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THE JOHN HOWARD SOCIETY OF CANADA
LA SOCIÉTÉ JOHN HOWARD DU CANADA

PERSPECTIVES ON CORRECTIONS:

TOWARDS A PHILOSOPHY OF CORRECTIONS

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Acknowledgement

This paper was authored by Professor Wes Cragg, a philosopher and faculty person at York University and long time director of the John Howard Society serving the Society in Sudbury, Ontario and Canada levels. This paper was adopted by the JHS Ontario and then submitted to the JHS Canada where it was adopted in July 1985.

INTRODUCTION

Perspectives on Corrections is the John Howard Society response to a "First Consultation Paper" which was circulated with a request for responsibility for reviewing correctional law in Canada. Our response builds on two perceptions: first that there is a strong social consensus on both the need for criminal law and the need for the punishment of those who break that law; second that the system of corrections in Canada today faces a serious crisis which threatens to undermine essential social objectives around which the consensus on the need for a criminal law and for the punishment of those who break that law has formed. We are convinced that the approach we offer here could provide the framework for undertaking the resolution of those problems.

We are also convinced that what is <u>not</u> required in our system of corrections is more repression or coercion, bigger prisons or harsher regimes of treatment. Rather, what is required is creative and imaginative solutions to a series of dilemmas and paradoxes which any system of corrections must inevitably pose.

In the first section of this brief we pose a series of questions and arguments which have led us to construct a philosophical framework for corrections. The conclusions which we reached are presented in the second section as a synopsis of the basic principles which we think should apply to corrections. The final section outlines briefly for illustrative purposes some of the implications for corrections if the principles we espouse were to be adopted.

In the interests of simplicity of exposition, we shall focus on offenders who have been sentenced to a prison term. If the proposals we offer are sound however, they should adapt themselves to less onerous sentences as well.

BACKGROUND

Where are we coming from?

The John Howard Society has always stood for a correctional system which seeks to protect members of the community from the effects of criminal activity while undertaking to treat offenders in such a way that having served their sentence, they are able to return to the life of a normal citizen better able to participate constructively in society.

Since the 1960's, experience and research has led increasing numbers of people to the view that some of the beliefs on which our correctional system has been constructed are inadequate. Specifically, it has been widely argued that we have to rethink our understanding of the relationship between punishment and rehabilitation and that we should recognize that coercive rehabilitation is not possible. No longer can we assume that punishment can have or does have a deterrent or a rehabilitative impact on most offenders. This is not to deny that punishment sometimes serves to change the attitudes of those punished. Rather, it does not have that kind of impact as a matter of course. To the contrary, experience suggests that increasingly the punishments meted out by our courts either have no effect on those who are punished or are counter productive. To tolerate a system which worsens offender attitudes toward society in general is to succeed in punishment but to fail in our ultimate goal which is to assist in the development of a society which is better and safer for everyone.

It is our view that it is possible to impose sanctions on those who have broken the law while leaving the door open to rehabilitation if we identify clearly what punishment consists of and what our obligations to offenders, particularly those sentenced to prison, are while they undergo incarceration.

Where are we going?

It is generally acknowledged that the system currently in place is generating problems which require attention. Faced with this fact there is a temptation to offer piecemeal solutions focusing on issues like overcrowding, double bunking, inmate rights, gating and so on. Concentrating on specific problems can obscure that fact that our system of corrections is a means to an end. Hence, any attempt to develop proposals for resolving current problems without first setting out a common understanding of the purpose of corrections might well be self-defeating. Consequently, this belief focuses on the purpose of criminal law and the place of corrections within it.

BUILDING THE PHILOSOPHY

Why do we have a criminal law?

The answer to this question is well described by the Canadian Law Reform Commission in their report entitled Our Criminal Law. They suggest that the criminal law is a response to a need to:

> "...do something about wrongful acts: to register our social disapproval, to publicly denounce them and to reaffirm the values violated by them."

