary by special arrangement through a federal/provincial agreement.

Types of Sentencing: De-institutionalization or 'Decarceration'

Suspended Sentence: The court, having regard to the age and character of the accused, the nature of the offence, and the circumstances surrounding its commission, may suspend the passing of sentence in cases resulting in conviction. It is incumbent upon the released person to

keep the peace and maintain good behaviour, although supervision is not necessarily involved.

Probation: Probation refers to a state of limited or conditional freedom involving supervision (i.e. the probationer must report regularly to his probation officer). Probation may be given by the court in any of the following situations: 1) in conjunction with a suspended sentence 2) as a condition of conditional discharge 3) as a condition to be met following a fine or sentence of two years or less 4) as a condition to be met in conjunction with a prison sentence of 90 days or less which is served intermittently. Probation may not be given if the offence has a minimum punishment prescribed by law.

Ticket of Leave: All releases granted under the Ticket of Leave Act of 1899, repealed in 1958, are classified under the heading "releases under the ticket of leave." According to the Act of 1899, the Governor General had the power to grant any convict under sentence of imprisonment in a penitentiary, jail or other public reformatory prison a license to be at large in Canada during a portion of his term of imprisonment and upon specified conditions. Since 1959, these releases have been granted by the National Parole Board under the Parole Act of 1958.

Parole: The decision whereby an adult inmate of a federal or provincial correctional institution, after serving a portion of his sentence as prescribed by the Community Correctional Centre and Parole Act regulations, is released conditionally under supervision to carry out the remainder of his sentence in the community.

Fine: A fine is a sum paid for compensation or for exemption from punishment. A fine is imposed as punishment for a summary indictable offence.

Government Finance

Government Revenues: Government revenue includes 1) proceeds from taxation and from the sale of goods (including fixed assets) and services 2) contributions of employers and employees to universal pension schemes 3) contributions of employees and employers (other than government itself) to the non-trusted pension plans and social insurance programs operated by government 4) receipts in respect of privileges, licenses, permits, fines and penalties 5) transfers from other levels of government 6) return on investments.

Government Expenditures: Government expenditure encompasses all outlays made or to be made in the acquisition of goods and services and in the provision of services including transfers to other levels of government. It includes outlays made or to be made to acquire capital assets, but excludes payments to retire outstanding indebtedness; it also excludes loans, advances and other investments (Statistics Canada, The Canadian System of Government Finance Management Statistics).

Social Welfare: Social welfare includes the Universal Pension Plan, Old Age Security, Veteran's Benefits, Unemployment Insurance, Family Allowances, Workman's Compensation, Assistance to disabled, handicapped, unemployed, and other needy individuals.

Protection of Persons and Property: Protection of persons and property includes National Defence, Courts of Law, Correctional Services, Firefighting Services and Regulatory Services.

3:2 HYPOTHESES

On the basis of Scull's analysis of the decarceration movement, a number of general hypotheses concerning community alternatives in Canada can be made.

Hypothesis One: Decarcerative options in the disposition of adjudged criminals are displacing incarcerative options.

This hypothesis will be tested through an examination of the following sub-hypotheses. Over the past few decades:

- a) The rate of adult prisoners per 100,000 has declined in Canada.
- b) The standing population of adult prisoners in Canadian penitentiaries has declined.
- c) The ratio of admissions to releases from Canadian penitentiaries has declined.
- d) There has been a decreasing reliance upon imprisonment in penitentiaries and gaols in the disposition of adjudged criminals.
- e) There has been an increasing reliance upon suspended sentences with or without probation in the disposition of adjudged criminals.
- f) There has been an increase in the percentage of provincial and federal parole grants in relation to parole applications.

Hypothesis Two: Decarcerative options in the disposition of adjudged criminals are temporally associated with reduced government expenditures on the criminal justice system.

Hypothesis Three: Once the truth of hypothesis one has been established (wholly or in part), it can be hypothesized, in accordance with Scull's theory, that the increased use of decarcerative options will occur during a period of rapid growth of welfare expenditures.

Hypothesis Four: Once the truth of hypothesis one has been established (wholly or in part), it can be hypothesized, in accordance with Scull's theory, that the period of increased use of decarcerative options was also marked by increasing governmental fiscal difficulties, a trend toward more deficits and fewer surpluses, and towards an inflation of the state budget.

CHAPTER FOUR

This chapter will present the results of the confrontation between the hypothesis developed at the end of the preceding chapter and certain empirical facts pertaining to the incarceration/decarceration of adjudged criminals, the growth of the criminal justice system, the expansion of the modern welfare state, and the fiscal health of the state over the past thirty years. This confrontation will provide a "test" of Scull's basic theory only up to a point, for reasons which will be developed in Chapter Five. Nevertheless, the empirical analysis presented below is indispensable to the elaboration of a tighter and richer set of queries, hypotheses and preliminary theses concerning the trend towards decarceration and its relationship to both the welfare state and the "fiscal crisis."

The data was derived from both published and unpublished sources. In order to correct for the inherent weaknesses and inadequacies of federal government data publications, some use of such relevant studies as Bird (1970), Bird et al. (1979), and Demers (1980) has also been necessary. Although the choice of indicators has been severely limited by the availability, comparability, and continuity of data (see Chapter 3), it is believed that a sketch of some general trends does emerge from the analysis. Wherever possible, sources, appropriate qualifications, and restrictions upon data (all of which must be taken into account when interpreting the data) will be presented. When graphical presentations

of the data are made, percentage figures with the raw (absolute) data, as well as the increase in rate for each category percentaged against the total increase, will be shown wherever it is deemed appropriate.

Where statistical analysis called for determining the direction and strength of the variable relationships and associations, linear regression analysis and Pearson's product moment correlation coefficient (r) have been used.³

4:1 THE EXTENT AND IMPACT OF DECARCERATION: THE EVALUATION OF HYPOTHESIS ONE

"Decarcerative options in the disposition of adjudged criminals are displacing⁴ incarcerative options."

If, as Scull (1977) argues, there has been a rapid and dramatic drain of the problem population from our prisons and penitentiaries due to the persistence and expansion of community alternatives, it makes sense to

³ Linear regression and Pearson's product moment correlation coefficient (r) is a parametric statistical measure of association used for interval level variables. These correlation coefficients indicate the degree to which variation or change in one variable is related to variation in another and also summarizes the strength of association between a pair of variables. Linear regression, the most common type of regression analysis gives a simple summary of the relationship between interval level variables. Pearson's product moment correlation coefficient measures the "goodness of fit" of the regression line. Since the concern is with strength of the relationship rather than the direction of the relationship, r-square is used throughout the analysis. R-square measure the proportion of the total variation in one variable that is associated with or explained by the other.

⁴ "Displacing" in this context does not refer to "replacing" or "as a substitute of", but as a "shift" or "move" from incarcerative measures. Displacement of incarcerative practices can occur without replacement.

begin with the simple question: are there fewer people in prison today? Scull's (1977:46 Table 3-1) data on the U.S. prisoner population and prisoner rate per 10,000 people, 1950-1971, (see Table 1) shows a small decline in the rate; however he has neglected to examine the rapid upturn in the seventies (Calahan, 1978). Moreover, it is by no means clear that the counts in state and federal prisons actually reflect the number of offenders incarcerated in the United States. Locally administered jails, detention centres, and reform schools or other institutions may have compensated for some or all of the apparent decrease. Lerman (1975) has demonstrated that during this period, local administrations were encouraged by state and federal governments to retain offenders in local jurisdictions. Thus decreases in one part of the system may have been compensated for by increases in others. In any case, if decreases did occur during the 1960's, they were short-lived. By the early 1970's, prison utilization figures had reached their former levels and recently the American Correctional Association (1980) reported that numbers in state and federal institutions had reached an all time high for the fifth consecutive year. This increase in rates of imprisonment is now widely recognized (Lerman, 1975; 1980; Rutherford and Bengert, 1976; Pablon, 1978; Messinger, 1976).

To what extent, then, does the Canadian experience support Scull's contention that the rate of incarceration has been declining? This question brings us to the consideration of sub-hypothesis A: "The rate of adult prisoners per 100,000 has declined in Canada." An examination of Table 2 and Figure 1 reveals some support for this proposition. The total (combined provincial and federal) rate reached its peak in 1963

and then generally declined until 1974; between 1975 to 1977 however, it dramatically shot up to the same levels as in the 1960's. With some qualifications (uncertainties concerning the significance of the 1975 to 1977 period) therefore, it appears that there has been a downward trend in the rate of incarceration. When the total rate is disaggregated into its federal and provincial components, the following results are obtained. The provincial rate of adult prisoners per 100,000 begins to decline in 1964, reaching its lowest point in 1973 (a regression coefficient of -0.66 was derived. It can be surmised from the decline of the provincial rate from 1964 to 1973 that a policy existed to decarcerate less serious offenders. The linear trend for the provincial rate is statistically significant at the $p < .01$ level, with the regression line explaining 41% of the variation. The slope of the regression line is downward (a regression coefficient of -0.66), i.e. the relationship is negative, with the provincial rate decreasing over time. As for the federal rate of adult prisoners per 100,000 population, over the same period there is no decrease. In fact the trend line shows an increase from 1971 on. The federal rate increased from 35.1 in 1955 to 40.1 in 1979, an increase of 14% over the 25 year period. There is a positive direction in the relationship between the rate of adult prisoners per 100,000 population and unit of time with a positive regression coefficient of $.20$.

If one takes the period from 1955 to 1966 as the "pre-fiscal period" and the period from 1966 to 1977 as the "fiscal crisis period",⁵ the

⁵ For the purposes of this analysis only, "pre-fiscal" and "fiscal" periods are wholly arbitrary and subjective divisions. A more detailed discussion of this issue, the "fiscal crisis", can be found in the analysis of Hypothesis Four (page 85).

following results emerge. The average annual total rate of incarceration prior to the period of fiscal crisis was 99.13; in the fiscal crisis period, this declines to 87.0. The average annual provincial rate of incarceration in the first period was 62.8; in the second period, this declines to 52.8. The average annual federal rate of incarceration in the first period was 36.3; in the second period, this increases very slightly to 36.99.

Overall (and with only a few minor qualifications), it may be concluded from the data analysis that sub-hypothesis A holds to a large degree.

Before turning to a discussion of sub-hypotheses B and C, an examination of the collection procedures for admissions and releases, as well as population counts, is in order.

Population counts reflect calendar year-end figures rather than yearly averages. The admission and release data refer to the number of administrative actions taken rather than the number of separate individuals admitted or release. For example, one person admitted, released and re-admitted within the same year, would generate data entries of two admissions and one release. The registered population counts differ from the actual body count (which is taken daily) in that it excludes temporary detainees--those who have violated conditions of release and are being held pending a decision to formally re-admit them or not. The registered population counts, unlike the body counts, also include persons who are on day parole, have escaped, or have been transferred to provincial institutions but who remain the administrative responsibility of the federal government.

Having examined the direction of the rate of incarceration/decarceration (sub-hypothesis A), it is important to establish next whether or not the absolute size of the adult standing prison population has risen or declined.⁶ Unfortunately, data on provincial institutions is neither readily available nor comparable to the admissions/releases data available for the federal penitentiaries. This makes sub-hypothesis B more difficult to analyze than sub-hypothesis A. Since only federal data have been employed in the analysis of "B", the conclusions emerging from this analysis are necessarily less compelling (particularly in view of the discrepancies between provincial and federal trends with respect to "A").

Sub-hypothesis B states: "The standing population of adult prisoners in Canadian penitentiaries has declined." An examination of Table 3 and Figure 2 reveals no support for this proposition. The registered penitentiary population climbed steadily from 1970 to 1973, dropped suddenly in 1974, then climbed to a high point of 9376 in 1976. The 1970 to 1976 increase was 30%. If the period from 1956 to 1978 is divided into two discreet periods, pre-fiscal crisis and fiscal crisis once again, then the following results appear. The average annual penitentiary population during the pre-fiscal crisis period was 6547; in the fiscal crisis period, this rose to 8210. Obviously these results do not support sub-hypothesis B.

⁶ The population at the end of a given year is found by taking the population at the end of the previous year, adding the admissions during the year and subtracting the releases (the relationship may not be mathematically exact because of slippages in the counts). Obviously, fewer admissions and more releases lead to a smaller penitentiary population, while the converse leads to larger one.

The 30% build-up in penitentiary population over the period studied can be attributed, not just to an increasing level of admissions, nor to an decreasing level of releases, but rather to the general trend for admissions to outnumber releases.

This brings us to the consideration of sub-hypothesis C, which states: "The ratio of admissions to releases has declined." Between 1970 and 1976, admissions totalled approximately 29,800, while releases totalled approximately 27,000--a net difference of almost 3,000. Except for a low point in 1974, admissions have remained fairly constant, between 4,200 and 4,500 per year over the same period. Releases have varied more than admissions, ranging from 3,400 to 4,100. The trend lines in Figure 2 follow a generally upward incline, with some minor differences between the two counts from year to year. The r-square of admissions is .82, $p < .0001$; the r-square of releases .78, $p < .0001$. Generally the number of releases tends to be lower than the number of admissions. A substantial drop in releases relative to admissions in 1972 and 1973 resulted in a steep rise in the population.

If one calculates the ratio of admissions to releases on an average annual basis and analyzes these ratios within the pre-fiscal crisis period and fiscal crisis periods (1955 to 1966 and 1967 to 1978, respectively), the following results are obtained. During the prefiscal crisis period, the average annual ratio of admissions to releases is 1.00; during the fiscal crisis period, the ratio rises slightly to 1.04.

On the basis of the data analyzed, one can find no support for sub-hypothesis C.

