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CRIMINAL JUSTICE IN GREENLAND

by

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Title of Thesis:

Criminal Justice in Greenland

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March 10, 1992
Abstract

Few people around the world are familiar with Greenland's criminal justice system. Very little has been written about it in either English or Danish, and the present effort represents the first detailed work on the subject.

The thesis begins with a short description of Greenland's history. This is followed by an examination of the administration of justice and the criminal code and how it is applied in Greenland today. In the last few years, the criminal code has been criticized for "being too lenient," and with examples from the court practice the thesis illustrates the sources of this critique.

The thesis describes Greenland's special "prison" system, the amount of crime and crime patterns, and discusses the causes of crime in Greenland. It also analyses the formal cooperation among schools, social services, police and prison services in their attempts to facilitate crime prevention.

Aboriginal spokespersons in North America have pointed out that the model for the administration of justice in Greenland provides an alternative model to the justice system used in America and Canada.
However, a close examination of the operation of the criminal justice system under the Criminal Code suggests that Greenland’s criminal policy is as much influenced by existing measures and economic resources as by cultural factors.
DEDICATION

To my mother, Gudrun Jensen,
and to the memory of my father,
Villy Jensen.
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CHAPTER 1
INUIT PEOPLES AND THE LAW

Recent years have witnessed an increasing concern among indigenous peoples about their extensive involvement in the criminal justice system and the conflict with the traditional systems of social control and codified western-style legal systems. Increased concerns have been raised about the effectiveness of adversarial systems of criminal justice, particularly in those countries where these systems have been "imposed" on cultures which traditionally utilized mediation, negotiation and other forms of dispute resolution. A worldwide resurgence of interest in traditional, community-based justice structures has occurred including village courts and the involvement of elders in responding to problems of crime and delinquency.

The present discussion provides an examination of the application of the law to the Inuit living in Canada and Greenland. The earliest written accounts of the lifestyle of Inuit at the time of contact with Europeans were those of various explorers, missionaries and traders. Such accounts were often as discontinuous as the patterns of contact from which they originated. Their historical value is limited, due to their inaccurate, uninformed or prejudiced materials.


The earliest ethnographies on Inuit culture which proved to be of value were the diaries of Franz Boas\textsuperscript{3)} and Bernhard Hantzsch’s diaries from 1911-1913.\textsuperscript{4)}

In the beginning of the 19th century both Canada and Denmark sent expeditions northwards for purposes which may best be described as "imperialist hegemony". The actions of the Dominion government were foremost carried out to enforce Canada’s claims to Arctic sovereignty and forestall rival claims to the region through symbolic measures. Denmark, on the other hand, had established its legal claims to Greenland in the previous century and sought to both survey its possession and expand its territory into the disputed Arctic regions.

It was not until after World War II that social science research on various facets of Inuit traditional methods of social control and conflict solution began. Before that time, unfortunately, the legal scholars and members of the Arctic Expedition had not been very much concerned with Inuit concepts of law and social control.

During the years of initial contact when the foundations of the indigenous culture were intact, Inuit in the North Western Territories responded with fascination to the new culture and material goods. As the new ways of the Euro-Canadians increasingly came into conflict with the traditional methods, however, resistance grew up on the part of many elders ending up in a total rejection of Euro-Canadian culture. With the increasing displacement of the indigenous culture many Inuit were swept into resignation and feelings of hopelessness. The introduction of Euro-Canadian culture, resulted in a rapid and overwhelming change in the Inuit culture.

\textsuperscript{3)} The Central Eskimo (1885).

\textsuperscript{4)} My life among the Eskimos (1977).
The imposition of Euro-Canadian culture also had an impact on the traditional Inuit systems of social control. Morse\(^5\) identifies four possible adoptions when legal systems come into contact and conflict with one another:

a) **total avoidance**: the two systems of law function separately, with neither assuming jurisdiction over the other;

b) **cooperation**: the two systems function side-by-side with clearly defined jurisdictional boundaries;

c) **incorporation**: one society dominates the other to the extent that certain elements of the other’s law that do not fundamentally conflict with its own are adopted; and

d) **rejection**: which involves the outright rejection of the indigenous legal system by the dominant government and their courts.

Historically, the position of the federal government in Canada in relation to Inuit legal systems can be characterized as one of **total rejection**. Keon-Cohen\(^6\) notes that while natives in the USA and Alaska have enjoyed a unique constitutional position that provides them with legal sovereignty over the administration of criminal justice in the reservations the Canadian government has traditionally resisted initiatives by natives to assume jurisdiction in this area.

In contrast to this, the Danish government in Greenland historically used the model of **cooperation** with two legal systems, one for the Danish people and one for the Inuit. With

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the creation of the Greenlandic Criminal Code and the idea of incorporating the traditional Inuit concept of rehabilitation into the code, however, this has turned more into the model of incorporation.

This thesis is the first detailed work on the criminal justice system of Greenland. Very little has been written about it in either English or Danish. The thesis will describe Greenland's history and the development of justice, including the Criminal Code, the police force, the lay courts, crime prevention and social services. Finally it analyses law and justice in contemporary Greenland and looks at some of the Greenlandic approaches to crime and disorder.

The study is based on a collection of several types of data as well as official statistics regarding the operation of the police, the criminal courts and correction systems of Greenland, and also on the author's own experience having served as a judge at the High Court of Greenland from 1987 to 1989.
Today, 55,558 persons are living in Greenland. Of these 9,416 are Danish or others born outside Greenland, while 46,142 are born in Greenland and call themselves "Greenlanders," even though they are descended from the Inuit population of North America.  

Greenland has experienced a rich and continually evolving anthropological history. It is believed that the first "Greenlanders" came from Canada about 4,000 years ago and settled along the west coast of Greenland. They have often been called the "Independence-People." They mainly lived on musk ox, seal and walrus, and perhaps reindeer. It is hypothesized that the weather was milder at that time.

About the year 1,000 B.C., another people came to Greenland, the so-called "Independence II-People." These new settlers also came from Canada, and they used and developed hunting tools. At the same time, the "Sarqaq Culture" was developing all along the coast of Greenland.

Around the time of the Birth of Christ, Greenland was populated by a people influenced by Indian culture, called the "Dorset People." They developed a special hunting technique, catching seals at their breathing holes on the ice; and they harpooned walruses and built igloos. However, about the year 900, the Dorset People were either driven away or absorbed by the "Thule People" who had spread all over the Arctic region from Alaska to Thule (in the north part of Greenland). The Thule People had an extremely well-developed whaling technique and carried on their hunting

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from special boats called kayak and umiak. They lived exclusively in Northern Greenland until they were absorbed by the "Inugsuk Culture", which spread all over Greenland.

About 985-86, the Northmen settled in Greenland. Eric the Red, a Viking, came from Iceland, sentenced to three years' banishment. After having explored the country, he persuaded almost 700 men, women and children to settle with him in Greenland. The Northmen stayed strongly attached to Norway, with whom they traded, implying that the Norwegian king considered Greenland part of the kingdom of Norway.

About the year 1,000, Christianity was introduced in Greenland and in 1261 a verbal agreement between King Haakon the Old and the Northmen was entered into. According to the terms, the latter had to pay taxes in return for the maintenance of the communication and ship service between Norway and Greenland. This agreement formed the first constitutional foundation of Norway's sovereignty over Greenland, and, in turn, of Denmark's sovereignty after 1389 when Norway was assigned to Denmark. When, in 1814, the two countries were again separated, once more Greenland kept its status as a "colony" under the Danish king.

Later on, a dispute arose between Norway and Denmark about the right to the "waste" eastern coast of Greenland. This dispute was settled in 1933 by the Permanent Court of International Justice during the proceedings regarding the legal position of the eastern coast. The court stated that the eastern coast as well was subject to Danish sovereignty.8)

8) Permanent Court of International Justice (PCIJ), Publ. A/B No. 53.
and, consequently, it had disappeared by the end of the 15th century. Contributing to this, presumably, was the fact that, during this period, Norway and Europe lost their interest in Greenland. Other causes may have been the lack of navigation between the countries and the plague raging in the Norwegian town, Bergen, the center of all trade with Greenland.

However, modern-day Greenlanders are likely descendants of these people, whose culture, through intermarriage, merged with the hunters, the Thules.

During the 17th and 18th centuries, the interest in Greenland was renewed because of the extensive hunting of whale, seal and walrus in the Greenlandic sea areas. With the settling, in 1721, of Hans Egede, the Norwegian Lutheran priest, the modern colonisation began and soon trade and mission stations were established all over the western coast. About the year 1700 most of the west coast towns had been founded.

In this connection, the Kongelige Grølandske Handel (Royal Greenland Trading Company) was founded in 1776 as a state operated trade directorate. From its founding and up to 1950 this company had a monopoly on the management of trade, production and shipping in Greenland.9)

The colonization starting with the arrival of Hans Egede in Greenland was built upon trade and mission. Contemporary European colonization in other parts of the world was typically begun by merchants, who were followed by missionaries. The reverse was true in Greenland.

9) Today, however, Greenland's Homrule Office has taken over The Royal Greenland Trading Company, and has divided up the concern into a production sector and an export sector, both placed under the institution Proeks. Other parts of the company's functions (retail trade, transport, mail service etc.) have been taken over by the Greenland Trade (Grønlandske Handel, Kalaallit Niuerfiait, KNI), a company owned by Greenland's Homrule Office.
After the long period in the 15th century when Greenland was almost forgotten by the outside world, 16th century Europeans sought to "discover the world." For instance the Englishmen Frobisher and Davis in 1576-78 reached these waters in an attempt to find the "North West Passage."

In Europe, where the monetary system was rapidly being established, there was a market for arctic products. In the Danish-Norwegian kingdom, however, there was a financial recession in the late 17th century, so, in contrast to England and Holland, there was insufficient venture capital to join the competition concerning trade from the arctic territories. The royal purse was hard pressed as well because of the war against the Swedes.