The Commission goes on to say:

"This job [of] condemning crime...is not an end in itself. It is part of the larger aim of producing a society fit to live in. Such a society is less one where people are too frightened to commit crimes than one where people have too much respect for one another to commit them. Fostering this kind of personal respect is a major aim of parents, teachers, churches and all other socializing agents. One such agent, **though far less important than other**, [our emphasis] is the criminal law. In its own way, the criminal law reinforces lessons about our social values, instills respect for them and expresses disapproval for their violation."

Why do we punish those who break the law?

It is worth asking first why criminal law and punishment are so closely connected in our minds. There seem to be two important reasons. First, most people believe that without punishment, the law could be widely disrespected. Second, deep down there is a feeling that to fail to punish those who break the law is unfair to those who respect it. It seems that if the law is going to be respected, those who break it must be punished. On this point there seems to be a deep consensus.

There is a secondary element to this consensus. Punishment, if it is to be fair, must vary in severity with the seriousness of the crime committed. In Canada today, for very serious crimes, we reserve the penalty of imprisonment.

It is at this point that we encounter two paradoxes. First, we punish those who commit serious crimes by imprisoning them. We do so because we believe that if we did not react in this way the law would lose our respect. On the other hand, there is increasing evidence accumulating that imprisonment does not reduce crime, at least amongst those who are punished in this way. If our goal is to secure obedience to the law, then imprisonment has not been shown to be a useful way of bringing this about, at least in the case of those on whom it is imposed.

There is a second and related paradox. Putting someone in prison is like voting no confidence in his ability to use in a responsible way, the kind of freedom our society makes available. We expect that when someone is released from prison he will have "learned his lesson". But how can an individual learn to act responsibly in an environment which strips him of the freedom to make significant decisions about the course of his own life?

Broadly speaking, there are three ways in which we might respond to these paradoxes. One way would be to eliminate punishment, but this response would be unlikely to find much support for reasons already stated.

A second response would be to insist on punishment and simply ignore the impact of prison on those it is imposed. To adopt this second view is completely inconsistent with what the John Howard Society has always stood [for]. This view makes one of two incompatible assumptions, both of which are unsound. It may rest on a belief that the only function of punishment is to assert and emphasize the social values enshrined in the criminal law or, it sees punishment as an end in itself to be inflicted for its own sake.

The first view treats punishment solely as an instrument for highlighting or emphasizing society's commitment to the values enshrined in the law. This treats those punished simply as instruments valued only as a means to some social objective. There is wide agreement we believe, that to use individuals this way is immoral. For this reason too, a warehousing approach to prisons is morally objectionable as well.

To see punishment as an end in itself is to forget that the law is only one of the instruments available to build a society fit to live in. What is more, not all of the values that we cherish are captured by the criminal law as we shall see in some detail later.

It is also important not to lose sight of a serious practical consideration. We cannot and do not keep offenders in jail forever. It is surely unwise to simply ignore this fact as we attempt to work out our responsibilities to those we imprison while they are incarcerated.

We can conclude, then, that the first and second options do not provide an adequate basis for understanding the role of corrections. But there is a third option, one which is endorsed in this brief.

Understanding this third view of corrections requires three things:

1) Acceptance that imprisonment is not a consistently effective or reliable way of ensuring that those whom we punish will respect the law;
2) Recognition that our goal in creating a criminal law and in enforcing it is the development of a society fit for everyone to live in.
3) Careful definition of what punishment does or should consist of.

We have already considered the first of these points in sufficient detail. Let us turn our attention, then, to the second and third.

How do we build a society fit to live in?

We have already suggested that the criminal law is one of the tools we use to create a society fit to live in. However, it is only one such tool. More importantly, it has severe limitations. This is because its impact is essentially negative.

One of the interesting, and for present purposes, relevant features of our criminal law tradition is that it is built on the view that the law is most effective when it establishes boundaries or prohibitions. Its focus traditionally has been "thou shalt not steal or murder or assault or deceive" and so on. It creates the conditions in which human beings can pursue the many activities which make life worthwhile by prohibiting or inhibiting anti-social behaviour. Resistance to "good Samaritan" laws is an example of this tradition. We have no difficulty supporting laws which prohibit people from harming others. But there is a good deal of resistance to creating laws which require that those who are in a position to do so come to the assistance of those who need their help. This outlook reflects the principle that coercion can be used effectively to block morally undesirable behaviour but is not an effective took for motivating people to undertake morally commendable actions.