An alternative method of determining the extent of decarceration is to examine the pattern of sentence dispositions in the courts. Sub-hypothesis D states that: "There has been a decreasing reliance on imprisonment in penitentiaries and gaols in the disposition of adjudged criminals." Data pertaining to this proposition are to be found in Tables 4 and 5, and in Figures 3 and 4.⁷ The conclusions emerging from the analysis of this data are differentiated with respect to imprisonment in gaols (punishment on summary offences) and imprisonment in penitentiaries (punishment on indictable offences). With respect to the disposition of adjudged criminals convicted of summary offences, there has been an increasing reliance on imprisonment in gaols. With respect to the disposition of adjudged criminals convicted of indictable offences, an opposite trend is manifest: a decreasing reliance on imprisonment in penitentiaries. This second trend is, from the point of view of sub-hypothesis D, far more significant than the first, in view of the fact that the percentage of persons convicted on summary offences and subsequently imprisoned has always been far lower than for persons convicted and imprisoned on indictable offences.

The linear trend with respect to the institutionalization of offenders convicted of indictable offences is statistically significant: $r\text{-square}=.67$, $p<.0001$.

⁷ Table 4 shows the sentence dispositions of person convicted of indictable offences from 1953 to 1972. Until 1948, the basis of the statistics on indictable crime was the offence, and figures for number of persons convicted are not available on a satisfactory basis. Even after 1949, some duplications existed in the data based on number of persons convicted. In 1953 revised processing methods eliminated some duplication. Any comparisons prior to 1953 must therefore be based on convictions.

It is also evident from the analysis of Table 4 that the most significant decline in the imprisonment in penitentiaries of those convicted on indictable offences occurs after the onset of the fiscal crisis period (1966 to 1972, in Table 4). All of these results tend to strongly support sub-hypothesis D, at least with respect to the trend for imprisonment in penitentiaries.

A further analysis of Tables 4 and 5 provides the basis for the evaluation of sub-hypothesis E, which state: "There has been an increasing reliance on suspended sentences (with or without probation) in the disposition of adjudged criminals." The conclusions emerging from the analysis of the data are similar for those convicted on both summary and indictable offences; there is an increase in the percentage of suspended sentences relative to both convictions on summary offences and person convicted on indictable offences. The linear trend towards suspension with probation is statistically significant with respect to indictable offences; $r\text{-square} = .80$, $P < .01$. With respect to summary offences, suspended sentences with and without probation, have experienced an increase. The $r\text{-square}$ for suspended sentences with probation is statistically significant at $.71$, $p < .0001$; the $r\text{-square}$ for suspended sentences without probation is also statistically significant at $.81$, $p < .0001$. From Figures 3 and 4, this increase in the usage of suspended sentences can be projected beyond 1975.

Once again, if one differentiates the total period studied into pre-fiscal crisis and fiscal-crisis periods, interesting results can be obtained. With respect to indictable offences, the average annual percentage of suspended sentences (with or without probation) was 25.7%

during the first period; this increases substantially to 32.3% in the later period. With respect to summary offences, the average annual percentage of suspended sentences (with or without probation) was 1.5% during the first period, almost doubling to 3.01% in the later period. These results strongly support sub-hypothesis E.

The final proposition to be examined is sub-hypothesis F, which states: "There has been an increase in the percentage of provincial and federal parole grants in relation to all parole applications." In the area of parole, Table 6 indicates that the period from 1968 to 1970 saw the highest percentage of federal parole grants (relative to applications). The highest percentage of provincial parole grants (relative to applications) occurred a year later, 1969 to 1971. 1967 to 1968 saw the greatest percentage increase (19%) in federal parole grants; 1970 not only saw the greatest number of both provincial and federal applications for parole, but the greatest number of paroles granted; 64% federally and 70% provincially. Again, the greatest percentage of provincial paroles granted occurred a year later--a 14% increase between 1968 and 1969. Figure 5 shows an increasing trend in the number of provincial paroles and federal paroles granted over the period 1957 to 1978.

If the familiar distinction between pre-fiscal crisis and fiscal-crisis periods is introduced, the trend with respect to parole grants becomes even more distinct. During the pre-fiscal crisis period (1959 to 1966), the average annual percentage of paroles granted relative to applications was 34.8% federally and 41.2% provincially. During the fiscal-crisis period, (1967 to 1978) these figures increased to 46.4% and 53.8% respectively.

Overall, the data analysis strongly supports sub-hypothesis F.

On the basis of the conclusions arising from the analysis of sub-hypothesis A through F, there appears to be substantial empirical support for Hypothesis One, which states, "Decarcerative options in the disposition of adjudged criminals are displacing incarcerative options." Only sub-hypothesis B and C have been refuted, and neither is crucial to the essential argument suggested by Hypothesis One.

4:2 THE RATE OF GROWTH OF CRIMINAL JUSTICE EXPENDITURES: EVALUATING HYPOTHESIS TWO

"Decarcerative options in the disposition of adjudged criminals are temporally associated with reduced government expenditures on the criminal justice system."

Having established that there has been a trend evident since the mid-1960's towards the displacement of incarcerative options with decarcerative options in the disposition of adjudged criminals, it now becomes necessary to determine to what extent this trend is temporally associated with a decline in criminal justice system expenditures. One of Scull's central contentions is that the fundamental purpose of the decarceration policy is to reduce the costs of maintaining this system.

Table 7 and Figure 6 provide the data necessary for an examination of this hypothesis. Upon initial examination of Table 7, it appears that there has been a spectacular and very dramatic increase in the overall level of criminal justice expenditures. From fiscal year 1961 to 1962 to fiscal year 1977 to 1978, total expenditures rose from approximately 80 million dollars to 944 million dollars, almost a twelve-fold increase.

This initial impression is, however, seriously undermined upon further examination and reflection. If total expenditures are converted to constant dollars (1971 dollars=\$1.00), the rise in expenditures appears less impressive: from 110 million in 1961 to 1962 to 508 million in 1977 to 78, less than a five-fold increase. Moreover, once this conversion is made, it is evident that there have been year to year declines in absolute expenditures on the criminal justice system; such declines occurred from fiscal year 1967 to 1968 to fiscal year 1968 to 1969 (a slight decline of less than \$1 million) and from fiscal year 1975 to 1976 to fiscal year 1976 to 1977 (a decline of \$14 million, or approximately 3%).

For the purpose of evaluating Hypothesis two, however, it is insufficient to look at the trend in absolute expenditures (whether on a current dollar or constant dollar basis). A much more important variable to examine is the rate of growth of government expenditures on the criminal justice system, on a year to year basis. With respect to the rate of growth of these expenditures, the trend is clear, especially when one compares the fiscal crisis period with the pre-fiscal crisis period. There is a clearly discernible downward trend in the rate of growth of criminal justice expenditures when one examines the year to year changes in constant dollars. The pre-fiscal crisis period (1961 to 1966) saw an average annual rate of growth of 14.4%, compared with an 8.8% average annual rate of growth for the fiscal crisis period (1966-78).

The conclusions emerging from this analysis tend to strongly support Hypothesis two, not of course in any "absolute" sense, but clearly and

unequivocally on the far more important question of the trend in the rate of growth of criminal justice expenditures.

4:3 DECARCERATION AND THE WELFARE STATE: THE EVALUATION OF HYPOTHESIS THREE

"Once the truth of Hypothesis One has been established (wholly or in part), it can be hypothesized, in accordance with Scull's theory, that the increased use of decarcerative options will occur during a period of rapid growth in welfare expenditures."

Data for the evaluation of this proposition are to be found in Table 8 and 9 and in Figures 7 and 8. Even a cursory examination of these tables and figures disclose an unmistakable trend towards spiralling welfare expenditures as a percentage of Gross National Product over the entire period from 1933 to 1976. This inflation of social welfare expenditures is particularly noticeable after 1966 (the beginning of the fiscal crisis period). Welfare expenditures remained relatively stable throughout the 1945 to 1965 period, ranging from 3.0% of GNP to 4.7%. From 1966 to 1976, however, welfare expenditure rose sharply and consistently on a year to year basis, ranging from a low of 4.9% in 1966 to a high of 9.3% in 1976.

It has already been established that the post 1966 period saw an increasing trend towards the displacement of incarcerative options with decarcerative options (Hypothesis One). It can therefore be concluded that the increased use of decarcerative options occurred during a period of rapid growth of welfare expenditures. Hypothesis Three is confirmed.

4:4 DECARCERATION AND THE FISCAL CRISIS OF THE STATE: EVALUATING
HYPOTHESIS FOUR

"Once the truth of Hypothesis One has been established, (wholly or in part), it can be hypothesized, in accordance with Scull's theory, that the period of increased use of decarcerative options is also marked by increasing governmental fiscal difficulties, more specifically, a trend toward more deficits and fewer surpluses, and towards an inflation of the state budget."

There is a real difficulty in determining empirically (not to mention theoretically) the content and extent of O'Connor and Scull's concept of the "fiscal crisis of the state." Neither O'Connor nor Scull provide a clear conceptual definition, although a number of indicators of such a crisis are suggested by them. In one place, O'Connor construes the fiscal crisis as a tendency for state expenditures to increase more rapidly than the means of financing them, and in another, as simply "inflation of the state budget." (A critique of certain aspects of O'Connor's theory is undertaken in Chapter 5).

O'Connor essentially defines the fiscal crisis as the tendency for state expenditures to increase more rapidly than the means of financing them. Throughout the 60's, especially the late 1960's, the fiscal crisis was particularly acute. One method of measuring the effect of the fiscal crisis of the state is to measure the imbalance of government surpluses and deficits over the years. Some caution, however, must be exercised in the interpretation of these figures. Government surplus or deficit, reached by subtracting total government expenditures from total government revenues may not be the most reliable or valid indicator of a fiscal crisis. Formally they measure the government sector's net

lending to, or borrowing from, other sectors. Government surplus or deficit indicates in any specified year whether the government sector has been a net contributor to or a net user of funds for the finance of investment.

The fiscal crisis can be explained in terms of one or more of the following:

- a) level and/or incidence of taxation;
- b) level and distribution of government spending;
- c) inflationary effects of deficit financing, or the existence of deficits at all;
- d) the size or terms of borrowing from finance capitalists (Loxley, 1982).

It is generally acknowledged that both the level and incidence of taxation have been rising since 1966 (proliferation of sales taxes; increases in tobacco, alcohol, and gasoline taxes; etc.). It is also well known that governments have been relying increasingly on bank loans to finance their budgets, and that the interest rates payable on bank loans have been generally higher in the post 1966 period than in the pre-1966 period.

The surplus or deficit in any year signifies whether the government is oriented toward restraint (as indicated by surplus) or toward expansion (as indicated by a deficit). However, since surplus or deficit not only affects the level of economic activity, but is also affected by it, year to year variations from surplus to deficit, or vice versa, may simply reflect "the fact the economic slack is surging (or decreasing) in the economy, leading to larger (or smaller) short falls in government revenue collections" (Statistics Canada, 1975:189-190).

Table 13 contains annual estimates of government surplus or deficit for the federal level of government in Canada during the period 1930 to 1977. These figure estimates are traced from Statistics Canada, Canadian Statistical Review, which lists National Income and Expenditure Accounts as the original source of these figures. The growth of government deficits appears to be evident at the federal levels. In Figure 9, the federal deficit is displayed graphically with its corresponding level of welfare expenditure (as a percentage of GNP). The increase in federal welfare expenditure during the post-war period doesn't seem to be correlated to any fixed pattern of surplus or deficit, although the federal deficit has grown dramatically since 1974.

In terms of magnitude the federal deficit, approaching 7.5 billion dollars in 1977, is equivalent to about 17% of its total current expenditure (Statistics Canada, Canadian Statistical Review, 1978). In contrast, the largest provincial deficit, 1.3 billion in 1976, is only about 4% of total current expenditure. This implies that the deficit situation at the federal level is far more serious, especially since it does not seem to exhibit any reversal trend.

Demers, Bird et. al. have demonstrated that the rise in federal expenditures can be attributed to the increase in transfer payments (see Table 12). As a percentage of GNP, transfer payments have increased from 10.6 % in 1961 to 18.6% in 1977, while exhaustive spending has actually declined from 22.0% to 21.4% in the same period. The majority of these transfer payments is used for "income redistribution" purposes such as old age security payments, family allowances, unemployment insurance benefits, etc. When all government expenditure is analyzed by

function (see Table 9) it is marked by a significant increase in the proportion of resources allocated to social welfare activities, with its share of total budget reaching 1/3 in the seventies.

It seems reasonable to conclude in light of the aforementioned documentation that the growth and rise of the federal deficit is related to the increase in payments by the federal government to maintain or expand its social welfare role. Two important points should be noted. First, the fiscal crisis period in Canada becomes obvious in the seventies, in comparison with the United States' situation where chronic deficits began in the sixties (attributable to the war in Vietnam) (Janowitz, 1976:50).

Since the decarceration movement gained momentum prior to the "crisis" proper, it is difficult to sustain the argument that the crisis as such (as distinct from fiscal considerations) pressured the state to develop a policy of decarceration. Secondly, although welfare spending appears to be related to government expenditures, both could have been (and probably were) the result of a common "cause"--i.e. the overall poor economic situation which resulted in growing unemployment, inflation, high costs of borrowing, etc.. Generally, it is difficult to determine and analyze the causal sequence of these variables.

In light of the foregoing analysis, it is clear that the period of increased use of decarcerative options is marked by an onset of a state fiscal crisis, if this crisis is defined in terms of "inflation of the state budget" and larger and more frequent budgetary deficits. Thus, Hypothesis Four is confirmed.

4:5 SUMMARY

The analysis of the data provided in the chapter tends to support, for the most part, the essential theses elaborated by Scull concerning the decarceration trend and its relationship to both the emergence of the welfare state and the fiscal crisis. All four hypotheses, derived from Scull's account, have stood the test of a confrontation with the empirical facts of the Canadian experience. Some qualifications are nevertheless in order. Two of the six sub-hypotheses (B and C) of Hypothesis One, which deals with the extent and impact of decarceration, were not supported by the empirical analysis. Decarcerative options may be displacing incarcerative options, but they are doing so at a much slower rate and in a much more subtle way than Scull suggests. The results of the analysis does not in any way suggest any evidence that decarcerative options are replacing incarcerative ones.