It was the English and the Dutch merchants, then, who attempted to pull the Greenlandic hunting culture into a European money economy, with potentially catastrophic consequences for the social development in Greenland. This, however, did not happen. Because missionaries preceded merchants in the colonization of Greenland, a certain political and social responsibility towards the Greenlandic population was evident. It has been argued that the arrival of Hans Egede in Greenland in 1721 was the reason the old traditional Greenlandic culture was not destroyed. This mission emphasized the Danish-Norwegian Crown’s responsibility for the territory and the population and thereby prevented such destruction by financial interests.\(^\text{10}\)

It was not until After World War II, when Denmark and Greenland were reunited, that it became clear Denmark could no longer carry on its colonial policy which was built on the

doctrine "that Greenland should rest in itself and take care of itself apart from absolutely extreme cases."\textsuperscript{11} This was a philosophy similar to that of Rousseau, who held that man in the "state of nature" was essentially good but had been spoiled by civilization. According to Rousseau, the aboriginal peoples ought to be protected against civilization.\textsuperscript{12} This point of view, however, had earlier been challenged by Hobbes, who argued that man was egocentric and aggressive and that, consequently, it was necessary for so-called civilized cultures to protect "aboriginal peoples."\textsuperscript{13}

It is important to note, however, that other authors have maintained that the isolation of Greenland served predominantly financial purposes, securing for the Danish State a trade and investment monopoly.\textsuperscript{14}

On the 1st of May 1979, the Age of Colonialism formally ended with the foundation of Greenland's Homerule Government. This followed a general election where 73\% of the Greenlandic population had voted "Yes" for such a move. However, Greenland is still not an independent nation. It has a regional Homerule government corresponding with geographic, ethnic and cultural boundaries.\textsuperscript{15}

\begin{itemize}
    \item \textsuperscript{11} Koch (Edt.), \textit{L. c.} (Note 4) p. 180.
    \item \textsuperscript{12} Rousseau: \textit{Sammundspagten (De Contrat Social. 1762)} ved Mihail Larsen, Forlaget hodos, Copenhagen 1987.
    \item \textsuperscript{13} Hobbes. \textit{Oversættelse og noter af} (translated and annotated by) Svend Erik Stybe, Berlingske Forlag, Copenhagen 1968.
    \item \textsuperscript{14} Dahl: \textit{Arktisk selvstyre. Historien bag og rammerne for det grønlandske hjemmestyre (Arctic Homerule. The history behind the Greenlandic Homerule Government and its actual frames)}, Akademisk Forlag 1986, p. 13.
    \item \textsuperscript{15} Dahl: \textit{Arktisk selvstyre (Arctic Homerule)}, p. 131.
\end{itemize}
CHAPTER 3

THE ADMINISTRATION OF JUSTICE

A. Historical overview of justice administration

In the old Greenland, before the colonization begun by Eric the Red in 982, disputes were settled by the so-called "singing fights." If a member of the Inuit society wanted to make a complaint against another member he composed a song about it and challenged the latter to meet him by announcing when he intended to sing against him. The song was accompanied by drum beat and dances (the so-called "drum dances"). To begin with, one party sang while the opposite party listened. They then changed so that this party could present his song. In this way the two parties listened and sang alternately until one of them gave up in the face of disparaging and lecturing jeers expressed by the audience. One can say, therefore, that the dispute was settled by public opinion.

It has been argued that song fights or drum dances were a kind of court of justice, with the audience acting as the judge. During recent years, however, the function of the singing fights has been reevaluated, and it is now held that the said comparison is incorrect, since no judgment was passed nor any of the parties punished. Thus Breinholt Larsen has argued:

The song fight institution worked as a frame, where inside conflicts that were repressed in daily interaction could be discussed without having to fear a breach of the peace of the community, just because the song fight took the conflicts out of the context from which they had arisen and put them into a ritual form. Thus, the song fight had a "psychotherapeutic" function.16)

16) Breinholt Larsen: Regler og konflikthærbejdsmetoder hos de grønlandske eksimoer i den førkoloniale periode (Rules and conflict
After Hans Egede’s arrival in Greenland, no formal regulations regarding crime, punishment and administration of justice were established. Administrative authority lay with the Danish merchants who, in the absence of legislation, sentenced according to their own judgment.

It was, however, only the Danish population who were submitted to this authority. The aboriginal Greenlandic population were left to settle their internal conflicts, except for very serious offences. In this way the specific Greenlandic conception of law was recognized early, a conception which would later appear as a fundamental feature of the enactment of the laws and the administration of justice in Greenland.

With this, a dualistic penal law system arose placing the Danish and the Greenlandic population under separate systems. For the Danish delegates living in Greenland, however, there were definite regulations, seeing that they were sentenced according to Danish legislation.

The first comprehensive law for Danish Greenlanders was created in 1782. It was called "Instruks for handelen og hvalfangerne på Grønland" (Instructions for the trade and the whalers on Greenland). This introduced uniform rules for the

adaptation methods among the Greenlandic Eskimoes in the pre-colonial period), Århus 1982 p. 81.
different colonies (district in which a major city was situated), permanent prices and a superior Royal control through two inspectorates, one in the north and one in the south.

As a leitmotif for the work of the inspectors, it was indicated that this should be done for the benefit of the Greenlandic people. Only after this requirement had been taken into consideration would the furtherance of trade interests be taken into account. The regulations concerning communication between the delegates and the local population were also tightened up so that delegates were only allowed to enter the Greenlanders’ houses when conducting lawful business. Distribution or serving of alcohol to the Greenlanders was not allowed, and children of mixed marriages were to be taught to become skilled craftsmen, so that they could replace the Danish in the future.

In sum, it was the inspector’s post to act as protection of the Greenlandic people and to control the traders.

In 1798 all inspectors, traders and assistants in Greenland were requested to make suggestions on how the Greenlanders could be advanced economically by placing them under legislation. The opinion was that it was necessary in order to improve the Greenlander’s standard of living that they be subject to a civil law, since apparently they did not have any
conception of obligation and means of compulsion or of punishment, apart from the "song fights."

This way of thinking, however, was not new. As Glahn the Missionary had previously pointed out, in 1767, there was a growing need for a law for the Greenlandic people. He believed, however, that it was necessary to take into consideration the Greenlanders' customs and rituals, when creating laws.

In their reply, the two inspectors recommended that the Greenlanders' conceptions of "property" and "ownership" be retained and that the sentencing authority in serious criminal cases be placed with the inspectors. In cases in which the inspectors were unable to appear, the most "reasonable" and "respected" Greenlander should participate in the judgment.

In 1856 H.J. Rink, the inspector of South-Greenland, who felt the same about bringing the Greenlanders under a kind of civil law, in concert with other influential government officials, sent a recommendation to the Ministry of the Interior to set up so-called Principal Councils (Forstanderskaber). These Councils were to have as their main task the supervision of all social matters.

In light of this, a temporary regulation was issued in 1857 for setting up the Principal Councils in South-Greenland and
later, as the experiment was considered a success, they were legally laid down for South- and North-Greenland in 1862. The members of the Principal Councils were both Danish and Greenlandic. Typically, the Danish members were the priest (who was the chairman), the colonial manager, the doctor and his assistants. The Greenlandic members were the so-called "principals" (forstandere).

The purpose of these local councils was to supervise the district, maintain order and be of guidance to the Greenlandic people. At regular intervals meetings were held at which the Principal Councils delivered reports and received new regulations. In this way, an extensive administration came into existence in Greenland.

The Principal Councils also acted as special Greenlandic courts, called Principal Courts (Forstanderskabsretter). The priest, as chairman, was placed under appeal to the Inspector of North- or South-Greenland depending on where the case in question belonged.

Although the first legal regulations to be used by the Principal Councils laid down only few rules on punishment for theft and other major violations, a uniquely Greenlandic practice in the administration of justice gradually developed through these courts. It has been stated that, as a starting point, these courts turned to the customary law of Greenland.
In 1912, by legislative amendment, all Greenlandic affairs were gathered under the regulation of the "Administration of the Colonies in Greenland" (Styrelsen af Kolonierne i Grønland). This gave rise to the National Councils (landsråd) and the Local Councils (kommuneråd), simultaneously abolishing the Principal Councils and Principal Courts.

The members of the Local Councils were elected by the general public and served for terms of four years. The members of the National Councils were elected by the members of the Local Councils in each of the National Councils' constituencies. They were elected for a six year period and the number of members was not allowed to exceed twelve. The Inspector was the permanent chairman, but did not have the right to vote. The Local Councils passed sentences in civil law cases, whereas criminal cases were sentenced by mixed courts.

The National Councils were given an important new authority being able to take part in the creation of new regulations for Greenland. Presumably, this led to the passing of a great number of new regulations consistent with the Greenlandic conception of law. However, in Eastern Greenland these administrative conditions were not yet introduced. It was still the colonial manager and the priest who were the highest controlling authority.
After World War I an extension of the administrative structure in Greenland took place, and in 1920 a committee in which Greenlanders were also represented was set up. Through the work of this committee the Statute on the Administration of Greenland of April 18th 1925 (Lov om Grønlands Styrelse af 18. April 1925) was formed. This statute remained in force until 1950.

This new statute also incorporated Eastern Greenland and Thule in the administrative division. The Inspectors' Offices were abolished and instead two National Officials' Offices (landsfogedembeder), one for each of the provinces of Northern and Southern Greenland, were established. In this way the National Officials became the highest administrative authorities, and at the same time they were the chairmen of the still existing National Councils.

The administrative classification consisted of counties (sysler) including the former colonial districts, and each county was divided into several municipalities (kommuner). The chief administrative officer of the county (sysselmanden) was chairman of the County Council (Sysselrådet), whereas the Local Councils were the administrative organs for the municipalities.

It was an essential feature of the new statute that the already existing dualistic legal system was extended.
According to the regulations in the new statute, the Greenlanders should be subject to Greenlandic law which consisted primarily of unwritten customary law. Few written regulations (the ones given by the National, County and Local Councils) existed. Greenlanders, however, might be subject to Danish law, for instance if they were working in Danish service. A Greenlandic woman who married a man who was subject to Danish law might also be placed under Danish law. If the marriage was later dissolved by divorce or death of the husband, the woman would revert to Greenlandic law.

In cases where the conditions indicated, the Minister of the Interior might decide that a person should be transferred from the jurisdiction of Greenlandic to that of Danish law. Persons subject to Danish law included those who were attached to the colonial administration. Exceptions included persons who were born in Greenland and ran Greenlandic businesses or Danish women who married Greenlanders subject to Greenlandic law.