As ways of encouraging the constructive use of talents, energies, opportunities and so on, our society has, for instance, developed a sophisticated system of education job training programs for the unemployed, rehabilitation programs for the disabled, education upgrading opportunities, public health services, counselling agencies, recreational opportunities and on and on, much of which is available at no direct cost to the individual.

There are two important things to be said about the kinds of services and programs just described. First, we provide services to members of our community because of a widespread belief that we all need access to these kinds of services and opportunities if we are to make the most of what life has to offer. They constitute important ways of creating a society fit to live in. Second, these programs are made available in our society on the basis of need and not on the basis of merit or desert. This is an extremely important point. Let us illustrate it with the example of medical services.

In Canada today we have a system of universal medical insurance. It is based on the principle that access to medical services should be available to those who need them. People need medical services for many reasons. Some find themselves in the doctor's office through no fault of their own. They are the victim of an accident or of old age or of poor health and so on. Others, however, are victims of their own carelessness. They have behaved in a way that anyone with common sense would know would cause them harm.

If our medical system was based on desert, many of the people who show up in the emergency rooms of hospitals would be denied treatment. But, our system is not based on desert. It is based on need. And we direct our medical institutions and practitioners to do the best they can for everyone.

The same is true of education. We make education available to everyone. We go out of our way as a society to give people a second and third chance. Thus, when adults appear to register in a community college program of studies, we do not ask them why they did not take advantage of similar opportunities made available to them when they were young. When persons who are handicapped register for special job training, we do not ask how their condition came about.

What has been said is enough to illustrate how we as a society seek to encourage people to make the most of their opportunities and talents by responding to their needs and by encouraging their participation. We do it in part (but not entirely) because we know that if those who need help refuse it, they will almost certainly become a serious social burden some time down the road. On the other hand, we do not require by law that people take advantage of the services and programs available even if we know that if they do not do so they are certain to become a social burden.

What has this to do with corrections? The offender is simply one of the many people in our society who needs help if he or she is to have an opportunity to live constructively within the law.

The picture painted above has important implications for corrections. But is it applicable? After all have we not agreed that people are sent to prison to be punished? Working out the implications or what we have just said requires, therefore, that we turn to our third task, which is to determine:

What is punishment and of what does it consist?

The view of punishment taken by our society over its history is marked by vigorous debate. At one time or another, we have imposed physical torture, maiming, death by burning, hard labour, deprivation of adequate food, clothing, shelter, health care, and so on. However, today, attitudes have changed. Imposing physically painful or harmful punishments is no longer tolerated.

What then does punishment consist of today? Setting aside the less severe penalties, there seems to be a consensus that the only severe punishment we will tolerate is the deprivation of freedom, that is to say imprisonment. The problem is that as a description of punishment, this is very unclear. And this unclarity is the basis of much confusion about how someone who is in prison should be treated.

Let us suggest three reasons why we put people in prison. First, we imprison people because they have demonstrated to us that they are a threat to our sense of security. It is the best way we know of for protecting individuals in the community from those who are dangerous.

Second, persons who commit serious crimes are put in prison as punishment. When we imprison for this reason, punishment consists of depriving offenders of their individual liberty, their freedom as individuals to come and go as they wish. It also consists of depriving them of the freedom to choose where they will live and who will be their associates. It is worth emphasizing that this is a severe form of punishment.

A third reason for imprisoning people is so that while they are imprisoned they can then be punished. At various times in the past, this has been a very popular idea. People were put in stocks so that they could be humiliated by passersby. People were locked up until the sentence of corporal punishment could be inflicted. And most recently, people have been held in custody until the sentence of capital punishment could be carried out.