Moreover, the extent to which decarceration is associated with the emergence of a state fiscal crisis is called into question by the results of Hypothesis Four, which indicate that the fiscal crisis of the Canadian state developed somewhat later than in the United States. The decarcerative trend becomes apparent in Canada beginning in the mid-sixties; however, the fiscal crisis appears to develop only in the early 1970's. Fiscal considerations may therefore explain the origins of the decarceration trend only up to a point. While it has been shown that Scull's fiscal structural account of decarceration has a very real plausibility (and likely explains a great deal about the phenomenon), it would nevertheless appear to be necessary to examine this account with a view to criticizing its weaknesses and disclosing the limitations of its explanatory power.

CHAPTER FIVE

The preceeding chapter provides some grounds for questioning certain aspects of Scull's analysis of the structural basis of the decarceration movement. In his theoretical framework of directly articulation state control efforts with the structural features of contemporary capitalism, Scull concludes that the the movement to decarcerate fundamentally reflects the pressure to relieve the costs of segregative control in response to a growing "fiscal crisis of the state." While Scull's work is often illuminating (and even refreshing in contrast to much of the liberal rhetoric on the subject), and while his effort to ground the decarceration policy historically in relation to the changing needs, requirements, and problems of the capitalist economy represents an original and valuable contribution to a field which has too rarely been subjected to an historical-materialist inquiry, the fact remains that his account of "community alternatives" to incarceration evinces serious shortcomings and deficiencies.

This chapter will seek, in light of the findings reported in the last chapter, as well as alternative theoretical considerations, to disclose the limitations of Scull's analysis, with the empirical evidence of the Canadian experience; and to outline some suggestions for further research in the area.

5:1 THEORETICAL SHORTCOMINGS OF SCULL'S THEORY

Since Scull's explanation of the decarceration policy is predicated largely on an uncritical appropriation of theses developed by the "fiscal crisis theorists" O'Connor (1973) and Gough (1975), it is entirely appropriate to begin with a consideration of Scull's interpretation and application of these theses, and then to proceed to a brief critical examination of the fiscal crisis theory itself.

Gough provides the following summary of O'Connor's fiscal crisis theory:

The growing socialization of production necessitates greater state intervention to ensure private accumulation and profitability; hence social capital expenditures on roads, education, research and development, etc. This stimulates the development of productive capacity, notably in the monopoly sector of the economy, but demand for its products rises less fast bringing about tendencies to surplus capacity and surplus population. This in turn generates a further round of social expenses designed to generate demand but not add to capacity; surplus capital necessitates military expenditure and the surplus population requires an expansion of state functions in welfare relief, etc. The result is a two-fold growth of stated expenditures on indirectly productive social capital and on unproductive warfare-welfare expenses. This growth tends to be a structural gap between state revenue and expenditure, or a fiscal crisis of the state.

Critical to Scull's analysis is O'Connor's concept of "social expenses", a category which subsumes not only state expenditures designed to "generate demand," but also expenditures indispensable to the reproduction of the existing social relations. O'Connor argues that:

the category, social expenses, consists of projects and services which are required to maintain social harmony to fulfill the state's legitimization function. They are not even indirectly productive. The best example is the welfare system, which is designed chiefly to keep social peace among unemployed workers. (1973:7)

Within O'Connor's conceptual framework, it is appropriate to subsume expenditures related to the maintenance of the "social control apparatus" under the rubric of social expenses as well, even though in Marxist terms, this apparatus would have more to do with the repressive function of the state than with its legitimization function. O'Connor and Gough's failure to clearly distinguish between the state's repressive and legitimization functions (which reflects a theoretical adaptation to a conjuncture of relative class peace) is unfortunately overlooked by Scull, even though the focus of his own work is precisely on the impact of the growth of the welfare state (a legitimization function) on the apparatus of social control (its repressive or, if you will, its "deviance-containment" function). Implicitly at least, Scull conflates the "legitimization" and "repressive" functions of the modern capitalist state within a single project of social control and social harmony maintenance. This theoretically problematic conflation is reflected in his non-specific definition (broader than O'Connor's) of the "dual function" of social welfare in modern capitalism which states:

substantial proportion of welfare expenditure for health, housing, education, and the like--represents a form of social investment, directly or indirectly raising the productivity of a given amount of labour.....On the other hand, outlays on social welfare represent "social expenses", that is, services required to maintain social harmony. (1977:137)

The theoretical import of Scull's account of the decarceration policy, abstracting momentarily from its purported relationship to the fiscal crisis of the state, is that it implies the ascendance of the capitalist state's legitimization function over its directly repressive function. In effect, Scull argues that the proliferation of state welfare functions creates the "structural" conditions for the state's

decreasing reliance on the traditional apparatus of social control (in particular, institutions of incarceration for the "mad and the bad"). In other words, the carrot replaces the stick. Within limits, this thesis has a certain plausibility; social welfare, as defined by Scull, ensures not only a "safety net" for the surplus population but also access to those "social investments"---health, education, and housing---made available by the state to increase the productivity of the working population. Just as education, health and adequate shelter serve to increase the self-discipline, contentment, and morale of workers, it is reasonable to assume that these social investments will have a similar effect on those most prone to mental illness or susceptible to the allure of criminal activity. Moreover, it is also reasonable to assume that, within limits, direct welfare payments at a level close to subsistence may enable the state to "cope with the problems posed by the growing class of economically redundant and superfluous people" (ibid;137) and serve as an alternative to the social maintenance of deviant populations in prisons or asylums.

A major problem with Scull's approach, however, is that he fails to define the limits of social welfare in contemporary capitalist societies. Instead, he impressionistically assumes that the trade-off between social welfare (including the welfare-oriented agencies of social control) and the more traditional social control apparatus will continue to accrue to the former's advantage. Welfare displaces punishment; reintegration displaces segregation; pacification displaces overt repression.

In terms of "social expenses", legitimization takes priority over repression, and welfare payments take priority over the total institution. The problem is that Scull provides no conclusive theoretical grounds for his premise that this particular prioritization, irrespective of the vicissitudes of the fiscal health of the state or of the general condition of the economy, will continue to obtain. Moreover, he fails to rigorously disclose the contradictions of state fiscal policy--contradictions reflecting the relative autonomy of the specific functions of the state (including the class, bureaucratic and professional interests that they directly or indirectly represent), as well as those reflecting the state's relationship to the economic structure as a whole. If, as O'Connor maintains, the capitalist state must "try to fulfill two basic and mutually contradictory functions, accumulation and legitimization," (1973:6), it must also maintain a balance between the often conflicting demands of its social welfare and punitive repressive functions. The determinants of that balance are both structural and conjunctural; the issue is whether or not Scull has mistaken a conjunctural trend (apparent, for a certain period, in the U.S. and Britain) for a deep-going "structural" change in the policy and orientation of the state.

It is important to bear in mind that James O'Connor published his study of The Fiscal Crisis of the State in 1973--that is, before the international recession of 1974-75, not to mention the recession of the early 1980's. Since that time, the general dislocations of the world capitalist economy and the pressures towards austerity measures on the part of governments have increased enormously. Rising unemployment,

persistent inflation, and volatile political climates have significantly reduced the state's ability to contain the anger and frustration which disrupt social harmony and breed deviance. At the same time, economic conditions have not only deepened the state's fiscal crisis, but they have also led to increasing cutbacks in all kinds of social welfare expenditure (both direct welfare payments and Scull's "social investment" expenditures). These cutbacks have not always been of an absolute character (unemployment insurance payments, for example, have obviously increased dramatically over the past ten years); the fact remains, however, that state social welfare policies have not been able to maintain the same quality of life that they once did. The limits of social welfare (both as a social investment and as an instrument of legitimization, not to mention as a means of social control) are necessarily determined by the over-all condition of the economy in any given period; however, the need to maintain social harmony and order, and to contain deviance, is a constant task of the state. Ironically, the most significant challenge to decarceration (and, inter alia, to Scull's thesis) has emerged from the intensification of the state's fiscal crisis. The quantitative and qualitative decline of state-sponsored social welfare programs, provoked by a deteriorating economic climate and renewed concerns about the impact of growing state expenditure on private capitalist accumulation, has made these programs less and less a viable "alternative" to the traditional social control apparatus.

At the same time, it is important to avoid the overly economic pitfall into which Scull has stumbled. While the fiscal crisis of the

state imposes constraints on all types of state expenditures, state policy--including fiscal policy--is not a direct and automatic reflection of economic conditions alone; it is also determined by the balance of class forces, the relative influence of particular bureaucratic and professional interest groups, and, more generally, by political alignments and climate.

Underlying Scull's account of decarceration (the displacement of the punitive-repressive function of the state by its welfare legitimatitive function) is an altogether too literal and one-sided interpretation of O'Connor's notion of the "socialization of production" in contemporary capitalism. The objective socialization of labor and the collectivization of certain social overhead costs by the state is unquestionably a significant tendency of modern capitalism. It remains, however, only a tendency, one which is advanced or retarded by an ensemble of structural factors and contradictory tendencies of capitalist development. While state collectivization of the social overhead costs of the capitalist order represents an attempt to ameliorate certain basic contradictions of the system (in Marxist terms, by reducing class conflict and enhancing the social productivity of labor), this process can at the same time contribute to a decline in the rate of profit and become a barrier to the private accumulation of capital. Having rationalized and centralized the tasks involved in reproducing the social order, the capitalist state has also acquired a relative autonomy from the class of capitalists who privately appropriate surplus-value. But one of the limits to this relative autonomy is the continued and necessary interdependence of the state and

the "private sector" in any capitalist social formation. The state's ability to carry out its functions rests on its ability to finance them. Since it can ultimately finance them only through taxation, this reduces the (potential) level of surplus-value available for private accumulation. If the state deals with its fiscal crisis by increasing taxation, the accumulation process is slowed and the rate of profit falls, preparing a crisis which not only reduces state revenues but also creates conditions requiring an increasing response to the social dislocations engendered (unemployment, social unrest, increased crime, etc). Under such conditions, the balance of repressive and legitimation functions may well swing to repression-- a "harder line", including increasing reliance on traditional methods of social (and crime) control.

O'Connor's theory of the fiscal crisis of the state is itself problematic, quite apart from Scull's particular interpretation and application of it to the problem of decarceration. O'Connor's theory represents an attempt to extend the underconsumptionist analysis of capitalist development elaborated by Baran and Sweezy (1967) to the specific area of state fiscal policy. O'Connor's under-consumptionist theory of crisis has important implications for his over-all theory, since it essentially underestimates the destabilizing impact of growing state expenditures on the underlying capitalist economic structure. In near-Keynesian fashion, his theory explains the growth of the state in terms of the need to maintain effective demand, or in Baran and Sweezy's terms, to "absorb the surplus." (This is most striking in O'Connor's treatment of the role of armament expenditures.) While Gough criticizes

the underconsumptionist theory of crisis which informs O'Connor's analysis, his own neo-Ricardian approach leads him into equally important errors (for example, the classification of state employees as "indirectly productive" of surplus value).

Scull's failure to expose the critical limitations of O'Connor's and Gough respective theories of fiscal crisis, prevents him from uncovering, in all their richness, the contradictory tendencies of modern capitalism which have determined and will continue to determine the vicissitudes of the decarceration policy. In fairness to Scull, however, it should be noted that his "fiscal structural" explanation of the decarceration policy, together with the scope of that policy, was never intended to apply with equal force to the two problem populations he studied---the "mad and the bad."

I shall argue that with the coming of the welfare state, segregative modes of social control become, in relative terms, far more costly and difficult to justify. This is particularly clear in the case of the group we have given most attention to, the mentally disturbed, who were formerly confined in "monasteries of the mad".....Noninstitutional approaches are less immediately palatable when, instead of "sick" people, their object is criminals and delinquents. (Scull, 1977:135).

For the reasons suggested by Scull, it is not surprising that the decarceration of the criminal is a less obvious (one might say "absolute") phenomenon than the decarceration of the mentally ill. It therefore finds expression in more subtle ways: not through a closing down of prisons and an absolute drop in prison populations, but through the disposition of at least some criminal offenders in ways (decarcerative) different from those employed in the past (incarcerative).

It is also important to note that the credibility of Scull's fiscal structural account of decarceration is strengthened by the observation that the establishment of "alternative community facilities" for the surveillance and "servicing" of the mentally ill has not proven to be a necessary condition for their decarceration. In Canada, where the community mental health system has never been as extensive as those in Britain and the United States, the trend towards the decreasing reliance on mental hospitals in the disposition of the mentally ill has been just as obvious as in those countries, as the following table illustrates:

Resident Population of Mental Hospitals
Over Selected Years

Britain		U.S.		Canada	
1955	146,000	1955	558,000	1965	49,471
1960	132,200	1960	535,000	1967	43,825
1965	136,200	1965	475,200	1969	38,264
1970	103,000	1970	339,000	1973	26,860
		1974	215,600	1975	23,898
Source: Scull, 1977		Source: Scull, 1977		Source: Mental Health Statistics; Statistics Canada, 1975	

In Canada, the trend towards the decarceration of the mentally ill may be viewed as a process relatively independent of the success of an established community mental health system in providing a real therapeutic alternative to mental hospitals. While the pervasiveness of the community mental health ideology may have encouraged this trend, it is apparent that fiscal considerations--- and not the availability of a well-established community alternative to the asylum--provide the most likely explanation for the dramatic decline in mental hospital populations and for the closing of many of these institutions.

In contrast to this situation, the last decade has witnessed the opening of some new penitentiaries in Canada and an absolute increase in the standing prison population. The decarceration policy with respect to the "bad" is obviously not so dramatic as it is for the "mad."