Persons who were subject to Danish law had to respect the legal norms applying to the Greenlanders. Furthermore, Greenlanders who were subject to Greenlandic law were at the same time subject to the laws given specifically for Greenland or laws which must be considered indirectly valid for Greenland too.
Since an absolute ethnic criterion was not used in deciding to which legal system a person belonged, the demarcation of the two systems very soon became a matter of doubt. It was no easy task to draw the line between their legal spheres or to avoid collisions. It is interesting to see that the "basis of existence" rather than the ethnic origin formed the starting point when it was decided under which legal system a person should be sentenced.

This dualistic structure required special courts to judge according to each of the two legal systems. In cases belonging to the Danish system the National Official (landsfogeden) was the court of first instance with appeal to the High Court (Østre Landsret) in Copenhagen, Denmark. In the case of major crimes, which were estimated to go beyond a punishment of fine or confiscation, the accused had to be sent to Denmark to be sentenced by a Danish court.

Cases belonging under Greenlandic law were settled by the Greenlandic courts, the so-called County Courts (Sysselretter) which were introduced together with the counties and the County Councils. In the County Courts the chief administrative officer of the county, who was usually the colony manager, passed the sentences together with two lay assessors, most often one Greenlandic and one Danish person, appointed by himself. In major criminal cases, however, most often four lay assessors, two of each nationality, would be involved. The
decisions given by the County Courts could not be appealed to a higher court, not even in Denmark, but the National Officer had a certain limited access to remit the case for retrial by the County Court. It was a feature common to both jurisdictions that in criminal cases the judge acted also as the Crown’s prosecutor. Thus, the judging and the prosecuting authorities were identical, a rather unfortunate organization seen from ordinary principles of law.17)

B. Current structure of the criminal justice system

1. Courts

After World War II, during which Greenland had been isolated from Denmark, the populations of Greenland and Denmark both wanted Greenland incorporated under the Danish constitution and its status as a colony thereby terminated. The need for a common legislation and administration of justice was now urgently felt. For this purpose, the Greenlandic Commission was set up and operated from 1948 to 1950. The Report of the Commission is often referred to as G-50.

According to the Greenlandic Commission, social conditions at that time prevented the introduction of the Danish administration of justice in Greenland. Instead, an alternative model was introduced, which had some of the same principles as the ones found in the Danish system but was characterized by a high priority of elements taken from the lay judge institution. In addition to this, it was agreed that there were serious disadvantages to the system used up to that time: persons who were subject to Danish law and persons who were subject to Greenlandic law were treated according to different systems; the sentencing and prosecuting authorities were not distinct; and, there was no possibility of appealing the judgments given by the County Courts.

Furthermore, the Commission discussed the possibility of having juridically-educated judges to be in charge of the lower courts. This idea, however, was abandoned largely for practical reasons. The long distances and the hard travelling conditions would necessitate having at least three judges. If such a court system had been established it would have been similar to the Canadian "Circuit Court" system which has been criticized for being alienated from the local community.

The Commission concluded that it was necessary, in order to separate the sentencing and prosecuting authorities, to introduce a real police force. Moreover, they agreed that the disadvantages caused by the lack of legal expert knowledge
with the County Courts should be mitigated by setting up a court of appeal presided by a juridically-trained judge. It should be possible to have more complicated cases tried by a higher court at the first instance. The higher court should also be directed to guide the lower courts on legal issues. In the Report of the Commission the lower courts were named Magistrates’ Courts and the court of appeal was named the High Court of Greenland.

In 1950, the Danish Prime Minister’s Department, closely following the suggestions of the Commission, prepared a proposal for an Administration of Justice Act for Greenland which was presented in the Danish Parliament in the spring of 1951.

The proposal stated that:

It aims at introducing a common legal system for all people living in Greenland, without ignoring the specific Greenlandic conditions. In the first place it is intended to create legal regulations regarding the establishment and composition of those organs which are necessary to carry out the reform. The Prime Minister, however, also wants to stress the necessity of procedural regulations for the use of these organs, in order to guarantee that the legal execution takes place according to uniform rules and under consideration of a number of the procedural principles which have been tried out in more developed societies like the Danish one and which must be considered a necessary prerequisite for a secure treatment of legal cases.

Institutions with no expert knowledge and without guidance cannot be expected to be able to meet this condition. In accordance with this, regulations regarding the procedure and the position of parties and witnesses are included. It is endeavoured, as far as specific Greenlandic
considerations do not speak against it, to harmonize the Greenlandic legal status with that of Denmark. Various circumstances, however, make deviations necessary. The organization of the legal institutions must considerably differ from the organization of the Danish legal system which is based on a much further developed social order than the Greenlandic society. Moreover there is a lack of material regulations which determines some deviation in the prescriptions regarding legal procedure. Other specific circumstances determining deviations are the large distances, the difficult conditions of communication and the lack of a professional staff to attend to the administration of justice.  

The proposal was confirmed as Act No. 271 of June 14th 1951, which has ever since formed the basis of the composition of the Greenlandic court and justice system.

In the Magistrates’ Courts, beside the Magistrate, two lay assessors appointed by the local authorities take part in the decision-making process. In the High Court of Greenland, beside the presiding judge who is legally trained, two lay assessors are seated. The latter, unlike the lay assessors in the Magistrates’ Courts, are appointed by the Greenland Assembly for a term of four years.

According to the Greenland Administration of Justice Act, Chapter 1, Sec. 8, the only condition for a person being appointed a lay assessor is that s/he must be of unblemished reputation and have the vote of the local authority. Subsection 2, however, provides that lay assessors should

normally be recruited locally. The president of the Greenland High Court is a High Court judge appointed by the King who must conform to the requirements for being a judge in Denmark. According to the Administration of Justice Act, Ch. 1, Sec. 3, deputy judges may be appointed.

According to the Greenland Administration of Justice Act, Ch. 1, Sec. 12, "anyone who has the vote for the local authority is under an obligation to accept appointment as a magistrate." In Subsec. 2, however, it is stated that priests, catechists, doctors, nurses and midwives, provided their occupations are incompatible with attending to the duty of a magistrate, may request exemption.

As mentioned above, the Greenland High Court may function in the first instance in certain cases which demand legal or other specific expert knowledge (cf. Ch. 1, Sec. 15 of the Act). Practically, this will only happen in civil cases, never in criminal cases, since the former may imply difficult legal aspects, which cannot be judged without legal training. If the Greenland High Court, however, is acting as the first instance there will be a free access of appeal to the High Court in Copenhagen. It must be said, however, that it is exceedingly rare for the Greenland High Court to hear a criminal case at the trial level.
Finally, it should be noted that if the Greenland High Court or the High Court in Copenhagen has been acting as a court of appeal, there will be no possibility of having the case tried by the Supreme Court of Denmark unless permission is given by the Danish Ministry of Justice. Such "permission of third instance trial" is very rarely given. However, in recent years a new practice has been introduced so that the Copenhagen High Court (østre Landsret) periodically travels to Greenland and sets the court in the court building at Nuuk. Presumably, this brings about a more precise understanding of the facts of the cases, since a certain minimum knowledge of Greenland and Greenlandic conditions is required in order to be able to pass judgments in Greenlandic affairs.

Today, 16 Magistrates’ Courts are located all along the eastern and western coasts of Greenland. In the Magistrate’s Court at Nuuk there are two magistrates on the bench since this court is especially overburdened.

The unique thing about the administration of justice in Greenland, then, is that the Magistrates’ Courts with three lay judges hear all types of cases in the first instance. This goes for cases ranging from homicide to simple theft. The Magistrates’ Courts also deal with cases of civil law, family law, paternity, division of estates etc. Moreover, the Magistrates’ Courts are ascribed various administrative duties such as deprival of control cases and notorial acts. However,
to assist the magistrates in attending to all these functions, there has been established a number of secretarial posts and these secretaries actually do a considerable part of the work.

The magistrates are appointed by the Chief Judge of the High Court of Greenland, for a period of four years. In making the decision to appoint a new magistrate, the Chief Judge will make local enquiries to determine who might be able and willing to take over the post. In some jurisdictions it has proved very difficult to recruit new magistrates, because the eligible persons are most often involved in many other tasks and activities, such as local politics. For example, one of the magistrates of the court at Nuuk was elected mayor of that city and therefore had to resign from his post as magistrate.

In cases for which the venue is placed outside the municipal classification, the Greenland High Court will act as first instance. These places are the military bases at Søndre Strømfjord (Kangerlussuaq), Thule Air Base (Pitufik), Station North and a few American stations across the icecap.

At the hearing of criminal cases before the Magistrates' Courts it is the local police inspector who appears for the Crown. A counsel (defender), typically chosen among the local population and therefore without any legal training whatsoever, may also be assigned to the accused. This makes the Magistrate's Court entirely a lay body, none of the representatives being legally trained.
The present administration of justice system in Greenland may be illustrated as below.

The Supreme Court

Court of Appeal in Denmark

Greenland High Court
(Appeal Court and High Court for specific cases)

16 Magistrate’s Courts with general jurisdiction

- x professional judges with training in law
- o lay judges (magistrates) with short specific training in connection with appointment and current advisory aid from the staff in the Court of Appeal in Greenland
- lay assessors who attend to all cases, in Denmark only in criminal cases

The illustration is taken from Weis Bentzon: Ret og Reformer I, Nyt fra Samfundsvidenskaberne (News from the Social Sciences), Copenhagen 1979, p. 35.
At the hearings before the High Court of Greenland, the Chief Constable (usually represented by a deputy) appears for the Crown. Here, the counsel assigned to the accused is often a jurist from the central administration or a lawyer from one of the four law firms now established in Nuuk. If the accused asks for a particular person as his counsel, the court will follow this request.

It must be noted, however, that the High Court of Greenland also may use counsels without legal training. This fact is only partially explained by the difficulties of finding legally trained persons for the task. There are benefits to using Greenlandic counsels who are thoroughly acquainted with the Greenlandic society. Furthermore, a lay Greenlander will often show a much stronger interest in the case of the accused than would a Danish lawyer or a legally trained person from the administration.