Perhaps the central point of the law reform proposal being advanced by the John Howard Society is that while the first and second reasons for imprisonment are legitimate, the third is not. Since protecting individuals is one of the objectives of the criminal law, then isolating those who insist on committing serious crimes is surely legitimate. This first reason for imprisoning those committing serious crimes is one which the John Howard Society has always accepted. Variation in levels of security in the prison system is both a method of protecting the law abiding community from those prepared to commit serious crimes and a way of protecting those who are imprisoned from those with whom they are forcibly confined. This justifies the use of only as much force as is required to secure the objective of self-defence.

Imprisonment as punishment is consistent with and reinforces the use of imprisonment for purposes of social self-defence. However, while imprisonment does result in a curtailment of the freedom of those affected, it need not result in the total destruction of their freedom. There is an important difference between curtailing freedom and eliminating it. Finally, as a punishment, imprisonment marks society's commitment to the law and the values to which the law point.

This brings us back to the third reason for imprisonment. Are we justified in putting offenders in prison so that they can then be punished?

To deliberately inflict serious physical suffering in the name of punishment is humiliating, quite possibly brutalizing for all concerned. We suspect that it is likely to cause such deep resentment in the person who is punished that there is little chance that he will rejoin society on release better able or even as able to participate in a law abiding and socially constructive way.

Physical punishment is not the only form of punishment which can be inflicted in prisons. Other instruments of a more subtle sort are certainly available. For example, punishment can be inflicted by blocking access to education or medical services or by denying use of recreational opportunities or resources, or by removing reading materials or by imposing solitary confinement and so on. What is striking about each of these forms of punishment is that if they are imposed with any seriousness, the effect is to interfere with and undermine the ability of those punished to participate in the world of today in a personally or socially satisfactory way. It is clear that most of us know this instinctively just because we insist that an adequate range of services and programs of this sort be made available to everyone based on need and not on desert.

To insist that people are to be sent to prison so that they can then be punished, is to ensure that when people leave prison they will almost certainly not be better able to participate in a normal way in the life of the community. Hence we take the view that prison authorities have an obligation to make available or to allow to be made available the programs and services which our society feels itself obliged to offer to its members generally.

Can security and opportunity goals be compatible?

Discussion thus far has high-lighted two dimensions of prison life, a security dimension and an opportunities dimension. We need now to take a final look at each dimension taken separately, and then we turn to understanding how these two aspects of prison life can work together.

Achieving prison security has two components. The first has to do with achieving what is sometimes called perimeter security. If this task is not performed well, then both the social self-defence component of a sentence of imprisonment and the punishment component are subverted. Hence, prison life must take place within the context of rules and practices which allow correctional authorities to perform this function.

There is a second component to prison security, however, which is equally important. One of the things which people lose when they are sent to prison is the freedom to decide where they will live and with whom they will associate. This loss of freedom is important in part because it removes one of the ways in which people protect themselves from situations and people which threaten their

personal security. One of the functions of the law is to protect the personal security of all of us. It does so, as we have seen, by imprisoning those who commit serious crimes. However, prison by its very nature poses a substantial threat to the security of those who are sent there. Reducing that threat is a second security task faced by correctional authorities.

Internal security is also important because only if a person feels free from attack can he take advantage of the opportunities offered. Providing opportunities to those in prison is of no value unless the prerequisite of internal security is satisfied. It is also one of the ways in which society communicates to those in prison that they have the status of persons.

The rules and practices which govern the perimeter and internal dimension of prison life should function much in the way in which laws function in the community at large. Further, although they are as essential in the prison context as they are in the community at large, they have the same limitations. Their impact taken alone must inevitably be negative and coercive. Hence, if we are concerned with ensuring the real possibility that when they are released, inmates will be able to live in personally and socially constructive ways, then we have to look beyond this first dimension to the second.

What we argue earlier indicates that the community should attempt *in principle* to make available to prison inmates the range and types of opportunities available elsewhere. *In practice,* there will be variations however hard we try. But this is true outside of prison as well. However, the ideal is still there, and it can play a useful role.

The chief handicap of inmates will derive from the fact that they are in custody and hence, cannot, for the most part, go to where services and programs are normally offered. The challenge both for corrections and for the community generally, then, is to make a wide range of programs and services available inside the prison.