5:2 SCULL'S THEORY, THE CANADIAN EXPERIENCE, AND FURTHER THEORETICAL REFLECTIONS

The data contained in Chapter Four indicate: a) that the federal-provincial adult prison population is today at an all-time high in Canada; b) that the number of releases tend to be lower than the number of admissions, except for a few years; c) that there is at the same time, an increased use of non-institutional forms of punishment, and that the number of people coming under the purview of various "alternative" programmes tends to be increasing; and d) that government expenditure on crime/offender control has been rapidly increasing over the last two decades.

These findings would appear to support the argument made by some opponents of decarceration that "diversion", "half-way houses," and

other policies and programmes associated with decarceration represent a mere "supplement" to the traditional social control apparatus, and not at all a real alternative to incarceration.⁸ But this would be too hasty a judgement. To refute Scull's basic thesis, it would be necessary to prove that decarceration policies have not enabled the state and its social control apparatus to slow the rate of incarceration relative to what it might have been in the absence of such policies and to reduce state expenditures on crime/offender control relative to what it might have been if the traditional control apparatus had not been "supplemented" by the new programmes and policies. The findings of this study provide no definitive grounds for such a conclusion. On the contrary, the declining ratio of prison admissions to convictions suggests that both prison population and the costs of maintaining the prison system would have expanded much more rapidly if the decarceration policy had not been in place. Moreover, the increasing costs of the over-all apparatus of control over the last two decades are attributable in large part to factors relatively independent of the vicissitudes of incarceration/ decarceration: population growth and an increased incidence of crime (which, in turn, is promoted by a multiplicity of changing social and economic conditions). To be sure, the growth of this apparatus also reflects the organizational and professional success of the interest groups which make up both the traditional and "innovative" branches of the apparatus; (police, probation officers,

⁸ The contrast between the brutality of the prison and the alleged humanitarianism of community corrections is beside the point, because the community institution is not used to replace the prisons; instead the offender is exposed to both the prison and the community alternatives. (Greenberg, 1975:30)

social workers, etc.). However it would be difficult to sustain the thesis that the quantitative expansion of this control apparatus along the particular lines that it has concretely evolved, represents a qualitative increase in its capacity to contain criminal deviance, and, as a corollary, that the decarcerative alternative is only a "costly superstructure" on the incarcerative "base". The real situation seems to be that the alternative is both an expensive addition to, and an costly effective substitute for, institutionalization: "expensive" insofar as it adds absolutely to the costs of the over-all control apparatus, but cost-effective insofar as it reduces the relative costs of maintenance/control per offender.

These considerations provide some support for a modified version of Scull's thesis as it pertains to the disposition of criminals, though little support to such rhetorical overstatements as the following:

For the criminal and the delinquent, community corections has meant a further erosion of the sanctions imposed on their conduct. Not only are they steadily less likely to be caught in the first place, but if they do have the misfortune to be apprehended and convicted, their chance of receiving a prison term grows even more remote. Instead they find themselves released on probation, 'supervised' by men coping with caseloads of one or two hundred persons. (Scull, 1977:2)

This type of argument detracts from the valid thrust of Scull's thesis by conflating tendencies with accomplished facts. It is unnecessary to assert (or at least imply) that prisons are, as it were, "on the way out", in order to establish the relationship between the increasing (relative) decarceration of criminal offenders and fiscal considerations. At the same time, this type of assertive overstatement tends to complement an account of decarceration which is altogether too reductionist--an account which exaggerates the importance of fiscal

considerations to the point of ignoring many other factors and problems associated with the origins, vicissitudes and impact of decarceration. It is to these questions that we will now briefly turn.

Scull's economic reductionism leads him to ignore a substantial body of literature from a variety of sources which suggests that ideology--and especially the ideology of humanitarianism--has played an important role in redefining modes of punishment. As Matthew suggests,

Although we might agree with Scull (and Rusche and Kirchheimer and Foucault) that humanitarianism is not the primary force behind changing control practices, it does not follow that the ideology of humanitarianism is not significant in explaining such developments. Platt's study of the Child Savers has demonstrated the practical and material effects of the adoption of humanitarian philosophy by sectors of the middle class. Ideologies such as humanitarianism do not descend from heaven--they have a real material basis, and practical consequences. Humanitarianism in the nineteenth century played an important part in strengthening the bourgeoisie's claim to represent the public good and as a progressive movement in history. (1979:11)

In a similar vein, Hagen, (1979) has demonstrated that the American probation movement served important symbolic functions. He interprets the introduction and expansion of probation measures as a "cooptive" response to cultural deviance supported by ascending status groups, in contrast to the coercive response typified by the Prohibition Era. The consequence of this strategy was to legitimate American criminal justice by making the system appear more compassionate -at least "symbolically."

It is apparent that a comprehensive analysis of decarceration requires an account of both structural-economic and political-ideological influences. These influences (which are by no means unrelated) are both relatively autonomous and simultaneously relevant, although it is certainly true that one may be relatively more important

when applied to one specific stage of the movement and relatively less important at another juncture.

Further, it is important to bear in mind that the intentions or goals of a reform movement may well be different from its consequences or outcome. As Chan and Ericson (1981) suggest, the use of prisons, along with other forms of segregative control, is influenced by the competing and often contradictory demands placed on the state in its perpetual effort to reproduce order, preserve its legitimacy, and satisfy the demands of the variegated organizations which comprise the control apparatus. These competing demands frequently result in the adulteration of the reform policy in practice; changes and consequences follow which were not intended or even anticipated by the reform's initiators.

As Matthew (1979) observes, the multiplication of community alternatives has failed to significantly reduce the scope of the problem to which it was directed. On the contrary, there are strong indications that crime (officially recorded) has multiplied, a fact which Scull ignores in his analysis. Moreover, the perpetually expanding array of control devices has given ever-increasing discretionary latitude to the agents of crime control. These agencies sell themselves with the claim that they can bring the phenomenon under control; but when they fail, they are often provided with greater resources to expand their operations. This escalating spiral is fiscal, but it is also an expression of the "economy of power relationships" (Foucault, 1977) through which the state satisfies its reproductive requirements for discipline and punishment.

By focusing centrally on fiscal considerations, Scull overlooks one of the more salient features of the decarceration process; its complementary relationship to incarceration. Decarceration and incarceration are not always polar opposites, even though the terminology invites such a conclusion. Rather, the two policies exist side by side on a continuum of deviance control alternatives. As Matthew suggests,

The relationship between prisons and more recent alternatives/extensions are better seen as analogous to the relation between gold and money. Once the basic currency is accepted, it allows the development of more flexible and convenient methods of exchange. However, the value of paper currency is always dependent upon the viability of gold itself and the end of the day must always be realizable. (1979:113)

The boundary between the total institution and its alternatives becomes increasingly difficult to locate. The rules, security, curfews, and other sanctions imposed on "clients" make the distinction between a very "open" prison and a very "closed" halfway house trivial and often absurd:

We are seeing, then, not just the proliferation of agencies and services, finely calibrated in terms of degree of coerciveness or intrusion or unpleasantness. The uncertainties are more profound than this: voluntary or coercive, formal or informal, locked-up or free, guilty or innocent. Those apparently absurd administrative and research questions beckon to a future when it will be impossible to determine who exactly is enmeshed in the social control system and hence subject to its jurisdictions and surveillance at any one time. (Cohen, 1979:346)

This line of argument certainly invites the question (which has yet to be definitively answered either in theory or practice) as to whether the "decarceration" of offenders should be understood in terms of the growth of the surveillance/control mechanism, as an effort to create an "enlarged economy of power." Whether intended or not, this may well be one of the objective outcomes of the decarceration policy.

However, decarceration involves more than the establishment of (institutional or quasi-institutional) alternatives "in the community." Diversion--perhaps the purest form of decarceration-- is a phenomenon which does not lend itself either to straight forward empirical study (data analysis) or to simple definition. Police and judicial discretion in the charging, prosecution, sentencing and disposition of offenders both reflects and influences the scope and direction of the decarceration trend. Decarcerative options--ranging from "warnings" to suspended sentences--are applied with greater frequency as convictions become more difficult to obtain, as case loads in the courts escalate, and as pressures are brought to bear to prevent a general overloading of the penal system. During these early phases of the processing of the offender, the pressures towards a decarcerative (or, perhaps more aptly, a non-incarcerative) outcome are perhaps at their strongest; and there is little doubt that such outcomes, in conformity with Scull's thesis, have the effect of stemming the costs of segregative, or even quasi-segregative, control and maintenance.

At the same time, however, the term "diversion", like the term "community alternatives," does not always involve what it implies. Diversion has been hailed as the most radical application of the non-intervention principle short of complete decriminalization. Its rationale is to restrict the full force of the criminal justice process to more serious offences and to either eliminate or substantially minimize access to it for all others.⁹ This strategy has received the

⁹ A clear statement of this rationale, together with the legal problems involved in implementing it, is to be found in the Law Reform Commission of Canada (1975), "Working Paper No. 7: Diversion", Ottawa.

greatest attention in the juvenile field, likely because the central agency, the juvenile court, was itself the product of a reform movement aimed at "diversion".

Clearly, all justice systems, particularly juvenile, have always contained a substantial amount of diversion. Police discretion has been widely used to screen juveniles either right out of the system (by dropping charges, informally reprimanding or cautioning) or through referral to social service agencies. What has now happened is that, to a large degree, these discretionary and screening powers have been formalized, extended, and transformed. The "net", which Cohen (1979) speaks of, widens, to include those who, if the program had not been available, would either not have been processed at all (a simple warning instead of "referral") or would have been placed on options such as traditional probation. The more benevolent and beneficent the new agencies appear, the greater the number of potential clients who will be diverted there through encouragement or coercion. Through the blurring provided by the welfare net, this will happen to many not officially adjudicated as criminals as well. Fiscal considerations aside, there will be great pressure on these agencies to work with segments of the population previously unreached and untouched. As Klein observes:

meaning of 'diversion' has been shifted from 'diversion from' to 'referral to.' Ironically, one of the ramifications of this is that in contrast to some earlier cited rationales for diversion such as reducing costs, caseloads, and purview of the criminal justice system, diversion may in fact be extending the costs, caseload and system purview even further than had previously been the case. (Klein, 1976:10)

Diversion, therefore, has also turned out to be an alternative to "screening" (informal disposal of minor offences) and not just to

"processing" (formal use of criminal control procedures). Consequently, more and more people may be referred to the system, rather than diverted from it.

Furthermore, diversion is based on a discretionary system in which due process and legality of procedure have been deliberately set aside (Erikson, 1977). As Cohen suggests,

In a system with low visibility and low accountability, there is less room for such niceties as due process and legal rights. Very often, for example, 'new diversion' (minimization of penetration) occurs by deliberately avoiding due process; the client proceeds through the system on the assumption of admission of guilt. Indeed the deliberate conceptual blurring between 'diversion' and 'prevention' explicitly calls for an increase in this sort of non-legal discretion. (1979:351)

The cost effectiveness of the diversionary strategy would therefore appear to be a more open question than Scull's "fiscal-structural" account of decarceration might allow.

The surging costs of institutional control would not necessarily be a major problem if prisons and penitentiaries were not such a dismal failure (in terms of liberal cost benefit analysis), since correctional expenditure represents only a small fraction of the total criminal control budget. It would therefore be problematic politically (and not only "fiscally") for the state to rely solely on the incarcerative solution to the problem of deviance-containment when "cheaper" and apparently more humane alternatives are available. Privatized, dispersed and non-segregative control agencies may permit an unrelaxed over-all measure of social control, while the state simultaneously reproduces and extends its own legitimacy by appearing benign.

5:3 SUGGESTIONS FOR FURTHER RESEARCH

Are the policies associated with decarceration rooted in and shaped by fiscal-structural considerations, or do they represent an attempt to enlarge the power of the social control apparatus? A case can clearly be made for both propositions, as we have already suggested. However, it is important to grasp that the two propositions are not mutually exclusive, and that the project which decarceration involves may be shaped by two antagonistic logics: the compulsion on the state to allocate its resources as efficiently and as cost-effectively as possible, and the need for the state to adequately discharge both its repressive and legitimization functions. The conflict between these two "logics" is further defined by "external" pressures to minimize state expenditures in the face of a growing crisis of private accumulation, and by "internal" pressures of an organizational and bureaucratic nature to expand its operations.¹⁰

Further research is clearly required in order to test Scull's thesis and to determine the direction of the decarceration policy in relation to both fiscal considerations and organizational/social control considerations. For example, further research could examine the employment rate in the correctional field, including probation, parole, prison and police personnel. An increase in the agent/offender ratio and substantially larger employment expenditures might indicate that the

¹⁰ "External" and "internal" are not meant to refer to interest groups alone; obviously, "external" pressures from labour, the unemployed, and other groups will often militate in favour of greater state expenditures. Rather, "external" and "internal" in this context refer primarily to the contradictory demands and functions of a capitalist state in light of its relatively autonomous location in the total social formation.

control business' is a large and growing one, which is at least as dependent on the "reproduction" of its clients as the "community" is on the system. In this connection, it could then be argued that the failure to incarcerate is facilitating the organizational growth and "success" of the total apparatus of "deviance-containment."

The findings presented in Chapter Four provides no basis for assessing the rate of decarceration relative to the rate of incarceration. One can only speculate about the actual extent of decarceration (and resort to "non-incarcerative" options) in Canada. Part of the problem in measuring the scope and extent of decarceration in Canada is the high degree of fragmentation between federal and provincial jurisdictions. Decision-making at these two levels and between these levels often results in overlap and obfuscation of officially-recorded information; so that an accurate estimate of the numbers being diverted from the system becomes problematic. The problem is further compounded by the fact that many of the operations of the criminal justice system remain obscure and invisible, beyond the reach of straightforward observation and calculation. Police discretion about whether or not to arrest reduces the visibility of cases dropped or diverted from the criminal justice system (Cicourel, 1968). The informality and absence of uniform recordkeeping, which is characteristic of police operations, means that one can only speculate about the ratio of reported crime to persons charged. Similarly, the process of re-classifying categories of offenders (e.g. more lenient convictions for marijuana possession), although not undertaken exclusively for the purpose of reducing the size of the population

committed to custodial institutions, clearly has an important effect. All of the foregoing demonstrates the complexity of measuring the extent to which processes operating at the pre-conviction stage are contributing to the trend towards non-institutional alternatives.