2. Police force

As regards the police force, the vast majority of the staff today are Greenlanders. As of December 31st 1989, there were 104 police officers. Of these, 81 were Greenlanders and only 23 were Danish. The police force has been "greenlandicized" just like the courts in that it has been adapted and shaped to fit in with the needs in the Greenlandic society.
In 1973 a police training school was opened at Nuuk, with the purpose of giving the police officers a relevant Greenlandic police education. The training starts with an introductory course of approximately 2½ months, during which time the qualifications of the candidates are assessed. After this, the officers get both basic and specialized training, including a stay of 11 months at the Police Academy in Denmark and a two months’ trainee period. Between the periods of classroom education, several trainee periods are inserted, depending on the circumstances of the individual police stations. The total education of a police officer takes three to five years.

The Police Training School at Nuuk is managed by two Greenlandic police officers. During recent years, however, the police force in Greenland has seen a large part of the fully trained police officers choose to leave the police looking for other occupations within the public or private sectors. This "desertion" is probably due to the better wages and working conditions offered at other places and perhaps also to the fact that police officers with their broad education are attractive to employers.

3. Corrections

Before the passage of the Greenland Criminal Code and the incorporation of Greenland into the Danish Kingdom as subject
to the Danish Constitution, law breakers who were unwilling or unable to conform to the Greenlandic social norms were placed in provisional remand homes and supervised by a priest, a sheep farmer or any other person who was willing to do the job.

Next to Queen Ingrid's Hospital at Nuuk, which was built in 1954 as a sanatorium for tuberculosis patients, there was a small log house called "Laksen" (the salmon). It belonged to the hospital, but in 1956 it was given to the police to be used as a remand home. It could house six persons, and it was surrounded by a two-metre high fence of barbed wire. Here lived persons taken into custody while they were awaiting sentence. They would work in town during the day and be locked up for the night, to be supervised by the police.

Custody was a rather extreme measure only given to people who were considered dangerous, if only because there were so few beds at the remand home. Because there was no other prison in Greenland at that time, most offenders were fined or sentenced to living with a shepherd or a fisherman for a certain period.

The execution of sentences, except custody, was entirely the responsibility of community volunteers. This was an ad hoc process with no formal organization. Therefore, in 1962 the
Committee of Social Research in Greenland\textsuperscript{19)} proposed that Dansk Forsørgsselskab (the former private Danish Prisoners' Aid Society) became involved in the work in Greenland.

In 1962, a deputy supervisor from the Society went to Greenland in order to learn how supervision was carried out and to help the Chief Constable with the execution of measures and sentences. In his report,\textsuperscript{20)} he recommended that housing forms other than private homes or remand homes be established, for instance "boarding houses" where the convicts could live while serving their sentences.

During the 1960s, crime increased in Greenland and the need for housing the more dangerous criminals in secure institutions became urgent. This need expressed itself, for instance, in the fact that the Greenland High Court sentenced a criminal to psychopath detention in Denmark, a move legal only in extreme cases (jus necessitatis).\textsuperscript{21)}

\begin{flushleft}
\textsuperscript{19)} This committee was formed according to the revisionary resolution and in 1962 prepared a report "Kriminalloven og de vestgrønlandske samfund" I-II (The Criminal Code and the West Greenlandic Communities), Copenhagen 1962.

\textsuperscript{20)} Therbild, Rapport om Kriminallovens foranstaltningssystem (Report on the measures laid down by the Criminal Code), May 1965.

\end{flushleft}
In the 1963 revision of the Criminal Code, this was modified so that, as an alternative to custody, it was possible to sentence offenders to live in a criminal ward in Greenland or Denmark. It became possible to do so in 1967, when the Anstalten for Domfældte (Home for Convicts) was opened at Nuuk. At that time the home had six secure cells on the ground floor. On the top floor there were 12 rooms with no locks on the doors and no bars on the windows. There were also a dining room, a common room, an office, a kitchen and a doctor’s room. There was room for 18 convicts in all.

The first convict, however, was not admitted for three months, and he was not Greenlandic but Danish. He was convicted of having tried to kill the Greenlandic woman with whom he was living. Later on the three inhabitants of "Laksen," the former remand home, were transferred to the Home for Convicts at Nuuk. They had eagerly anticipated the transfer, asking Mr. Nygaard, the first director of the Home at Nuuk, when the Home was to be opened, "so that they could become real prisoners."  

Following several recommendations, two new homes for convicts at Quaqortoq and Aasiaat were opened in 1977, each

22) Ella Kristensen, Dagligliv i Anstalten (Everyday life at the Home for Convicts), Forlaget Kjulet, Frederiksberg 1987, p. 41.

with room for eight persons. Later the Nuuk Home was enlarged, so that today it has room for 58 persons. A facility for youth in Sisimiut, first opened in 1966, can now accommodate eight. The homes are directed by the Danish Ministry of Justice (the Probation Services), but the Greenlandic Homes are supervised by the Chief Constable at Nuuk. The Kriminalforsorgen (Probation Services) which has regional departments at Quaqortoq, Aasiaat and Nuuk is directed by a specially appointed supervisor.

In the homes there are convicts of both sexes, though mainly men. From the criminal statistics it appears that most of them have committed rather serious crimes: homicide, violence or rape. Of concern to some is the fact that these prisons are not entirely secure.

Apart from a short initiation period of about a week's length, during which they are not allowed to leave the home, the convicts are all expected to work. Convicts work in the towns in the common working places together with the citizens of the town and for the usual contractual wages. Usually, it is quite easy to secure employment for the convicts, since they are very reliable workers. For instance, they are certain to show up on time because one of the staff members at the home drives them to work. Moreover, they are unlikely to be under the influence of alcohol or drugs.
The convicts' wages are administered by the home director. They pay for board and lodging (in 1990 630 d.kr. (US$ 90) a week) and are given 335 d.kr. (US$ 49) a week for pocket money. The rest is placed to an account administered by the home staff who also take care that debts to the State, damages or fines are charged to this account.

If, after these costs have been paid, there is money left, the convict may buy things, for instance stereo equipment or a new boat. Upon release the accumulated amount is handed over to the convict.24) In this way many convicts have succeeded in paying their debts, buying a boat and saving a small amount of money for their reestablishment in the community. The punishment, then, has given them opportunities which they would not likely have had otherwise. When a convict has returned home bringing with him the biggest and most modern fishing vessel this has often aroused astonishment and sometimes indignation among the ordinary people who would not have been able to save so much money by living a law-abiding life.

If a convict cannot get external work, he is employed within the home. Often the convicts accompanied by staff members will go out hunting or fishing in the boats owned by the home. In spite of the fact that they may have been convicted of murder,

24) Tams, Nyt fra Kriminalforsorgen (New from the Probation Services), nr. 3, 1990, p. 3 ff.
they will get guns, fishing tools etc. to shoot seals and reindeer or to catch fish. Some of the bag will be used at the home, some will be sent to other homes and some to the home at Herstedvester, Denmark. Some of it may also be traded in at the local trade station. This is an excellent way of maintaining the hunting traditions of the convicts, and it makes it possible for them to have traditional Greenlandic food to eat.

During their stay in the homes the convicts may be allowed leave for a day or a weekend. The arrangement is normally administered quite flexibly, the leave being given according to the need and suitability of the individual person.

It must be added that the privileges mentioned have not been noticeably abused by the convicts in Greenland. If a convict violates the current set of rules regarding the serving of sentences in the home, this will be sanctioned according to principles similar to those of the Criminal Code. Thus, his personal circumstances will be taken into consideration. For instance, if he has used his pocket money to buy beer the amount may be reduced for a certain number of weeks.

It has been hinted at by several convicts that they committed their crimes in order to be put into the home, where they would have a place to live, steady work and perhaps receive treatment for abuse of alcohol. For example, in a case with
which the author was involved, two convicts from the Eastern Coast declined parole after having served two thirds of their time. They did not want to return home to Eastern Greenland but to stay in the towns at the Western Coast after having served their full sentence. There is no doubt, either, that the social conditions in these homes are better than what may be offered by most of the homes in the normal Greenlandic society.  

4. Parole

Because of the shortage of space in the homes the convicts are released on parole as early as possible. Even before being paroled, some convicts are now permitted to return to their own homes in anticipation of a future parole. The parole decision is made decided by an independent board called Kriminalforsorgsnævnet (The Probation Services Board). The chairman of this board is the Greenland High Court judge and the other members are the Chief Constable, the leader of the Probation Services and two persons nominated by the Home Rule Government. In 1989 the Board held 13 meetings hearing 92 cases. Of these cases, 60 persons were granted parole (normally after serving two thirds of their sentence), 25 were denied parole, and seven refused parole. According to  

25) See Interview with the Honourable Magistrate's Court Judge Abraham Svendsen, Appendix p. 118 below.
Greenlandic practice, a convict cannot be forced to take a parole.\textsuperscript{26)}

The table below shows the average daily count of people placed in the homes pursuant to the Greenland Criminal Code between 1975 and 1989.

From the statistics it can be seen that the practice of placing convicts in private homes (for instance with sheep-keepers' or whalers' families) has drastically declined. The network of care which was based on community responsibility has been replaced by a public system like the ones existing in Denmark and other Western societies.\textsuperscript{27)}

Most members of the staff of the Greenlandic prisons today belong to the aboriginal population and speak both Greenlandic and Danish. Often the staff members are related to the convicts. On the whole, the tone among people in the Greenlandic homes for convicts, as well as the latitude allowed, are unique. Presumably, there are no such open "prisons" any other place in the world.