There are two limits to this obligation. The first is the community's economic capacity to provide programs and services for its citizens. In allocating these resources, inmates do not have a higher priority than others. But they do not have a lower priority either. The second limit is prison security. Providing programs does not have a higher priority than ensuring the disciplinary goals of prison life. To undermine security objectives is to undermine the conditions under which active positive participation in program opportunities is possible.

The first step to understanding how both security and opportunity goals can be achieved by correctional authorities is to recognize that the source or origin of the two responsibilities is different.

The obligation to ensure custody originates in the sentence of the court. The result is the enforcement of prison discipline. In carrying out the sentence of the court, correctional authorities are responding to offenders as offenders.

The obligation to facilitate the delivery of those opportunities available to Canadians generally derives from the community. Opportunities cannot be imposed. Further, there should be no need for the court to direct that adequate opportunities and services for inmates be made available. This is not the court's job. It is the job of correctional authorities acting on behalf of the community. In responding to the needs for opportunities to develop and learn, the correctional authorities are responding to offenders as people.

Because correctional authorities are the custodians of the community's obligation to provide programs, services and opportunities, they have a certain power. This power is no different from the power which school principals, or doctors, or welfare officers or unemployment counsellors have. But it is power. As with everyone who has this kind of power, it should be employed in cooperation with those other community groups who are in a position to help, and it should not be used for punitive ends. As an agent of the community, the obligation of prison authorities is to respond to needs and not to perceived merit. Specifically, opportunity objectives should not be manipulated to achieve disciplinary goals.

Approaching the provision of opportunities in the spirit just suggested becomes possible only if the community generally and the correctional authorities in particular accept that people are sent to prison *as* punishment and not *for* punishment. Once this is recognized, depriving those confined to prison of programs and opportunities for punitive reasons will be seen to be illegitimate. Imposing discipline can then be seen not as an excuse for denying or limiting access to opportunities. Rather, it can be seen as simply posing additional hurdles which, as custodians of the community's concern with its members' welfare, correctional authorities have an obligation to overcome in creative ways.

TOWARDS A PHILOSOPHY OF CORRECTIONS

SYNOPSIS

I. *Assumptions*

Our response to the Correctional Law Review; First Consultation Paper builds on three assumptions:

a) We assume that criminal acts are denounced in two ways; generally, through the definition of the act as criminal in the process of creating legislation, and specifically, through the finding of guilt.

b) We assume, with the Canadian Law Reform Commission, that the purpose of sentencing is punishment and collective or social self-defence.

c) We assume that the only morally acceptable form of punishment in our modern society is the deprivation of freedom. Thus, in sentencing an offender, the court places some form of constraint on the freedom of the offender to direct his own life.

If deprivation of freedom is the only morally acceptable method of punishment in today's world, then in sentencing offenders, the court achieves the goal of punishment and social protection in the same way. By prescribing an offenders freedom, the court is at one and the same time inflicting punishment and providing a mechanism for social defence.

Having denounced the criminal act in the finding of guilt, the court recognizes that the offender has breached the trust of the community and therefore forfeits some of his or her freedom. In sentencing, it is therefore the task of the court to determine parameters on this deprivation of freedom which correctional authorities may impose on the offender. This is accomplished by establishing three things:

a) The period of time during which the correctional authorities are authorized to limit the offenders freedom.

b) The *maximum* degree of deprivation of freedom which correctional authorities can impose on the offender.

c) The level of intervention at which the correctional authorities must begin.

In giving a one year probation order, the court limits the intervention to the supervision of the person within the community according to the terms of the probation order for a period of one year. Correctional officers do not have the authority to extend the period of time or increase the

intervention through the use of imprisonment for instance. A sentence of imprisonment means that the person must begin the sentence in prison. Correctional authorities may relax the control or reinstate the control, as necessary to reflect the degree to which the person requires coercion to live within the limitations of his freedom as required by the court.