A large dose of skepticism, together with a much firmer location of the new movement in overall structural and political changes, is needed for a full-scale critique of decarceration and community corrections. Such a critique, which has not been the primary goal of this thesis, would need to encompass the following points: 1) it is by no means clear, with respect to crime, that decarceration has been taking place as rapidly as the ideology (or even its critics, like Scull) would have us believe; 2) it has not been established that any community alternative is more effective in reducing crime than traditional imprisonment; 3) it is not clear that the "new" methods are always dramatically cheaper; and 4) the humanitarian rationale for the move away from imprisonment may be unfounded for two (opposite) reasons: a) decarceration may indeed lead to something like non-intervention or benign neglect: services are withdrawn and deviants are left neglected or exploited by private operators; b) alternatively, new forms of intervention are established which are often difficult to distinguish from the old institutions and which reproduce in the community the very same coercive features of the system they were designed to displace. 5) Fiscal consideration help to explain the structural roots and policy origins of decarceration. However, they do not preclude the possibility of a reversal of the trend, nor do they preclude the possibility that "community alternatives" could become a decreasingly cost-effective

method of containing criminal deviance. 6) Scull misses this last point because his fundamental method is reductionist rather than dialectical and because his theoretical perspective is based on a narrow and unsure understanding of the contradictions underlying capitalist economic crisis and state policy. His methodological and theoretical limitations blind him to the limits of state social welfare programs and to the competing and often contradictory determinants of state social and economic policy. Because he fails to explore the implications of the state's relative autonomy from, and intrinsic relationship to, the capitalist economic structure, he is also unable to articulate political-ideological pressures with fiscal-structural ones and to appreciate the organizational dynamics internal to the state apparatus which frequently frustrate the realization of policy goals.

These qualifications provide the basis for a stronger and more complete critique of the decarceration trend than that provided by Scull, whose account nevertheless represents an important landmark in the development of a radical sociological perspective on the issue.

Regardless of what one reads into the decarceration movement, as Chan and Ericson (1981) suggest, the outcome appears negative; a further restriction of freedom and a further reproduction of dependency. For these reasons alone, decarceration programs should be chalked up as another failure in penal reform. And yet, consistent with the failures of other reformist projects, the "reform" rhetoric in relation to decarceration continues to flourish, and further programmes are developed and established.

If decarceration has abandoned its original goals of establishing less costly, more humane, and more effective ways of dealing with offenders, this would certainly not be unprecedented in the history of penal reform. Both Foucault (1977) and Ignatieff (1978) remind us that prison itself was at least partially a reform in reaction to the excesses of public torture and execution. Yet the result of this effort to attenuate the pain and humiliation associated with punishment was the subjugation and debilitation of the mind and spirit of offenders through regimentation, discipline, isolation, and guilt. Today, we hear a cry for alternatives to prison; tomorrow these alternatives are likely to be the object of different criticisms and new reforms.

Historians of penal reform have warned us that reform in punishment are usually nothing more than conversions to new and different punitive modes. Since the ultimate aim of legal sanctions is to punish and contain (with rehabilitation running a very distant second), any approach that makes them more even-handed, rational, and acceptable (whether on humanitarian or economic grounds), must ultimately and essentially function as a refinement in the technology of punishment. Punishment necessarily leads to refinement in the technology of the task; thus, reform still results in a measure of pain, although it may be perceived as a more "just measure of pain".

Appendix A

APPENDIX

TABLES

Table 1

U.S. Prison Population and Prisoner Rate
per 100,000 People, 1950-1971

Year	Prison Population	Prisoner Rate/ 10,000	Year	Prison Population	Prisoner Rate/ 10,000
1950	166,165	109.5	1961	220,149	120.8
1951	165,680	107.3	1962	218,830	118.3
1952	168,233	107.1	1963	217,283	115.7
1953	173,579	108.7	1964	214,283	112.6
1954	182,901	112.6	1965	210,895	109.5
1955	185,915	112.5	1966	199,654	102.7
1956	189,575	112.7	1967	194,896	99.1
1957	195,414	114.1	1968	192,682	96.0
1958	205,493	118.8	1969	196,007	97.6

1959	207,446	117.7	1970	196,429	96.7
1960	212,953	118.6	1971	203,843	NA

Source: U.S. Census Bureau, "Statistical History of the United States from Colonial Times to the Present; Statistical Abstract of the United States -- 1970, 1972." Washington, D.C.: Government Printing Office.

Table 2

Adult Prisoners per 100,000 Population

Canada: 1955-1977

Year	Federal		Provincial		Total
	Population	Rate	Population	Rate	Rate
1955	5507	35.1	9546	60.8	95.9
1956	5508	34.2	8995	55.9	90.2
1957	5432	32.7	9739	58.6	91.3
1958	5770	33.8	11192	65.5	99.3
1959	6295	36.0	11166	63.9	99.9
1960	6344	35.5	10896	61.0	96.5
1961	6738	36.9	11821	64.8	101.8
1962	7156	38.5	12066	64.9	103.4
1963	7219	38.1	12755	67.4	105.5
1964	7651	39.7	12559	65.1	104.8
1965	7514	38.2	12627	64.3	102.5
1966	7438	37.2	12257	61.2	98.4
1967	7167	35.1	12339	60.5	95.6
1968	6894	33.2	12528	60.4	93.6
1969	7159	34.7	11881	56.5	90.5
1970	7109	33.2	12126	56.7	90.0
1971	7483	34.7	10682	49.5	84.2
1972	8253	37.9	10006	45.9	83.8
1973	9111	41.3	9802	44.5	85.8

					121
1974	8499	38.0	9987	44.7	82.7
1975	8700	38.3	11277	49.7	88.0
1976	9285	40.4	12536	54.4	94.9
1977	9335	40.1	13593	58.4	98.4

Source: Statistics Canada,

Correctional Institutions Statistics, 1955-1977.

Comments: Up to 1967, population as of March 31; from 1968 to 1971, population as of December 31 for federal and Quebec institutions, March 31 for all other provincial adult institutions. Starting 1972, populations for all institutions are expressed as of December 31. Training school population not included.

Table 3

Population Of, Admissions To, and Releases From Canadian Penitentiaries

1955-1978

<u>Year</u>	<u>Population</u>	<u>Admissions</u>	<u>Release</u>
1955	5507	2366	2001
1956	5508	2406	2406
1957	5433	2309	2385
1958	5770	2975	2638
1959	6295	3045	2520
1960	6344	3403	3350
1961	6738	3338	2938
1962	7156	3396	2978
1963	7219	3742	3679
1964	7651	3888	3456
1965	7514	3693	3834
1966	7437	3603	3680
1967	7168	3475	3744
1968	7026	3506	3648
1969	7159	4129	3864
1970	7108	4473	4524
1971	7483	4380	4006
1972	8253	4232	3462
1973	9111	4319	3461
1974	8499	3602	4214
1975	8723	4317	4068

1976	9326	4541	3879
1977	9376	4629	4631
1978	9296	4663	4841

Source: Cross National Study of Correctional Policy and Practice

Federal data: Figure 1.

Comments: Population figures are not derived from same source
as Table 2. All figures are absolute numbers, not rates.

Table 5
Convictions by Sentence Offences Punishable
on Summary Offences by percentage
1957-1972

Year	Suspended Sentences									
	Total		Fine		With Probation		Without Probation		Gaol	
	Number	%	Number	%	Number	%	Number	%	Number	%
1957	2466762	100	2397393	97.2	6642	.27	24607	.99	18330	.74
1958	2508976	100	2446540	97.5	5444	.21	26391	1.0	9538	.77
1959	2548909	100	2477827	97.2	4228	.17	34921	1.3	23555	.92
1960	2920540	100	2843876	97.3	5062	.17	37643	1.3	26721	.91
1961	3109283	100	3025518	97.3	6126	.19	41555	1.3	27757	.89
1962	3296649	100	3209810	97.3	5960	.18	44487	1.3	29640	.89
1963	3453664	100	3358129	97.2	7105	.21	50892	1.5	30079	.87
1964	3859464	100	3754509	97.2	7963	.21	52183	1.4	30285	.78
1965	3991657	100	3880381	97.2	8209	.21	58234	1.5	31682	.79
1966	3896572	100	3787396	97.2	10680	.27	53581	1.4	34683	.89
1967	2395466	100	2281986	95.2	10359	.43	52794	2.2	37664	1.57
1968	2089718	100	1994305	95.4	6612	.32	40339	1.9	31643	1.51
1969	1711036	100	1624842	94.9	6729	.40	37261	2.2	18306	1.63
1970	1451943	100	1358996	93.6	6629	.46	42722	2.9	24286	1.58
1971	1439138	100	1331741	92.5	7332	.50	45636	3.2	19180	1.3
1972	1517418	100	1407068	92.7	8110	.53	44441	3.0	17281	1.1

Source: Statistics Canada, Statistics of Criminal and Other Offences, 1957-1972

Comment: Has ceased to publish after 1973.

Table 6
Federal and Provincial Parole Applications and Grants
1959-1978

Year	Federal Parole Applications		Federal Parole Granted		Provincial Parole Applications		Provincial Parole Granted	
	Number	%	Number	%	Number	%	Number	%
1959	2270	100	994	43.7	2376	100	1044	39.0
1960	3505	100	1192	34.0	2613	100	1333	51.0
1961	2871	100	1005	35.0	4307	100	1292	29.9
1962	2765	100	885	32.0	3290	100	987	30.0
1963	2550	100	663	26.0	3632	100	1126	31.0
1964	2590	100	751	28.9	2753	100	1101	39.9
1965	2966	100	1127	37.9	2600	100	1170	45.0
1966	2717	100	1114	41.0	2159	100	1382	64.0
1967	2826	100	1328	46.9	3826	100	1760	46.0
1968	3007	100	1962	65.2	3880	100	1979	51.1
1969	3157	100	1926	61.0	3835	100	2531	65.9
1970	4248	100	2719	64.0	3554	100	2488	70.0
1971	4118	100	2389	58.0	3970	100	2581	65.1
1972	3895	100	1714	44.0	3550	100	1917	54.0
1973	3690	100	1181	32.0	3331	100	1599	58.0
1974	3562	100	1496	41.9	2925	100	1638	56.0
1975	3385	100	1185	35.0	2894	100	1418	48.0
1976	3040	100	1003	32.9	2943	100	1207	41.0
1977	3527	100	1305	37.0	3115	100	1371	44.0
1978	3861	100	1506	39.0	2975	100	1398	46.9

Source: National Parole Service

Table 7

Criminal Justice Expenditure

Canada: Federal Government
1962-1978

<u>Fiscal Year</u>	<u>Courts</u>	<u>Corrections</u>	<u>Police</u>	<u>Total</u>	<u>Total in Constant \$ (1971)</u>
1961-1962	8,171	23,045	48,630	79,846	110,187
1962-1963	8,383	24,712	52,967	86,062	117,042
1963-1964	10,595	26,800	52,892	90,287	120,084
1964-1965	11,719	38,600	76,847	127,166	165,320
1965-1966	12,467	56,263	81,448	150,178	189,239
1966-1967	13,735	58,246	101,275	172,896	209,200
1967-1968	17,148	63,458	118,855	199,461	231,376
1968-1969	18,517	61,221	135,647	215,385	230,464
1969-1970	21,157	67,185	151,845	240,125	247,328
1970-1971	25,589	70,153	167,821	263,563	263,563
1971-1972	28,690	81,306	198,986	308,982	293,531
1972-1973	32,071	88,514	223,470	344,055	299,324
1973-1974	38,608	113,187	262,328	414,123	318,873
1974-1975	55,251	143,868	324,952	524,071	403,533
1975-1976	75,504	188,727	399,254	663,485	445,289
1976-1977	79,756	225,024	469,692	774,572	430,858
1977-1978	88,216	300,142	556,007	944,365	508,480

(Thousands of Dollars)

Table 7

Criminal Justice Expenditures

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<u>Fiscal Year</u>	<u>Courts</u>	<u>Corrections</u>	<u>Police</u>	<u>Total</u>
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1962-1963	8,383	24,712	52,967	86,062
1963-1964	10,595	26,800	52,892	90,287
1964-1965	11,719	38,600	76,847	127,166
1965-1966	12,467	56,263	81,448	150,178
1966-1967	13,375	58,246	101,275	172,896
1967-1968	17,148	63,458	118,855	199,461
1968-1969	18,517	61,221	135,647	215,385
1969-1970	21,157	67,185	151,783	240,125
1970-1971	25,589	70,153	167,821	263,563
1971-1972	28,690	81,306	198,986	308,982
1972-1973	32,071	88,514	223,470	344,055
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1976-1977	79,756	225,024	469,692	774,472
1977-1978	88,216	300,142	556,007	944,365

Source: Statistics Canada,

Federal Government Finance, 1961-62 to 1977-78.

Gross Expenditure.

Table 8

Welfare Expenditure as a Percentage of Gross National Product

Selected Fiscal Years 1933-1965

Canada: All Governments

<u>Fiscal</u>	<u>Social</u>			
<u>Year</u>	<u>Health</u>	<u>Welfare</u>	<u>Education</u>	<u>Total</u>
1965	3.1	4.6	5.3	13.0
1964	3.0	4.6	5.1	12.7
1963	2.8	4.6	5.0	12.4
1962	2.8	4.7	5.3	12.8
1961	2.8	4.6	4.7	12.1
1960	2.3	4.5	4.3	11.1
1959	2.0	4.3	3.9	10.2
1958	1.6	4.3	3.6	9.5
1957	1.3	3.9	3.5	8.7
1956	1.3	3.5	3.0	7.8
1955	1.3	3.7	3.0	8.0
1954	1.4	3.9	3.0	8.3
1953	1.3	3.7	2.7	7.7
1952	1.2	3.7	2.5	7.4
1951	1.2	3.0	2.3	6.5
1950	1.3	3.5	2.5	7.3
1949	1.3	3.6	2.4	7.3

1948	1.0	3.3	2.2	6.5
1947	0.9	3.4	2.0	6.3
1946	0.8	3.5	1.9	6.2
1945	0.6	2.6	1.6	4.8
1943	0.4	1.1	1.3	2.8
1941	0.6	1.3	1.6	3.5
1939	0.8	2.8	2.3	5.9
1937	0.8	3.6	2.2	6.6
1933	0.9	3.8	3.0	7.7

Source: Bird (1970:256), Table 13.