\textsuperscript{26) Kriminalforsorgens Årsberetning 1989 (Yearbook of the Probation Services).}

\textsuperscript{27) The Chief of the Probation Service (Kriminalforsorgen) in Greenland has said that "the World has become so rough that voluntary families do not dare to have criminals living with them." Kriminalforsorgens Årsbegrebetning (Yearbook of the Probation Services) 1989.}
Table 1

The average daily number of persons kept in different kinds of homes pursuant to the Criminal Code for the period 1975-1989:

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<tr>
<td>Psychiatric wards in Denmark</td>
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<td>10</td>
<td>7</td>
<td>6</td>
<td>7</td>
<td>6</td>
<td>4</td>
<td>7</td>
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<td>8</td>
<td>9</td>
<td>11</td>
<td>12</td>
<td>12</td>
<td></td>
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<tr>
<td>Home for Convicts at Herstedvester, Denmark</td>
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<td>-</td>
<td>6</td>
<td>7</td>
<td>10</td>
<td>10</td>
<td>12</td>
<td>14</td>
<td>17</td>
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<td>9</td>
<td>8</td>
<td>12</td>
<td>12</td>
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<tr>
<td>Home for Convicts in Greenland</td>
<td>22</td>
<td>27</td>
<td>36</td>
<td>42</td>
<td>53</td>
<td>48</td>
<td>40</td>
<td>45</td>
<td>49</td>
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<td>50</td>
<td>57</td>
<td>59</td>
<td>62</td>
<td>67</td>
</tr>
<tr>
<td>Youth Pension in Greenland</td>
<td>13</td>
<td>6</td>
<td>4</td>
<td>4</td>
<td>9</td>
<td>12</td>
<td>15</td>
<td>11</td>
<td>12</td>
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<td>10</td>
<td>9</td>
<td>11</td>
<td>14</td>
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<tr>
<td>Private homes etc. in Greenland</td>
<td>10</td>
<td>20</td>
<td>19</td>
<td>18</td>
<td>20</td>
<td>21</td>
<td>6</td>
<td>5</td>
<td>9</td>
<td>5</td>
<td>8</td>
<td>10</td>
<td>6</td>
<td>2</td>
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<tr>
<td>Supervision of fulfilment of conditions</td>
<td>147</td>
<td>153</td>
<td>151</td>
<td>158</td>
<td>169</td>
<td>186</td>
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<td>210</td>
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<td>Total</td>
<td>202</td>
<td>216</td>
<td>223</td>
<td>235</td>
<td>268</td>
<td>284</td>
<td>262</td>
<td>272</td>
<td>270</td>
<td>260</td>
<td>299</td>
<td>300</td>
<td>313</td>
<td>309</td>
<td>314</td>
</tr>
<tr>
<td>In Denmark for mental observation</td>
<td>5</td>
<td>4</td>
<td>4</td>
<td>3</td>
<td>4</td>
<td>3</td>
<td>1</td>
<td>2</td>
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Source: Kriminalforsorgens Årsberetning (Yearbook of the Probation Services), 1989.
5. Crime prevention

Incidents like the one mentioned at the beginning of Chapter 5, where a young man killed seven persons, together with the relatively large number of homicides, have often aroused heated reactions and debates about Greenlandic social conditions, especially criminal policy and the measures used against alcohol. Primarily, the debate has focussed on the Greenlandic Criminal Code and many Greenlanders have demanded that more severe measures be used against law breakers.\textsuperscript{28} It is often stressed that increased endeavours in crime prevention will be necessary in the future.\textsuperscript{29}

It seems to be a natural law in the various fields of public administration that Greenland eventually adopts the Danish models. It is not surprising, therefore, that Greenland, although only in a nascent form, has already got an agency model led after the Danish SSP.\textsuperscript{30} In Greenland, however, there is one more partner to it, so that it is called SSPK (Skole, Socialforvaltning, Politi).

\textsuperscript{28} See for instance Sermitsiaq 1990, No. 11, p. 14, about women demonstrating for harder sentences in rape cases, and Det fri Aktuelt (Danish daily newspaper) 4.1.1990, where the leader of the Probation Service in Greenland expresses his respect of the Greenlandic court system and recommends a tightening up of sentences passed.

\textsuperscript{29} Kriminalforsorgens Årsberetning (Yearbook of the Probation Service) 1989.

\textsuperscript{30} Stands for Skole, Socialforvaltning, Politi (School, Social administration and Police).
This cooperation was started in 1986 after a meeting that had been attended by the heads of the social welfare departments of the Greenlandic municipalities. However, only the municipality of Nuuk has succeeded in establishing a proper cooperation based upon the Danish model and with the Crime Prevention Council as its consultative body.

In January 1988 the municipality of Nuuk arranged a study trip to Denmark for some employees from the four branches of the public administration. The participants visited a number of Danish municipalities which had established an SSP Cooperation and where different projects were in operation.

It can be expected that, in the near future, a formal crime prevention cooperation will be established in Greenland, which will be the first of its kind in the Arctic area. The introduction to Greenland of such preventive work, then, has its roots in the influence of Danish public servants on the administrative bodies of the Greenlandic municipalities and, of course, in the wish to stem criminality.

On the whole, the creation of the SSPK in Greenland can apparently be traced to personal, informal contacts and involvement rather than to political considerations on the
part of the Greenlandic national leaders. For instance, several employees in the social administration of Nuuk had previously been employed by the public social administration of Odense, Denmark, and had been involved in the SSP Cooperation there. To Nuuk, this meant a good deal of guidance in establishing its SSPK Cooperation. This informal decision-making and networking seems to be very common in Greenland and may be said to have both positive and negative elements.

However, the Social Directorate under the Greenlandic Home Rule Government as well as the Association of Greenlandic Municipalities (Grønlandske Kommuners Landsforening) and the "Paarisa" (Prevention Council) have expressed support for the cooperation. Still, these authorities have not taken any individual initiatives in connection with the work.

Since the municipality of Nuuk has the most well-developed SSPK Cooperation, the description of this body will concentrate on the experiences made there. However, as the largest town in Greenland with 12,687\(^{31}\) inhabitants and with an obvious Danish influence, Nuuk is rather atypical in relation to other Greenlandic towns - to say nothing of the villages. It would not be correct, therefore, to designate this town the Greenlandic model and, moreover, other towns may very possibly alter the structures of the cooperation if they

\[31\] As of January 1st 1990, Danmarks Statistik (Statistics of Denmark) 1990.
feel it advantageous to do so. Still, since it must be expected that Nuuk will be rather eager to agitate for its own experiences in order to communicate the idea to others, it is most probable that the SSPK Cooperation started at Nuuk will turn out to be the future model for all Greenland.

The official start of the SSPK Cooperation was in August 1988. A secretariat was established for the SSPK Committee to direct the work, start up projects and arrange different activities. The Nuuk municipality sent out a pamphlet with the title: "An Intensified Cooperation between Social Administration, School, Police and Probation Services to prevent crime and abuse of alcohol and drugs among children and young persons." The ideas lying behind the work were said to be:

- To create a coordinated system for the prevention of crime;
- to make it possible to detect risk factors in order to be able to react earlier and more effectively; and,
- to intensify the endeavours to prevent groups with unwanted social behaviour from coming into existence and developing.

In order to fulfil these aims the task of the Committee was said to be:
- To exchange information and views regarding local problems and the work done by way of prevention, the Committee acting as a forum of mutual inspiration;

- to ensure that measures planned by one component of the cooperation are first checked with experiences and estimations of the other sectors; and,

- to ensure that the necessary cooperation between the four sectors is organized in such a way that both general tasks and individual cases can be treated and solved.

In the light of experiences made in Denmark the following plan of the organization was elaborated:

<table>
<thead>
<tr>
<th>Crime Prevention Committee of Cooperation</th>
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<tr>
<td>School director</td>
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SSPK supporting group

SSPK secretariat

Local SSPK working groups

There is an SSPK supporting group consisting of four members, one from each of the branches. This group may be supplemented by representatives from other areas (such as the technical administration office, the health care office, the labour market office, institutions, voluntary associations, the local trade etc.), dependent on various tasks and initiatives. In
the pamphlet issued by the local authority of Nuuk, the then Lord Mayor called upon the ordinary population to "take an active part in the prevention of crime and abuse of alcohol and drugs among children and young persons." This request is accompanied by the remark: "We also need your help to solve this important common task."

Thus, the SSPK Cooperation has become a popular joint concern demanding everyone - through means not specifically mentioned - to contribute to the battle against crime, drinking, drugs etc. For instance the pamphlet states:

SSPK aims at uniting the efforts of local authorities, private persons and the government, on the local as well as the central level, into an organized cooperation crosssection of the various civil service sectors, making a comprehensive picture of the life situation of children and young persons its starting point.

Moreover, the cooperation is going to include general measures of importance to the prevention of abuse and crime as well as treatment of actual cases and certain types of cases.

Immediately, such statements may seem open to criticism considering general legal rights such as professional secrecy. They also seem to be too general and not very well reasoned out as regards both the means to be used and the selection of target persons for the work. Apparently, the work is defined and planned as an "all against all" war, the enemy being crime.
The preventive work is to start with the non-criminal youth, so-called primary prevention. Secondary prevention is aimed at children and young persons assumed to be "at risk" and the tertiary prevention is directed towards an identified group of criminal/socially disadvantaged/"endangered" young persons who are the focus of the cooperation. There is no specific target group mentioned.

Further along in the pamphlet, however, the SSPK Committee has widened its target group and objects. The program is now described as the following:

- Generally SSPK works for all social groups, starting from the conditions of children/youth/parents/family relations.
- The work is preventive and aims at finding the problems before they make themselves felt, for instance through information campaigns.
- Plans are made to meet problems with individual persons and their closest relatives.
- Preventive measures are taken against crime and abuse in children and young persons.
- Parents are taught how to bring up their children and how to avoid influencing the children in an unfavourable way within the home.
With these objectives the SSPK Cooperation has changed from being a committee working to keep away "non-endangered" youth from committing criminal acts to being a forum with an expanded target group comprising all citizens irrespective of age and social status. Even elderly people living in nursing homes may be included in a prevention project, provided that the key words "prevention of crime" are built in. Thus, the SSPK Cooperation has become a social network reaching far beyond what is normally placed under a municipal cooperation.

From a legal policy point of view it is critical to establish such a forum, in which police and Probation Services (Kriminalforsorgen) are involved in the treatment of individual cases and take part in preventive and informative work aimed at parents and their child rearing techniques. Yet, if the goals mentioned are carried out, it will weaken the rights of the ordinary citizen and will probably be looked upon as an inappropriate extension of social control. One might question the degree to which local officials have genuinely evaluated the merits of this idea rather than merely accepting the urgings of Danish officials who are biased toward it.