II Principles of Corrections

We propose that the central principles of sentence administration should be:

a) Punishment inflicted by the court in sentencing an offender lies in the *fact* that the offender's freedom is restricted through the supervision and control of the state.

b) Coercive measures taken by correctional authorities should be no more than is needed to ensure that the sentence of the court is carried out.

c) Prison authorities have an obligation to make available or allow to be make available, the programs and services that our society feels obliged to offer to its members generally.

III. *Implications*

What do these principles taken together imply for the correctional system? It is perhaps worth pointing out to begin with that our proposals are consistent with what has in recent years been referred to as the justice model of corrections. It is also consistent with the opportunities model of correctional programs. But we are not endorsing the status quo. To make this clear and to set out more clearly what we have in mind we shall suggest in a preliminary way what our proposals imply in three broad areas: classification and conditional release; correctional programs and services; and prison administration.

a) Classification and Conditional Release

We propose that classification should be based on two things: the threat individual offenders pose to the personal security and property of the community and its members including prison staff and facilities; and on the ability of an offender to use constructively the freedom and the opportunities available in particular prison settings. This implies the existence of a variety of prison settings governed by more or less rigorous systems of internal regulation and perimeter security. At the lowest level of security would be parole

for those individuals judged capable of respecting the sentence of the court and the controls on their behaviour without serious external controls. At the other end of the spectrum would be maximum security institutions.

Inevitably adequate sentence administration will sometimes require consideration of transfer of inmates to institutions governed by more severe controls. Because such moves must inevitably affect the welfare of persons being considered for transfer, and the way in which programs and services are delivered, there must be adequate procedures in place to ensure that the decision is not punitive in it's intent.

It is our view that decisions relating to the transfer of inmates from higher to lower security institutions and visa versa, together with decisions affecting the release of persons from custody, should be governed by the following principles:

i) Where the inmate's activity and participation in prison programs does not demonstrate an inability or an unwillingness to pursue agreed upon goals of work or personal development, authorities should release the individual under community supervision in advance of sentence expiry.

ii) Inmates should have the right to request early release or transfer to institutions imposing lower levels of control. There should be a mechanism which allows inmates to appeal negative decisions to an impartial authority.

iii) Criteria for classification and early release decisions should be clearly specified, objective and available to all inmates.

b) Prison Programs and Services

We, as a community have an obligation to recognize that punishing those who break our laws by putting them in prison will likely not, by itself, lead those punished to acquire a greater respect for the law. In fact, it may very well do the opposite. Punishment, then, is a *response* to criminal activity; it is not a *solution*.

It should not be the purpose of punishment to deny inmates the freedom to use their time constructively.

What then does the constructive use of time require? We know, for example, that someone who is badly nourished, or ill and unable to obtain adequate medical attention is under a serious handicap. We know that someone who cannot read or write or has no chance to improve his or her education will also be seriously handicapped in his or her attempts to adjust to today's world. Our society goes to great lengths to ensure that each of us has adequate access to these things.

Of course, these are just a few examples, but they illustrate our central point that if we recognize that those who break the law are still persons, we must recognize an obligation to provide them with the tools which we have come to believe each of us needs if we are to develop our talents and learn to contribute to our society.

The Penitentiary Act already recognizes this principle as do government authorities. Much of what has been done, however, has been done in the name of coercive rehabilitation. Our view is that coercive rehabilitation is a mirage, but that the humanitarian instincts which under-ride it are well based. Prison authorities have an obligation to provide, or to allow to be made available, services and programs such as food, clothing, medical care, legal services, education, recreation, religious services, and counselling, to inmates just as they are made available to all Canadian citizens.

Therefore:

i) Institutional rules should encourage inmates to take advantage of these opportunities.

ii) Access to programs and services should not be manipulated for disciplinary purposes except in so far as is required to maintain the programs themselves.

iii) Access to programs and services should be governed by need and not merit.

c) Prison Administration

Prisons are by their nature both institutions and communities. Any community must be rule governed; the alternative is tyranny or slavery at its worst.