Comments: See Bird (1970 Appendix C) for general comments. Raw data and data at three levels of government also given in the same Appendix.

Table 9

Welfare Expenditure as a Percentage of Gross National Product

1966-1976

Canada: All Governments

<u>Fiscal</u>		<u>Social</u>		
<u>Year</u>	<u>Health</u>	<u>Welfare</u>	<u>Education</u>	<u>Total</u>
1976	6.4	9.3	8.9	24.6
1975	6.1	8.7	8.7	23.5
1974	5.7	7.8	8.2	21.7
1973	6.1	7.7	8.6	22.4
1972	6.4	7.4	9.6	23.4
1971	6.0	6.9	9.9	22.8
1970	5.1	5.8	9.7	20.6
1969	4.3	5.7	9.2	19.2
1968	3.9	5.6	8.8	18.3
1967	3.6	5.0	8.0	16.6
1966	3.3	4.9	5.4	13.6

Source: Tables 10 and 13.

Comments: See comments in Tables 10 and 13. Data presented not directly comparable to Table 8, since these were derived from different sources. GNP figures from Statistics Canada,

National Income and Expenditure Accounts.

Table 10

Welfare Expenditure as a Percentage of Gross National Product

1966-1976

Canada: By Government

<u>Year</u>	<u>Federal</u>	<u>Provincial</u>	<u>Local</u>	<u>Total</u>
1976	8.6	11.2	4.8	8.2
1975	8.1	10.6	4.8	7.8
1974	7.4	9.5	4.6	7.2
1973	7.7	10.1	4.6	7.5
1972	7.5	10.7	4.3	7.5
1971	7.0	10.2	5.6	7.6
1970	6.2	9.2	5.3	6.9
1969	5.8	8.2	5.1	6.4
1968	5.6	8.0	4.8	6.1
1967	5.2	6.9	4.6	5.6
1966	4.9	6.0	2.6	4.5

Source: Statistics Canada,

Federal Government Finance, 1966-1976,Provincial Government Finance, 1966-1976,Local Government Finance, 1966-1976

Table 11

The Growth of Government Spending in Canada, 1947-1977

(As per cent of GNE)

<u>Five-Year</u> <u>Averages</u>	<u>Total</u> <u>Expenditures</u>	<u>Exhaustive</u> <u>Expenditures</u>	<u>Transfers</u>
1947-51	23.1	13.3	9.8
1952-56	26.5	17.7	8.7
1957-61	28.9	18.2	10.7
1962-66	30.3	19.7	10.6
1967-71	34.9	22.0	12.7
1972-76	38.7	23.1	15.7
1977	41.1	24.0	17.1

Source: Bird, et al. (1979:9, Table 2.1)

Comments: Exhaustive expenditures including government expenditure on goods and services, including capital formation.

Table 12

The Real Growth (Constant Dollars) of Government Spending in Canada, 1947-1977

(As per cent of GNE)

<u>Five-Year</u>	<u>Total</u>	<u>Exhaustive</u>	
<u>Averages</u>	<u>Expenditures</u>	<u>Expenditures</u>	<u>Transfers</u>
1947-51	27.6	18.8	8.8
1952-56	32.0	23.8	8.1
1957-61	32.1	22.0	10.1
1962-66	32.5	22.2	10.2
1967-71	36.0	23.5	12.5
1972-76	38.6	22.1	16.5
1977	40.0	21.4	18.6

Source: Bird, et al. (1979:20, Table 2.6)

Comments: Government expenditures are deflated as follows:

current expenditures on goods and services and capital formation
by the respective national accounts implicit deflators
and transfer payments by the implicit deflator for personal
expenditures. All deflators are based on 1971=100.

Table 13

Government Surplus or Deficit

Canada: 1930-1977

<u>Year</u>	<u>Federal</u>	<u>Year</u>	<u>Federal</u>
1930	- 96	1954	- 46
1931	- 160	1955	202
1932	- 154	1956	598
1933	- 114	1957	250
1934	- 93	1958	- 767
1935	- 121	1959	- 339
1936	- 37	1960	- 229
1937	9	1961	- 410
1938	- 87	1962	- 507
1939	- 2	1963	- 286
1940	- 140	1964	345
1941	- 27	1965	544
1942	-1723	1966	231
1943	-1943	1967	- 84
1944	-2709	1968	- 11
1945	-1832	1969	1021
1946	- 245	1970	264
1947	687	1971	- 95
1948	765	1972	- 702

1949	484	1973	222
1950	650	1974	1053
1951	971	1975	-3551
1952	195	1976	-3201
1953	151	1977	-7409

Source: 1930 to 1970 series from Statistics Canada,
Canadian Statistical Review Historical Summary,
 1970. 1971 to 1977 series compiled from Statistics Canada,
Canadian Statistical Review, 1971 to 1977. (See note 1).

Comments: 1. All compiled from Statistics Canada,
National Income and Expenditure Accounts, 1926-1977.

2. Surplus (+) or deficit (-) defined as total revenue from all sources, including transfers from other levels of government, less total expenditure, including transfers to other levels of government, plus capital consumption allowances and less gross capital formation.

3. Starting 1961, total includes "hospitals." Starting 1966, total includes "Canadian pension plan" and "Quebec pension plan" as well.

FIGURES

te per 100,000 population

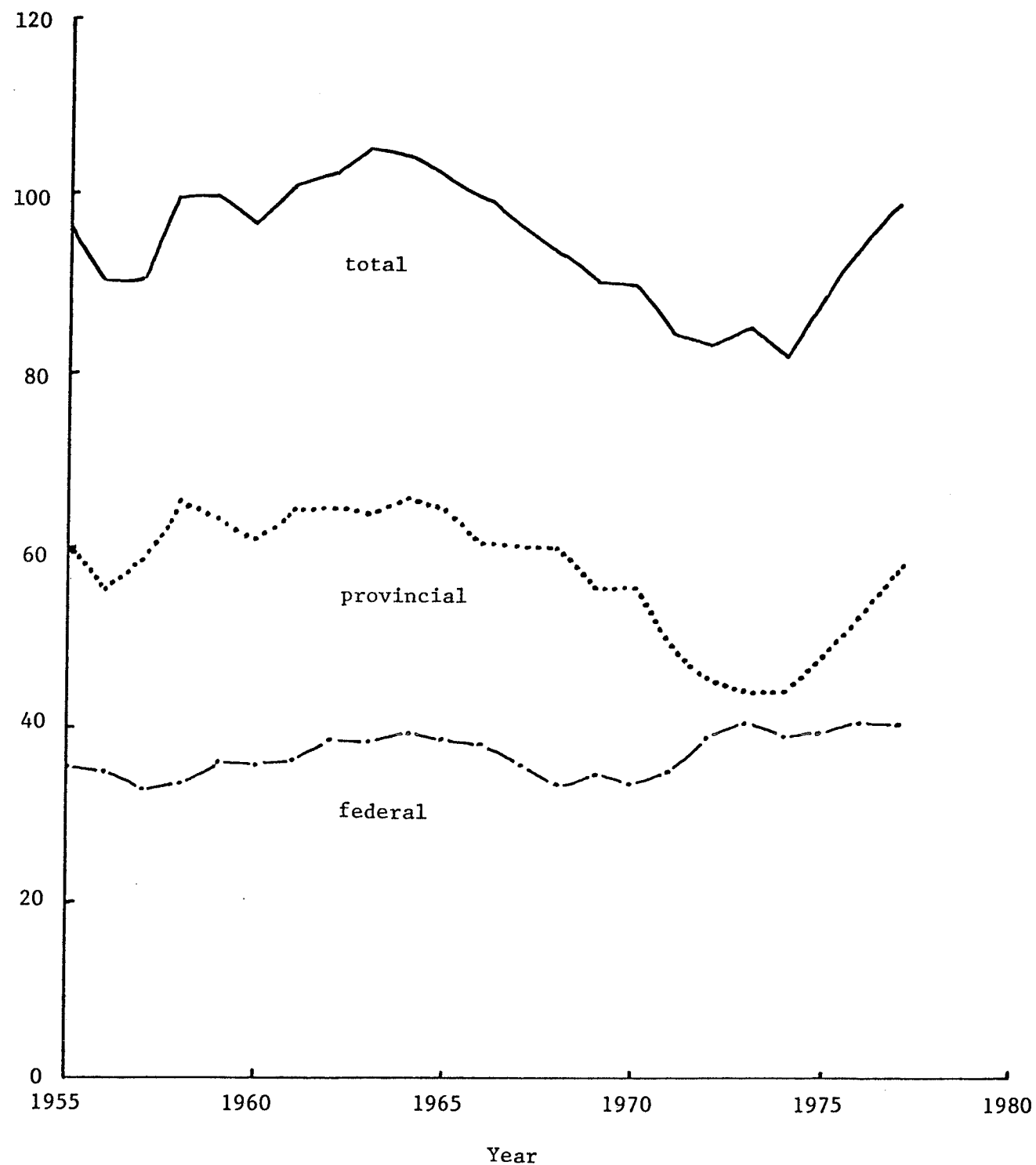


Figure 1: Adult Prisoners per 100,000 Population, Canada, 1955-1977

Source: Table 2

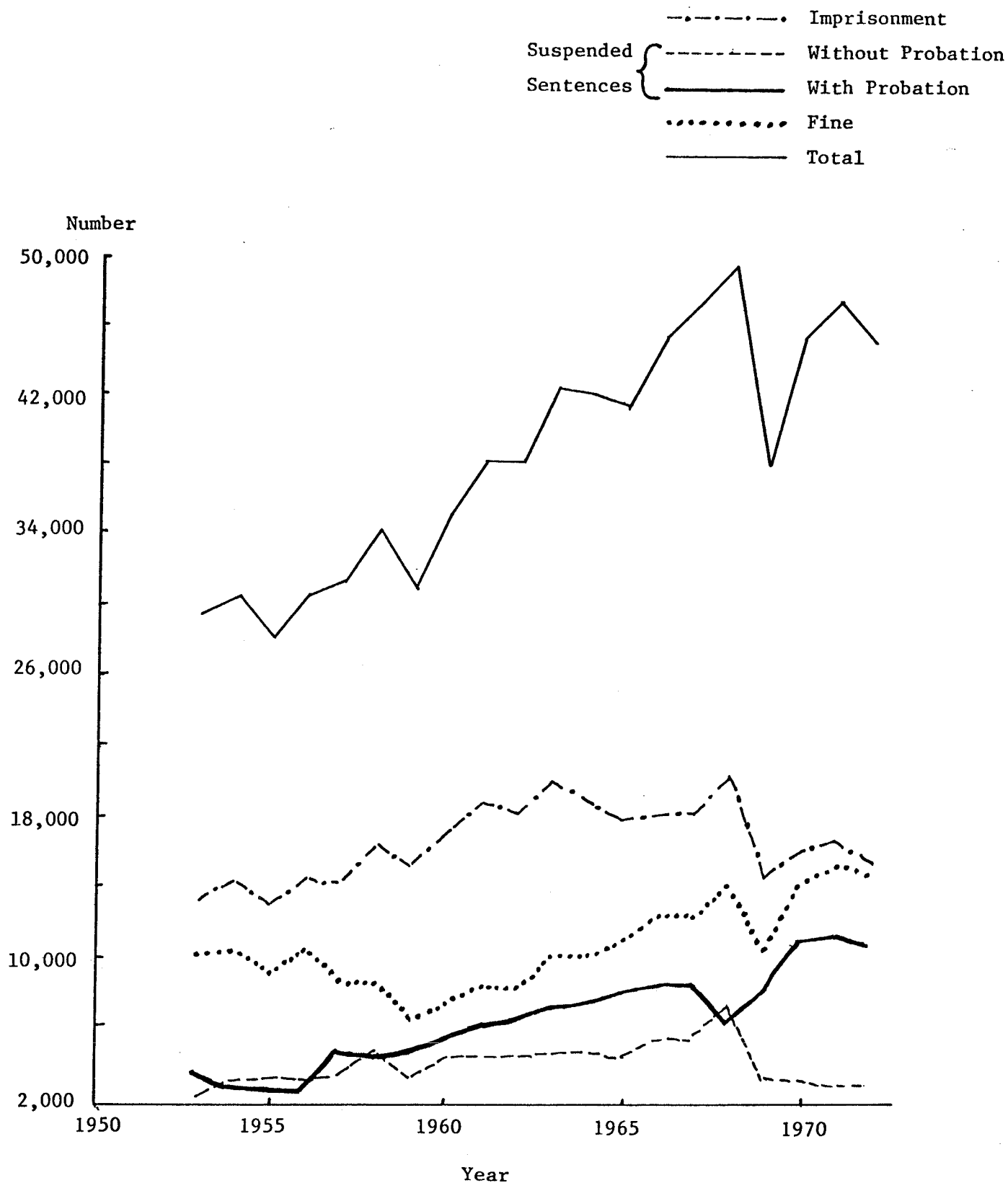


Figure 3: Persons Convicted and Sentenced on Indictable Offences, 1953-1972

Source: Table 4, Statistics Canada, Statistics of Criminal and Other Offences, 1953-1972