6. The Interprofessional Cooperation Committee

Some are surprised that the SSPK Cooperation has been introduced in Greenland following a Danish model, since in
Greenland, a similar cooperation has been in operation since 1982, established according to the Ordinance of the Landsting No. 14 regarding interprofessional cooperation in social cases. By applying this Ordinance, any municipality in Greenland would have been able to achieve, in effect, the same thing as the SSPK Cooperation is doing now. For instance, at Nuuk there is an Interprofessional Cooperation Council consisting of a permanent group of eight persons (the district doctor, one psychologist, one nurse, three consultant teachers, and two representatives of the social administration). In addition, other persons from relevant administrative branches or institutions may be involved as required in individual cases. The Council may meet to discuss general problems or to call in expert assistance.

The regulations for the Council at Nuuk (which are authorized by the local authority and confirmed by the member of the National Council for social matters) provide that the police and Probation Services can only participate in the meetings if required. Ordinary meetings are held once a month.

This form of cooperation has a great advantage over the SSPK form in that the work to prevent crime is done by the local social administration. By keeping this work in the said forum, the stigmatization which must necessarily affect persons under SSPK treatment is avoided, seeing that the participation of
the Probation Services increases the stigmatizing effect considerably.

Since some criminological researchers conclude that the causes of crime must be found in the social environment, it seems to be obvious that preventive work must be done on the initiative of the social administration.

Keeping the preventive work with the Interprofessional Cooperation Committee would also reduce the uncertainty as to how the police might use information obtained from individual cases in their general investigation. This would permit the social administration to control over which authorities had access to confidential information.

The adoption of the Danish SSP-model has given Greenland two almost total overlapping crime prevention organizations. The SSPK has proclaimed that almost all of the social area falls within its mandate. Work which was previously done solely by the Interprofessional Committee will probably now be taken over by the SSPK Cooperation. In consequence, it means that all sorts of social preventive work, for instance recreational activities, will be consolidated and that the word "crime" will become the keyword of all preventive efforts in Greenland. All ideas and initiatives will come from the SSPK. This unification presents the danger that new initiatives
which may arise in the area of social prevention may be thwarted.

In addition to these two overlapping organizations, there is a third cooperative organization called the Central Contact Group which has existed since 1969. The work of this group is founded on a 1970 agreement among the National Medical Office, the School Director and the Director of Labour and Social Affairs, supplemented later by representatives of the psychiatric ward of Queen Ingrid’s Hospital at Nuuk and the Probation Services of Greenland. Other representatives, for instance of the police, may be called in to supply specific information. In contrast to the Interprofessional Cooperation Committee, which covers only a local area, the Central Contact Group has all Greenland as its field of operation.

The object of the Contact Group is "to create and coordinate measures in Greenland for clients in need of help from more of the involved authorities." In the first place, then, this group handles individual cases. However, the Contact Group acts as a permanent consultative office in three types of social cases: those where sending the client to Denmark is being contemplated; those regarding registration of extensive handicaps; and, those involving intrusive measures towards children and young persons (e.g., involuntary removal from home).
Immediately, it seems strange that the Probation Services are represented in this group, since, as mentioned, there is a risk of mingling functions and tasks. One of the reasons, however, could be that Greenland has had an exceptionally involved Greenlandic leader of the Probation Services who, with his extensive knowledge of local conditions, has easily slipped into this work. Undoubtedly, all these cooperative organizations have benefitted.

The same personal involvement may explain why the SSPK Cooperation is extending its field of action. Thus, in 1989 the Probation Services and the municipality of Maniitsoq have made a cooperative agreement concerning the employment of a person in Maniitsoq. This person was to work partly in the area of crime prevention and partly in the welfare area, supervising criminals with suspended sentences or prisoners. Once again, the functions of preventive social work and regular control are mingled together. It may be difficult for the average person to distinguish these intermingled functions carried out by a special officer from the same functions executed by the police.

Personal contact and individual involvement are more highly valued in Greenland than in Denmark and the standards of competence and disability, therefore, are also interpreted differently. In a society of such limited size where everybody knows everybody else it is impossible to uphold the same
requirements of separation of interests as in Denmark. In Greenland it seems to be the qualities and knowledge of the individual rather than her or his professional function that are made use of. When the work is formalized, however, its results will often look rather doubtful "on paper." This specific Greenlandic "law of administration" must be taken into consideration when evaluating the results. It does certainly contain both positive and negative elements, but it may be subject to criticism in relation to general legal rights - at any rate according to Danish standards.

However, these reservations aside, there may be certain advantages connected with establishing an SSPK-Cooperation. For instance, it is inarguably a benefit if the cooperation contributes to the initiation of projects and preventive work which would not otherwise have been made, especially if they result in a reduction of crime or an improvement in social conditions.

The Interprofessional Cooperation Committee, however, is so heavily burdened with individual cases that it has neither the money nor the time to initiate prevention projects. The SSPK Cooperation, therefore, in this respect presents an alternative. Nevertheless, it was the Interprofessional Committee which carried out a comprehensive study of suicide in Greenland, whereas the SSPK Cooperation has until now
focused on such things as the use of inhalants and criminal behaviour in the schools.

7. The value of the Crime Prevention Program in Greenland

No doubt, the serious crimes committed in Greenland during recent years have upset everybody in the country, and the prevention efforts, therefore, have been followed with great hopes and interest.

It is necessary, however, when such efforts are contemplated, to state, as exactly as possible, both the objectives and the forum from which the initiatives should come. The tasks of the SSPK Cooperation and the Interprofessional Committee respectively must kept distinct. This might be achieved by giving the SSPK jurisdiction over general crime prevention programs while permitting the interprofessionals to treat individual cases. In this way, the resources would be utilized most effectively and the unfortunate intermingling of interests in the individual cases would be avoided. It would seem best too, if the Probation Services was not permanently represented in the Central Contact Group but was called in only when its expert knowledge was needed.

If the promoters of the SSPK Cooperation had taken time to consider the causes of crime in Greenland and had tried to find out who commits the crimes they would have been able to
define a definite target group instead of aiming their guns at all and sundry.

It does seem that the efforts ought to be concentrated on the large number of Greenlanders who are at present starting families, so that their children - the future echo boom of the next century - can be secured socially.

If, however, such formal crime prevention work is still maintained, it ought to be directed only towards the tertiary group, i.e., young persons living in criminal environments or under very bad social conditions. Since such tertiary prevention will mostly consist of individual cases which ought to be treated by the Interprofessional Cooperation Council the work of the SSPK Cooperation will probably be watered down until it is nothing but a purveyor of general information of crime, no doubt with a poor result.
CHAPTER 4

THE DEVELOPMENT OF THE CRIMINAL CODE

A. Judicial Expedition 1948-1949

With the "opening" after World War II, the need for a common legislation for the Danish and the Greenlandic populations became even more urgent. At this time, the dualism of the judicial system was being severely criticized. The criticism was based, among other things, on the view that Danes living so far away from Denmark and the Danish justice system were able to break the law with impunity, and that the application of the Greenlandic law, which consists mainly of unwritten customary law, was potentially arbitrary. At the same time, the public began to demand better housing for convicts who were considered dangerous to society.

In 1948 Hans Hedtoft, the Danish Prime Minister, went to Greenland in order to examine the needs of the country. At a meeting with the National Councils, the Greenlanders expressed their wish for having their country opened and developed into a modern society.

In June 1948 the Prime Minister, in connection with the elaboration of the new policy for Greenland, decided that a "juridical expedition" should be sent to Greenland. The members of this expedition were three young jurists: Verner Goldschmidt, Per Lindegaard and Agnete Weis Bentzon. During the years 1948-49 they travelled all over the West Coast of Greenland examining the records of the local authorities and speaking to the local population and their officials. Their task was to discover and describe the substance of the Greenlandic customary law and its application within the criminal and civil law areas, as it expressed itself in written rules, court practice and customary verbal information.

In September 1950, the juridical expedition submitted its Report. Despite the fact that this is a remarkable legal and sociological research document, it has not been published but is still being kept in copies on stencil paper. The research carried out by the expedition came to form the background of the laws and regulations later introduced in Greenland, especially the Criminal Code of 1954. The results of the expedition were also included in the Report of the Greenlandic Commission, discussed above. This Report contributed, more than anything else, to the changes in Greenland during the

33) Betaenkning afgivet af den juridiske ekspedition til Grønland (Report of the Juridical Expedition to Greenland), Haefte 1-6, 1950.
following years, when standards and conditions of life, consistent with the modern western world, were introduced.\textsuperscript{34)}

The Juridical Expedition was assigned to find out to what extent it would be possible, with due respect of the Greenlandic court practice and Greenlandic conditions on the whole, to apply Danish law to the Greenlandic population who had previously been subject only to Greenlandic laws. The expedition did not find any considerable difference between the specific prohibitions and prescriptions of the Danish Penal Code and the prohibitions and prescriptions found in the Greenlandic customary law. As regarded the sanctions, however, the expedition concluded that the individualizing attitude towards offenders which was usual in Greenlandic practice made it impossible to apply the Danish Penal Code to the Greenlandic population.

In the light of the experiences of the Juridical Expedition, Verner Goldschmidt was given the assignment to draw up, if possible, a draft for a penal or criminal code for Greenland. This task was extremely difficult seeing that such a code must be based upon quite another model than the existing Danish code or, for that matter, any other existing penal code.\textsuperscript{35)}

\textsuperscript{34)} Report of the Greenland Commission 1-6, Copenhagen 1950.

With a few alterations and comments (discussed below), Goldschmidt's draft for a penal code for Greenland passed by the Danish Parliament and came into force on the 15th of July 1954. It had previously been approved by the National Council of Greenland and by the Penal Commission. The draft had also been discussed at the first meeting of the District Court Judges held in Nuuk in 1953, which was attended by the Chief Judge of the High Court of Greenland and the Greenlandic Chief Constable.

B. Criminal Code of 1954

The Criminal Code is structured quite differently than traditional European penal codes. It is divided into two parts. The first part is headed "About crime" and contains such rules which are usually called "the general part" (and which are common to all kinds of crimes) and such other rules usually called "the special part" (concerning specific offences). The second part of the Criminal Code is headed "About the legal consequences of crime" and contains the rules concerning prosecution and measures.