It is our view that the rules created to govern prison activity should have three goals:

i) To ensure that sentences of imprisonment are carried out. (Rules which are intended to ensure that the sentence is carried out should not be punitive in function or intent.)

ii) To provide protection within the prison, for both inmates and correctional personnel, from theft, assault, and other forms of unacceptable abuse. (The goal here is protection not punishment.)

iii) To enable and encourage inmates to use their time constructively.

Rules designed to achieve the first goal are concerned with public protection. For this reason, creating those rules should rest virtually exclusively with prison authorities.

Rules of the second type have in view the security of persons and property within the prison setting. Practical measures, both permitting and encouraging inmate and prison staff participation, should be instituted in every prison. We recognize that the form which those practical measures will take will vary depending on the degree of security which characterizes particular institutions. Nevertheless, participation is important if the goals we propose are to be achieved.

Rules should ensure fair and equitable access to facilities, programs and the variety of other opportunities, which ought to be available to inmates. This is of primary interest to the inmates themselves. Here inmate members should have a strong role in devising rules and regulations and developing proposals for programs, services and opportunities. Once again there will be inevitable variation among institutions of differing security levels. Nevertheless, even in maximum security institutions, inmate participation in decision making on matters relating to programs and related matters, should be encouraged.

If punishment is a legitimate response by society to criminal activity, is it not reasonable to assume that institutional rules can be used by correctional authorities to punish unacceptable behaviour in prison? Whereas this will be addressed in detail in future submissions, we acknowledge here that rules must exist which allow correctional authorities to exercise sanctions for unacceptable behaviour. Because prisoners retain certain rights as citizens it is important that these rights be established to safeguard those rights for citizens generally. One of these institutions is the court which uses legislation, a public trail and other legal safeguards, before sanctions are applied. We therefore see no reason why individuals in prison, who are accused of committing a serious offence under the criminal code or other legislation, would not have that dealt with in a community court.

Where prisoners violate institutional rules which correctional services have created to accomplish the goals of sentence administration, the correctional authorities may be empowered, with proper regard to the principles of natural justice, to take limited punitive action. We believe, however, that effective sanctions, such as loss of remission or fines, could be applied, which would not necessarily conflict with the principles of prison administration articulated herein. In future submissions we will develop in greater detail ways in which we believe problems of prison discipline can be handled.

Toward a Philosophy of Corrections
Summary Chart

I. Assumptions

i)	We assume that criminal acts are denounced in two ways; generally, through the definition of the act as criminal in the process of creating legislation, and specifically, through the finding of guilt.
ii)	We assume, with the Canadian Law Reform Commission that the purposes of sentencing are punishment and collective or social self-defence.
iii)	We assume that the only morally acceptable form of punishment in our modern society is the deprivation of freedom. Thus, in sentencing an offender, the court places some form of constraint on the freedom of the offender to direct his own life.

II. Principles

Punishment inflicted by the court in sentencing an offender lies in the fact that the offender's freedom to come and go and to pursue personal and social goals is restricted and supervised.	Coercive measures taken by correctional authorities should be no more than is needed to ensure that the sentence of the court is carried out.	Prison authorities have an obligation to make available, or allow to be made available, the programs and services that our society feels itself obliged to offer to its members generally.



III. Implications

Prison officials are responsible for rules which ensure that sentences of imprisonment are carried out. Rules which are intended to ensure that the sentence is carried out, should not be punitive in function or intent. Rules should provide protection within the prison, for both inmates and correctional personnel, from theft, assault, and other forms of unacceptable abuse. The goal here is protection, not punishment. Rules should enable and 'encourage inmates to use their time constructively.	Where the inmate's activity and participation in prison programs does not demonstrate an inability, or an unwillingness, to pursue agreed upon goals of work or personal development, authorities should release the individual under community supervision in advance of sentence expiry. Inmates should have the right to request early release or transfer to institutions imposing lower levels of control. There should be a mechanism which allows inmates to appeal decisions to an impartial authority. Criteria for classification and, early release decisions should be clearly specified, objective, and available to all inmates.	Institutional rules should encourage inmates to take advantage of these opportunities. Access to programs and services should not be manipulated for disciplinary purposes, except insofar as is required to maintain the programs themselves. Access to programs and services should he governed by need and not merit.