Comment: Has ceased to publish after 1973

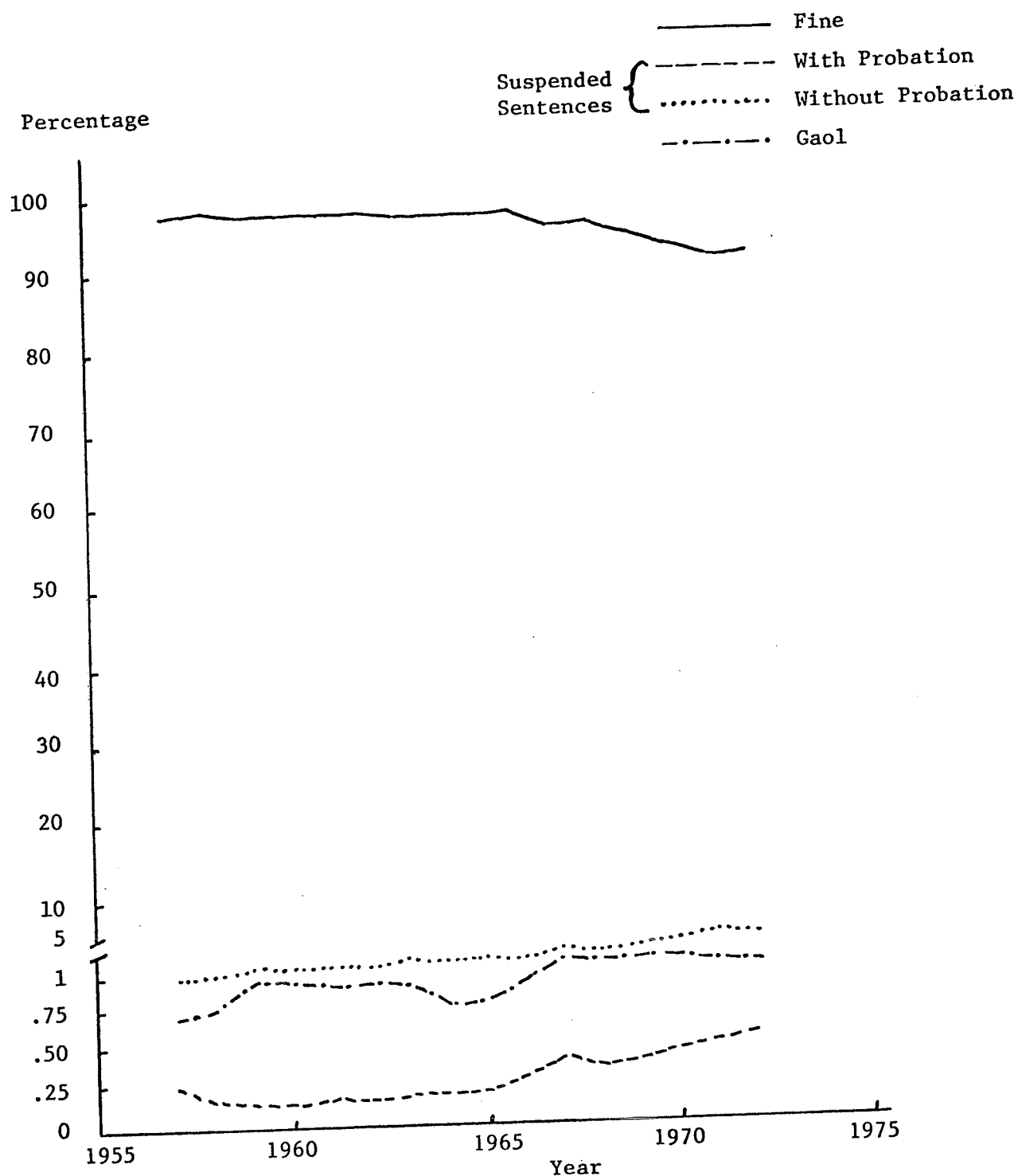


Figure 4: Convictions by Sentence Offences Punishable on Summary Offences by Percentage, 1957-1972

Source: Table 5, Statistics Canada, Statistics of Criminal and Other Offences, 1957-1972

Comment: Has ceased to publish after 1973

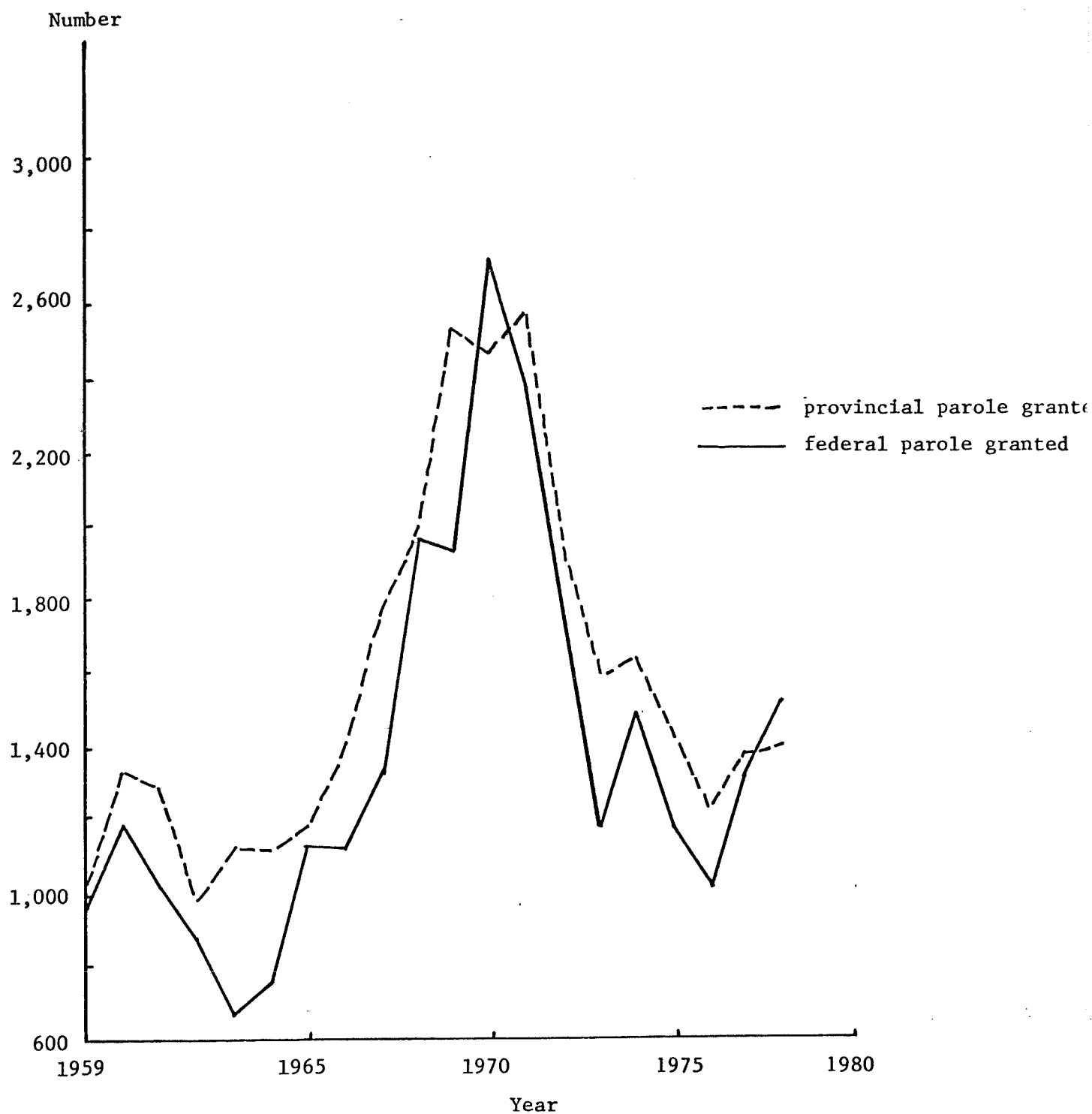


Figure 5: Federal and Provincial Parole Grants, 1959-1978

Source: Table 6, National Parole Service

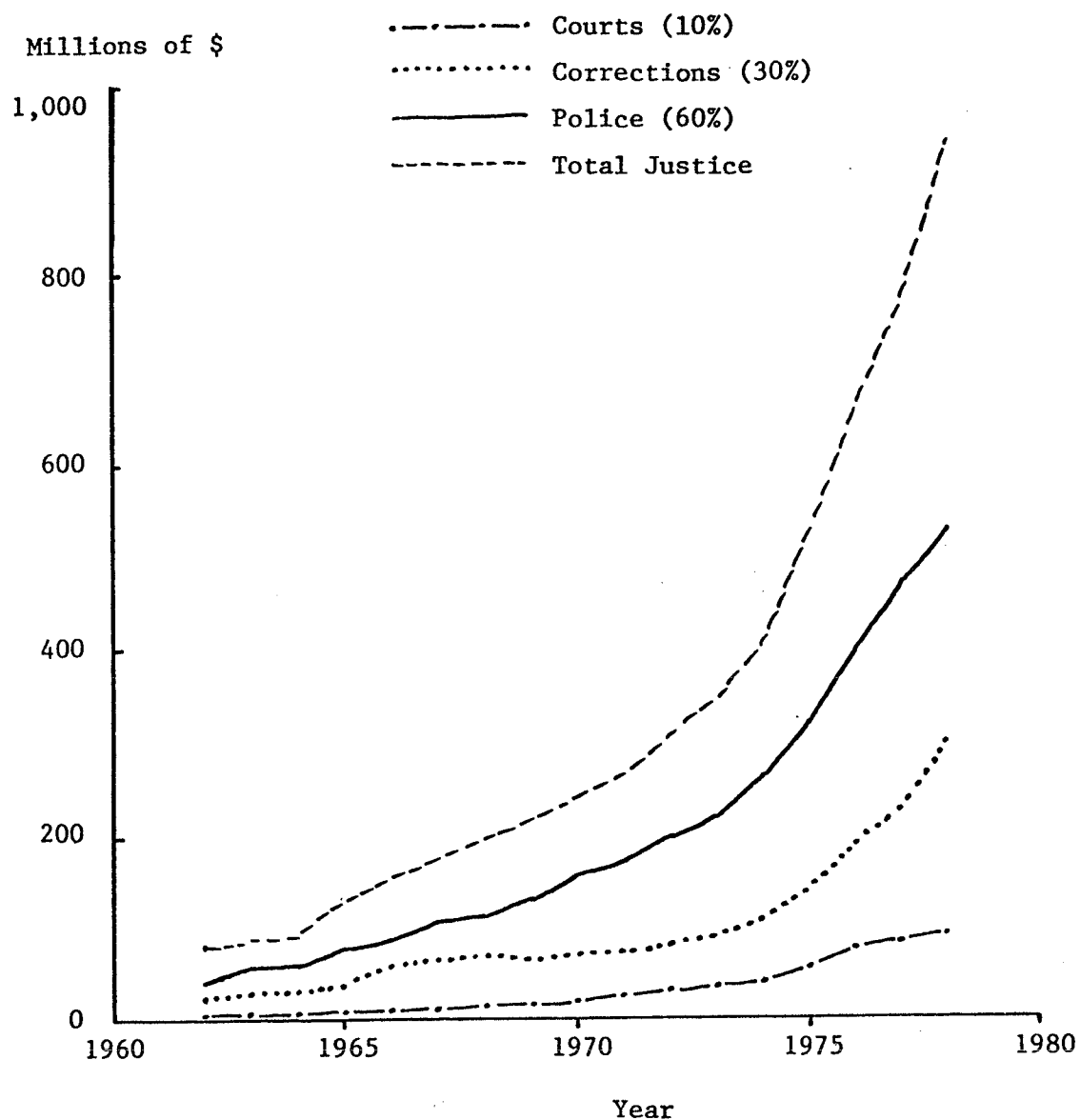


Figure 6: Criminal Justice Expenditure
Canada: Federal Government, 1962-1978

Source: Table 7, Statistics Canada, Federal Government Finance, 1961-1962 to 1977-1978. Gross expenditure.