Notable features of the Criminal Code\(^\text{36}\) are:

that the statute is titled "Criminal Code" instead of "Penal Code" and the term "measures" is used instead of "punishment" etc. This has been done, not because punishment in the normal sense of the word is abolished by the Code, but to stress the fact that punishment is but one of the means of social reaction warranted by the Code;\textsuperscript{37)}

that the Code abolishes the legal double standards applied to the population. All persons in Greenland were thereafter subject to the same rules irrespective of origin or legal status up to that point;

that the list of crimes in the Code reflects that of the Danish Penal Code although in a somewhat simplified and sometimes compressed form;

that all crimes are subject to public prosecution;

that the Code warrants the following measures: 1) warning; 2) fine; 3) supervision; 4) orders to stay or not to stay at a certain place; 5) compulsory work; 6) compulsory education; 7) medically indicated cure or treatment in an institution; 8) custody; 9) other restrictions of freedom of action; and, 10) confiscation;\textsuperscript{38)}

\textsuperscript{37)} See about this Goldschmidt in: NTfK 1954.252.
that the distinction between establishing guilt and sentencing is stressed through the ability to establish that the accused has committed a crime without necessarily having to fix any measure;

that sentences may be indefinite or with some fixed maximum of not more than 10 years;

that both the convict and the prosecution can apply to the court for an access to the remission of a measure and that the courts - if it is reserved in the original sentence - may at any time increase the severity of a measure, even without a new crime having been committed;

that the courts may choose freely among the various measures and also freely combine such measures;

that a rule, specific to Greenland, is introduced deciding that not only psychological but also physical diseases may indicate a sentence to medical treatment;\textsuperscript{39}) and,

\textsuperscript{38}) An attempt to include damages as a penal measure, in accordance with Greenlandic court practise, had to be given up on account of resistance against bringing civil law rules into the Criminal Code, see Goldschmidt in: Nordisk Tidsskrift for Kriminalvidenskab (Nordic Journal for Criminal Science) 1954.252.

\textsuperscript{39}) About the background see Goldschmidt in Nordisk Tidsskrift for Kriminalvidenskab (Nordic Journal for Criminal Science) 1954.258.
that custody be used only as a last resort.

The Criminal Code has not been significantly amended since it was passed. In the original text there was a provision that the Code should be taken up for revision in the parliamentary year 1959-60, and that proposed amendments should be accompanied by a report, based on regular examinations of the effect of the Code during the period it had been in force.\(^{40}\) So, in a way, the Code was to be looked upon as an "Experiment" which must be reconsidered on the basis of examinations carried out in the field of the sociology of law. These examinations would also make it possible to study the effect of introducing written criminal law in a society which had hitherto been governed by customary law and court practice.

The scientific study thus prescribed, however, was not carried out until the parliamentary term 1962-63 because of an amendment in the very provision prescribing it. It was made on the basis of a Report of an examination made in the years 1958-60 by Udvalget for Samfundsforskning i Grønland (The Committee of Social Research in Greenland).\(^{41}\) It appears from the Report that the fine was a very frequently used measure. According to the Report, the rapid development after the

\(^{40}\) *The Greenland Criminal Code 1954*, Sec. 12, Subsec. 2.

\(^{41}\) *Kriminalloven og de vestgrønbandsje sanfybd* (The Criminal Code and the West-Greenlandic Societies) I-II, p. 5-6, Copenhagen 1962.
opening in 1951, with accompanying extensive social reforms, had come to alter to some extent the basis on which the Criminal Code was built. The system of measures prescribed by the Code was designed to be applied to small isolated communities with close contact between legal authorities and population. In the meantime, however, the communication between the minor Greenlandic communities as well as between Greenland and the rest of the Kingdom had increased.

In 1966, the Ministry of Justice appointed a committee to consider whether the Criminal Code should be altered. This committee concluded\(^{42}\) that the Kriminalforsorgen (Probation Services) ought to be developed somehow, but it would not recommend an extension of these institutions since this was likely to make the number of confinements increase. Accordingly, the second part of the Code, concerning prosecution and sentencing, was rewritten without altering the fundamental principles of the Code. The fact that the persons who created the Criminal Code (Weis Bentzon, Lindegaard and Goldschmidt) were identical with those who revised it might be said, generally, to have been a disadvantage.

In 1985, a Committee was appointed to find out how to reduce the number of Greenlandic convicts being placed in the prison at Herstedvester, Denmark, and at the same time to look at the

\(^{42}\) Betaenkning (Statutory Order) 500/1968.
possibilities of establishing a close institution in Greenland. Moreover, the Committee was to examine the possibility of having Greenlanders sentenced in Denmark according to the Danish Penal Code serve their sentences in Greenland. Finally, it was to make a proposal for necessary amendments to make the system of measures and enforcement of the Greenlandic Criminal Code answer its intentions, including a limitation of the use of imprisonment in Greenland. The Committee's report did not appear until February 1990.43)

The Greenlandic Criminal Code was in force in Western Greenland before 1966. Not until a Kongelig Anordning (Royal Decree) of 1966 was the application of the Criminal Code extended to include Northern and Eastern Greenland.

In Eastern Greenland (Angmagssalik and Illoqtorortmiut) the legal basis was formed by the prescriptions of "Administrative Bestemmelser for stgrnland" (Administrative provisions for Eastern Greenland) of September 16th 1947, whereas in Thule (Kap York) it was the so-called "Kap York Stationen Thules Love" (Laws of the Kap York Station Thule) of June 7th 1929. The latter were drawn up by Knud Rasmussen, the leader of the trade station, in concert with Rudolf Sand, the attorney.

43) Betaenkning vedrørende kriminalpolitiske spørgsmål i Grønland (Report concerning questions of criminal policy in Greenland). February 1990. From the report it appears that there is a desire for strengthening the measure of supervision in freedom, and that it
CHAPTER 5

LAW AND JUSTICE IN CONTEMPORARY GREENLAND

A. Attributes of Greenlandic crime and disorder

During recent years Greenland has been shaken by violent crimes. In November 1988, for instance, a Wild West scuffle between the police and a group of youngsters took place in Quaqertog. Several persons were injured during this incident which included an assault on the Police Station. Only a year before the Police Station at Illoqqortoormiut had been fired upon. These violent incidents seemed to crescendo toward New Year’s Eve of 1989, when a young man killed seven persons in Narsaq in South Greenland. More homicides have followed, among them two double homicides at Nuuk. The total number of victims for 1990 stands at twenty-three.

It is widely believed that crime is increasing in Greenland. However, while public interest in Greenlandic social and criminal policies seems to rise with the number of homicides, Greenlandic crime statistics shows, on the contrary, stagnation or decrease in reported crime. For 1989 5,728 criminal offences were registered as compared with 6,153 the
previous year. This is a decrease of 6.9%. The number of violence cases went down from 522 in 1988 to 435 in 1989, a 16.7% decrease. The number of homicides were 13 in 1988 and 18 in 1989. The seven homicides committed New Year's Eve are registered by the statistics for 1990 which gives a very anomalous number for that year. However, drug offences and rapes have increased. There were 308 drug offences in 1988 compared with 422 in 1989, a 37% increase. The figures for rape (including attempts) were 113 in 1988 and 161 in 1989, a 42.5% increase.

However, Breinholt Larsen\textsuperscript{44)} indicates that the figure for the most serious offences (murder and attempted murder) is approximately 20 times higher in Greenland than in Denmark. It is Breinholt Larsen's hypothesis that this high prevalence of violence in Greenland is caused by an adverse interaction between salient features in traditional Inuit culture and new elements in the social life of Greenlanders brought about by the rapid social change during the past few decades. B. Wagner Sørensen\textsuperscript{45)} and Høvesen & Jørgensen\textsuperscript{46)} indicate that also the rate of violence against women is about 20 times higher in Greenland than in Denmark. Moreover, the injuries are usually

\begin{itemize}
  \item \textsuperscript{45)} Folk models of wife-beating in Nuuk, Greenland, Folk, vol. 32, 1990 p. 95.
  \item \textsuperscript{46)} Violence in Narsaq, South Greenland, Journal for Medicine 145, 1983.
\end{itemize}
more serious compared to those reported in similar research findings from Denmark.

Also the suicide rate is high in Greenland and in many ways identical for Inuit in most areas.\textsuperscript{47) In a study by Thorslund\textsuperscript{48}) it is indicated that suicide is more often found among youth with a casual relationship to both modern and traditional occupations, and among hunters/fishermen. White collared and self-employed persons rarely commit suicide. Suicide is quite often found among youth from families with a traditional occupation, among singles with no children. A major part of the suicides seem to have faced social traumatic experiences in their childhood. Adoption to a new family, contrarily, did not seem to be of any importance. Differences between districts indicated, although with some uncertainty, that the less developed districts had the highest rates of suicide among youth, while the more developed districts had lower rates. Almost everybody were intoxicated by alcohol when they committed suicide.

\textsuperscript{47) Berry, Acculturation and mental health among indigenous peoples in Canada, Greenland and Alaska, 8th International Congress on Circumpolar Health, Whitehorse, Yukon, May, 1990.}

\textsuperscript{48) Why do they do it? - Proposals for a theory of Inuit suicide. Paper delivered at the 7th Inuit Studies Conference, University of Alaska. Fairbanks, August 1990.}
1. Alcohol and crime

A comparison between the Northern European countries regarding the consumption of alcohol shows a considerably larger consumption per inhabitant in Greenland than in the other countries. Among other things, it is seen that the consumption of beer is about twice that of Denmark (measured in litres per inhabitant above 15 years of age). The consumption rate of pure alcohol is also considerably higher than the Danish one.

The connection between alcohol and crime is a complex one. In the criminological literature, it is emphasized that the importance of alcohol as a criminogenic factor varies by offence. In violence cases and some sexual offences there is often an important and direct connection. For offences against property the connection is more complicated and less direct, although not insignificant. In some traffic offences alcohol may be of extraordinary importance. It may, so to speak, be characterized as the very cause of a crime such as impaired driving.

The Greenlandic Criminal Code includes the following provision that makes abuse of alcohol a criminal offence:

S. 24. If a person, intentionally or by gross negligence, gets drunk or causes others to get drunk, thereby endangering the body or considerable property of others, he is to be prosecuted for abuse of alcohol.
In its far-reaching wording, extending responsibility to persons who cause intoxication in others, this section represents a considerable deviation from the concept of norm nourished by Danish criminologists. It must be remembered, however, that intoxication can be more dangerous in Greenland than in Denmark because the geographical and climatic conditions require greater care.