Percentage of GNP

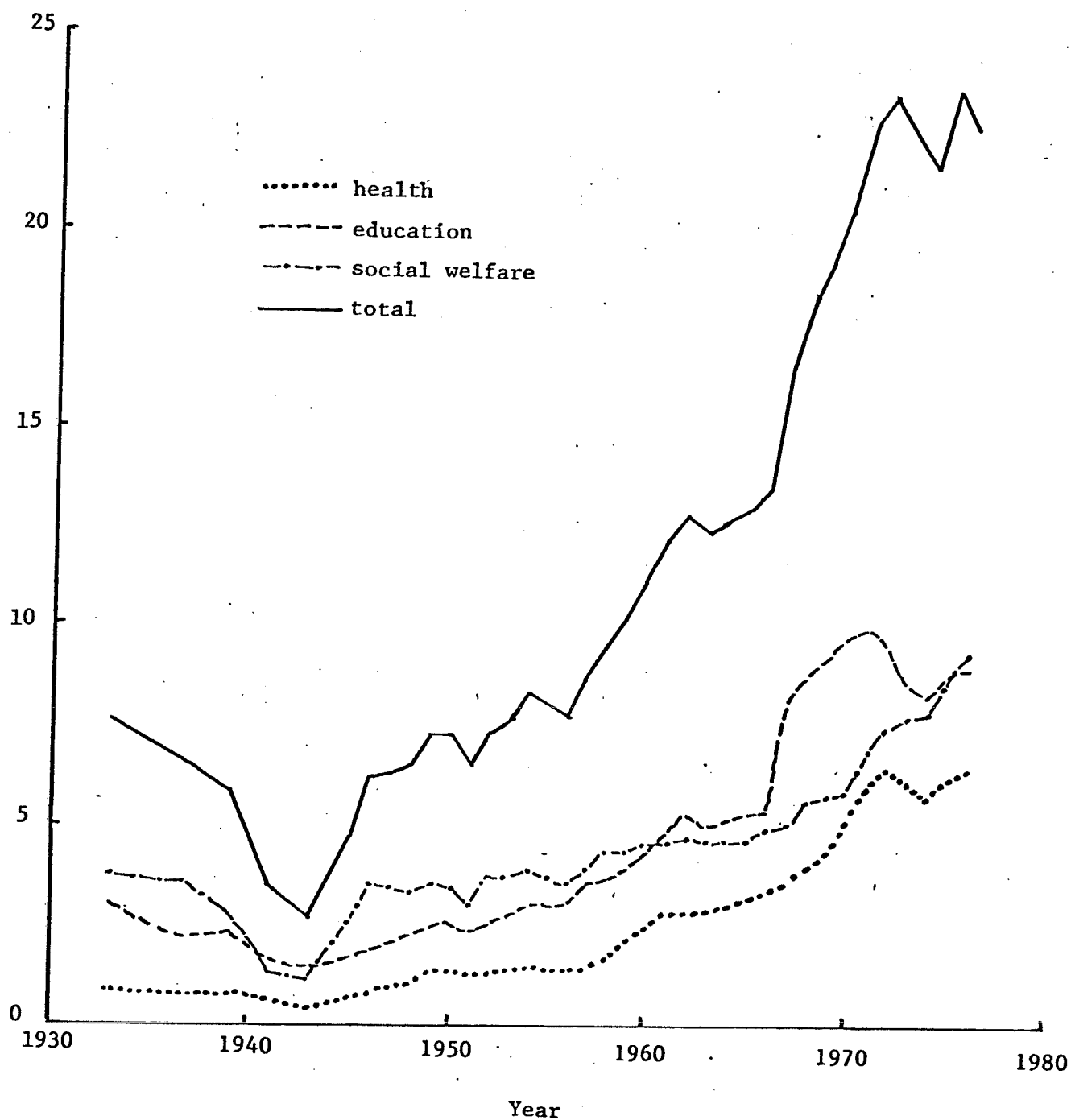


Figure 7: Welfare Expenditure as a Percentage of Gross National Product Canada: All Governments

Source: Tables 8 and 9

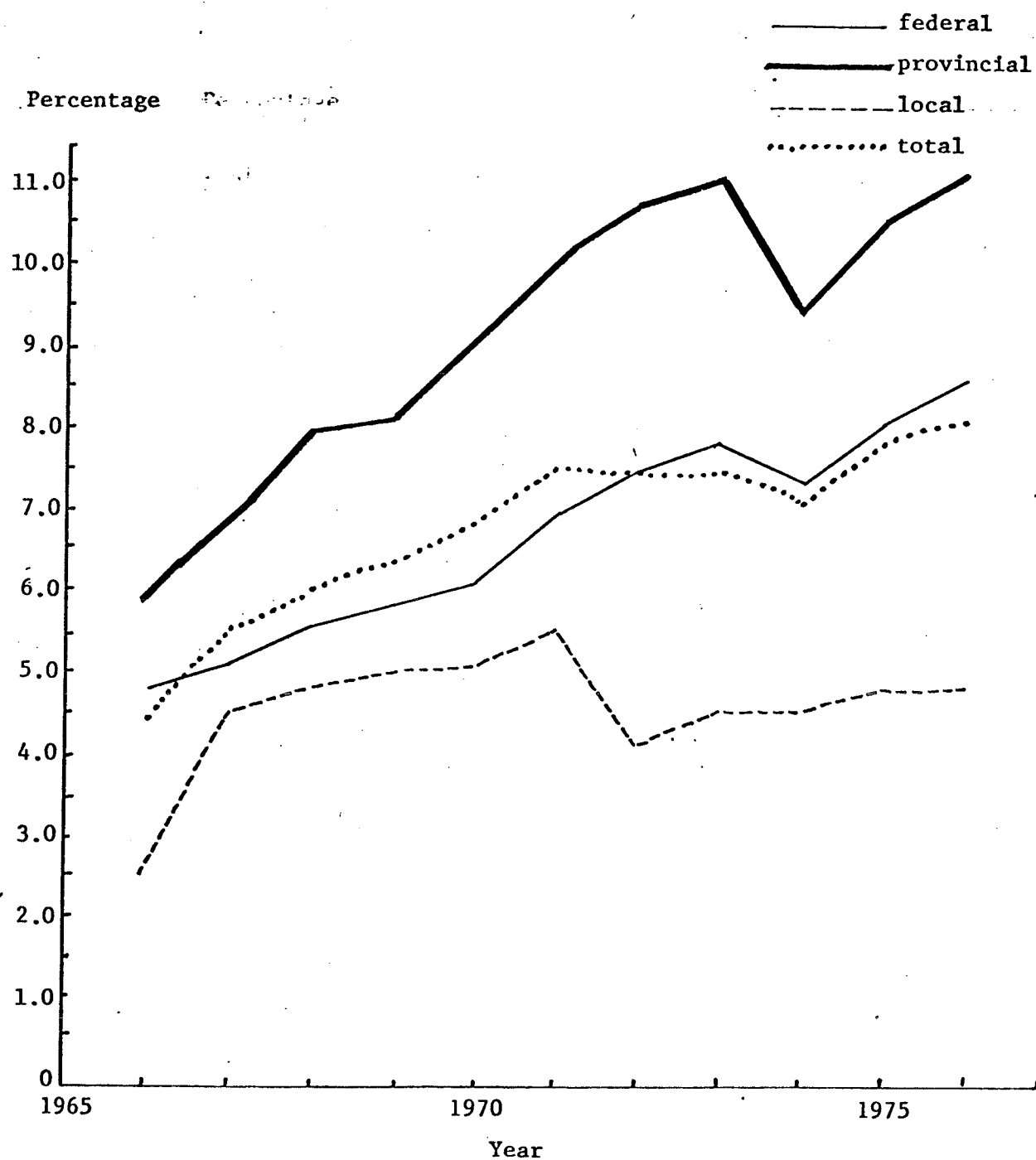


Figure 8: Welfare Expenditure as a Percentage of Gross National Product, 1966-76 Canada: By Governments

Source: Statistics Canada, Federal Government Finance, 1966-1976,
Provincial Government Finance, 1966-1976,
Local Government Finance, 1966-1976

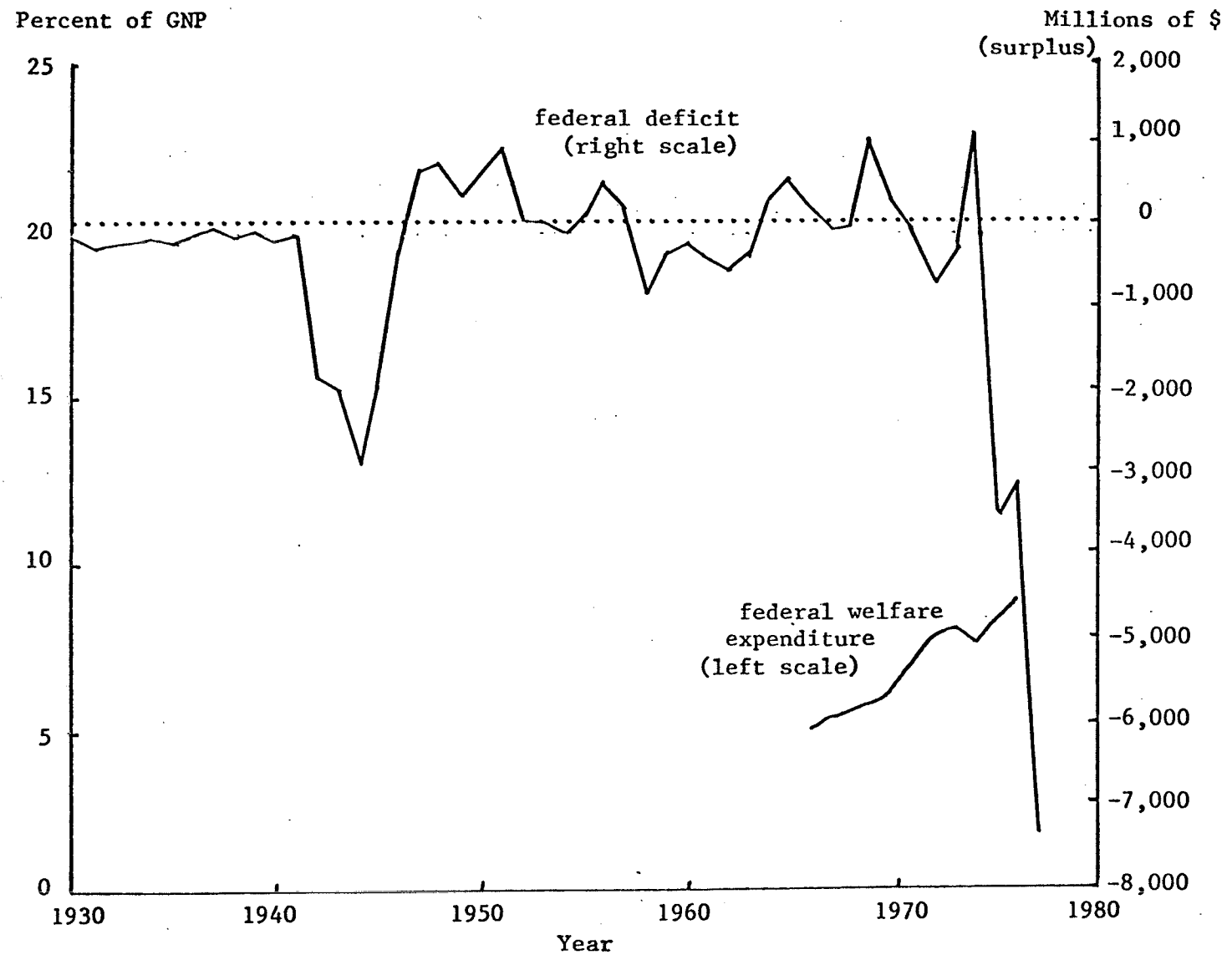


Figure 2: Federal Government Deficit and Welfare Expenditure
Canada, 1930-1977

Source: Federal Deficit from Table 13
Federal Welfare Expenditure from Table 1
(Data from 1933-1965 unavailable)

Percent of GNE

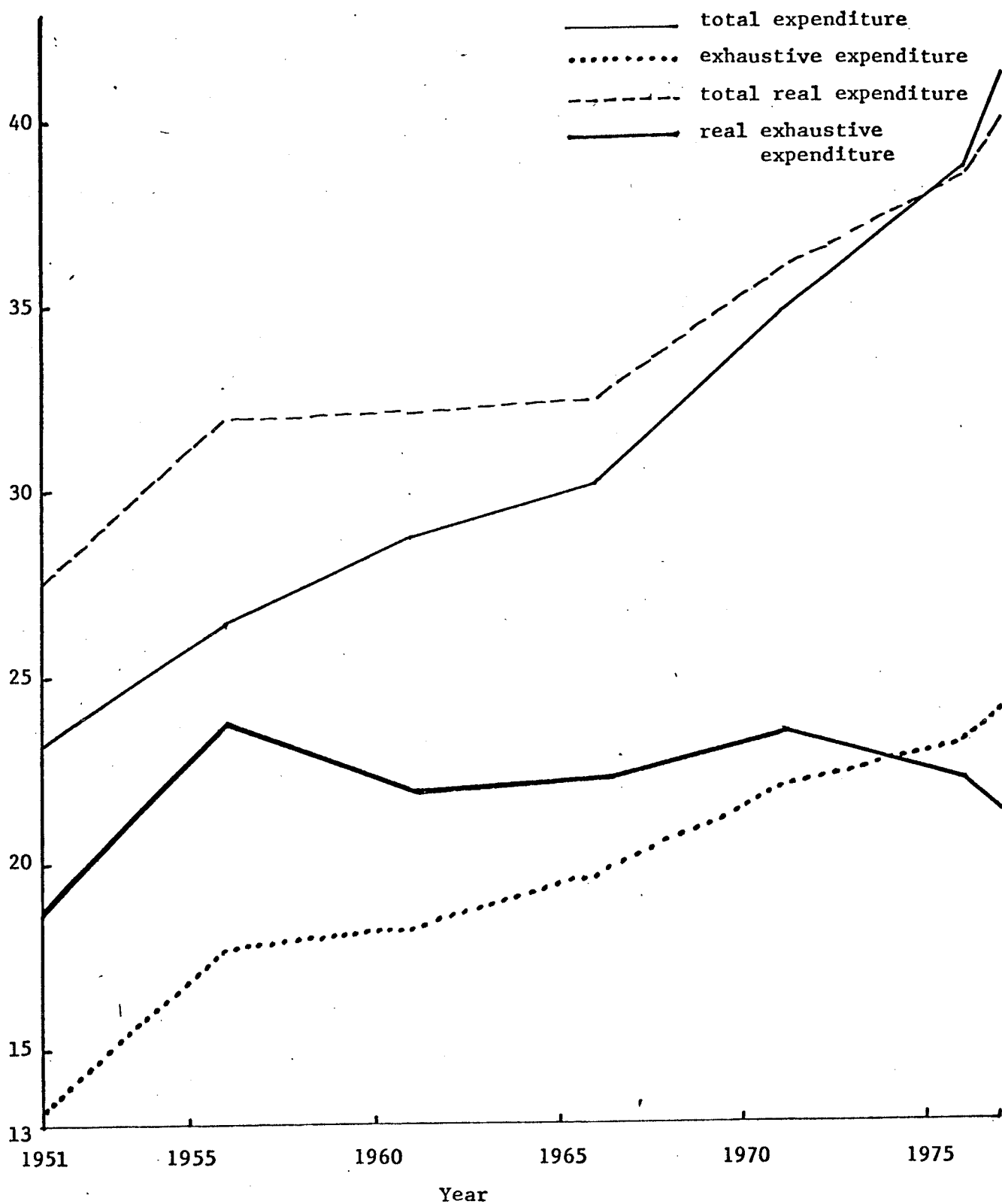


Figure 10: The Growth of Government Expenditure in Canada, 1947-1977

Source: Tables 11 and 12

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