This provision was introduced as protection against abuse of alcohol during the transitional period when the Greenlanders had not yet become accustomed to the increased access to alcohol. Today, however, the use of this provision is limited, as the police regulations and other special legislation govern the common, more frequent alcohol offences. Its current application is restricted almost entirely to cases of drunken sailing.

Moreover, the offender may be directed to seek alcohol treatment or may be prohibited from using alcohol. Unlike the conditions of a conditional sentence, such measures are enforceable. This shows that the legislators accept the view that alcohol plays a considerable role in criminal behaviour as, it will be remembered, Greenlandic sentences are aimed at preventing recidivism.

Indeed, two Greenlandic studies indicate that there may be a relationship between alcohol and crime. An investigation made
by the Chief Constable of Greenland in 1967 shows that, in cases reported to the police, a little more than half of the offenders had committed their criminal acts while under the influence of alcohol. Among these offenders who admitted having an "alcohol problem," official records showed that crime was more frequent than among those who denied abusing alcohol. The reader will appreciate the tentative nature of these findings given the reliance on self-reports of alcohol use.

In a 1974 study of alcohol consumption in three towns, it was found that the incidence of criminality is highest in households with alcoholism and lowest in households that report low or no alcohol consumption. Households which report moderate consumption exhibit moderate levels of criminality. Further, the investigation shows that in two thirds of the households with alcoholism and criminality, at least one offence has been committed by a member while intoxicated. In households without alcoholism, at least one offence has been committed by an intoxicated member in only four fifths of the cases. These figures indicate, therefore, that some members of households without alcoholism commit crimes in a state of intoxication. Thus, while there is certainly a connection

49) Sølling: Alkoholforbruget i Grøland (The consumption of alcohol in Greenland), Socialforskningsinstituttet (Institute for Social Research), 1974. The investigation involved 29 cases of theft in connection with intoxication. Forty percent of these cases were about theft of alcohol. Households with alcoholism were overrepresented as to violence cases.
between alcohol and crime, alcoholism and/or intoxication should not be understood as the sole cause of crime, just as one contributing factor. Review of Danish investigations of this topic from both before and after World War II seems to demonstrate that alcoholism is a factor of decreasing importance in criminality. This conclusion may be said to be applicable to the Greenlandic situation described above.

As regards use of drugs in Greenland, the sale of cannabis has increased during recent years, whereas there have been no prosecutions for the sale or use of hard drugs like cocaine, heroin or amphetamines. It might look as if the Greenlanders prefer alcohol and cannabis as means of intoxication, but this area requires more extensive investigations.

2. Population

According to 1988 statistics, 48% of the Greenlandic population were under 25 years of age compared with 33% in Denmark. This is due to the declining death rate beginning in the 1950s which, in turn, was due to the improvement of social conditions, including more effective health care. At the end of the 60s, however, modern birth control techniques and freer access to abortion caused a steep fall in births. The children of Greenland’s baby boom, born 1963-67, are now in their early twenties. In the last 60 years, Greenland’s population has tripled, from 16,901 in 1930 to 55,558 in 1990. Of these,
9,416 were born outside Greenland (Danes and others) compared with 413 in 1930.

Because of this increase in population, it is natural that the frequency of crime increases as well, since there are more people to commit it. Moreover, the baby boom generation has reached the age where people are most typically involved in crime. With the aging of this "bulge," Greenland may well experience a marked decrease of crime. Moreover, the explosive social development which has taken place in Greenland has now become stabilized and the new generation of Greenlanders will be more easily adapted to social changes, if only because such changes are coming more slowly than before.

In comparing Greenlandic and Danish homicide levels, two facts are notable. First, the serious violent offences such as homicide will probably always be more frequent than in Denmark. Because knives and other weapons are so common in the Greenlander's everyday life, they will always be at hand in tense situations. In Denmark and many other countries such weapons are not nearly as common.

Second, it must be noted that some purely technical conditions in connection with the recording of "homicides" artificially inflate the Greenlandic number relative to, for instance, the Danish one. Greenlandic homicide statistics include the offences of "negligent road fatality," "negligent homicide"
and "bodily harm resulting in death," which are not included in Danish statistics. If they were, the Danish number of homicides would be about six times larger.

Cases which would in Denmark be prosecuted as fatal violence will often be treated as cases of homicide or violence in Greenland, since the Greenland Criminal Code does not, like the Danish Penal Code, contain a specific description of the act of "fatal bodily harm (violence)."

It should also be mentioned that a few cases may be found where the offender is prosecuted for violence, not homicide, although the victim has died. This is due to the fact that the provision of the Criminal Code concerning violence is not supposed to prescribe a lower limit to the consequences of the bodily harm and that, therefore, it is of no importance to the prosecution whether the victim dies or not. So it is with consideration of the intention of the accused that the police decide whether to prosecute for homicide or violence in the case of death of the victim. This assessment may be difficult to make, however, because the prosecutor (the Chief Constable in Greenland) who sits at Nuuk may be several hundreds of kilometers from the scene of the crime.

For these, and other well-known reasons, the use of crime statistics to indicate levels of criminal activity should be
done very cautiously. In addition, crime patterns are far more varied and complex than hitherto stated.

3. Psychiatry and crime

In 1985, an investigation\(^{50}\) was made of all 88 mental observations made according to the Greenlandic Criminal Code between 1978 and 1983. Of these, 55 evaluations were made in Greenland at Queen Ingrid’s Hospital and 33 at psychiatric hospitals in Denmark. Of those hospitalized in Denmark, it was found that about four fifths or 26 were diagnosed as suffering from personality disorders, three from schizophrenia, one from manic-depressive psychosis and one from mental retardation. Only two patients had alcoholism as their main diagnosis, whereas for the majority of the patients it was a secondary or lesser diagnosis.

Of the 55 persons observed in Greenland, one fifth or 10 had alcoholism as their most significant problem, one schizophrenia, four reactive psychoses, 24 personality disorders, six momentary disorders, five organic injuries and one mental retardation. Four of the observed persons presented no mental abnormalities. Personality disorders is the most

frequent diagnosis in both the Denmark and Greenland groups, whereas in Greenland alcoholism is more frequently diagnosed.

Of the about 620 suspects who are detained each year after their first appearance, 14 percent were sent for mental assessment (nine percent in Greenland and five percent in Denmark). Of those charged with homicide, 60 percent were observed, with attempted homicide a little less than 30 percent, with sexual crimes 40 percent and with violence 0.5 percent. The relatively small percentage of these serious offenders who are assessed may indicate that most Greenlandic criminals are not mentally ill. However, this conclusion would only be valid if it can be assumed that psychiatric assessments are requested in all cases for which they are required. This decision is usually made by the Chief Constable of Greenland in concert with one of the chief physicians of the psychiatric ward at Queen Ingrid's Hospital at Nuuk.

From one of the author's earlier investigations of Greenlandic criminals, the psychiatric diagnoses of 29 prisoner/patients are listed in Table 2.

Psychiatric diagnoses of 29 offenders assessed at three institutions.

<table>
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<th></th>
<th>Herstedvester Institution</th>
<th>Vordingborg Hospital</th>
<th>Nykøbing Sealand Hospital</th>
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<tbody>
<tr>
<td>Schizophrenia</td>
<td>-</td>
<td>2</td>
<td>4</td>
</tr>
<tr>
<td>Psychosis/borderline psychosis</td>
<td>-</td>
<td>2</td>
<td>-</td>
</tr>
<tr>
<td>Other mental disturbances</td>
<td>18</td>
<td>1</td>
<td>2</td>
</tr>
</tbody>
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It must be emphasized that the mental observation is only meant to illustrate the mental state of the accused at the time of the crime, and that the result of the observation is only guiding to, not binding on the Court. From the information gathered it was found that in 20 cases the sentence was identical with the psychiatric recommendation. In six cases, the sentencing tribunal did not follow the psychiatric recommendation.

In one case, that of a young man of 15 years, the psychiatrist emphasized very urgently that putting such a young person into a psychiatrically conducted correctional institution, namely the Institution at Herstedvester, would in all probability be harmful. The psychiatrist, therefore, recommended the young man be placed with a fisherman’s family in Greenland. Ignoring
this recommendation, however, the Greenlandic Magistrate’s Court sentenced him to placement for an indefinite period in an institution for convicts in Greenland. The Greenlandic High Court, however, changed this sentence to placement for an indefinite period in a psychiatrically conducted correctional institution in Denmark and the Danish Superior Court confirmed that decision.

About two years later, in connection with an application for change of measure, the Magistrate’s Court in Greenland changed the measure to placement in an institution for convicts in Greenland for an indefinite period but the Greenlandic High Court ruled that the measure should be unchanged and the offender, therefore, should stay at Herstedvester. The Ministry of Justice denied leave to appeal to the higher court.

Apart from demonstrating the conflict between law and psychiatry, this case is an example of how the High Court is able to set aside the Greenlandic understanding of the law and consideration for the individual. So the convict, contrary to both the recommendation of the Magistrate’s Court and psychiatric opinion, was kept in a Danish prison - with all its implications.

Mental observation of accused Greenlanders can be done on an out-patient basis or at the psychiatric ward of Queen Ingrid’s
Hospital at Nuuk or at a Danish mental hospital. If necessary, it may be done on a locked ward at the criminal lunatic asylum at Nykøbing Sealand in Denmark. An out-patient examination may be made voluntarily without Court order but if the accused is detained or if the examination requires hospitalization it can be made only with authorization of the Magistrate’s Court Judge. In practice, however, mental observations are always made on Court order. The location of the assessment, and whether it is to be performed on an in-patient or out-patient basis, is decided in the Magistrate’s Court by the Chief Constable in concert with the Chief Physician of the psychiatric ward at Queen Ingrid’s Hospital. A request for mental observation in Denmark must be authorized by the Public Prosecutor.

In their examination of Greenlandic mental observations Lynge and Köster state that the very decision whether a mental observation should be made in Denmark or in Greenland involves an estimation of the dangerousness of the person to be observed and of the question of whether measures should be carried through in Denmark or in Greenland. They support this statement by the fact that more than half of the persons observed in Denmark are placed in Denmark while only one out of 14 observed in Greenland is placed in Denmark. One may ask oneself, then, if that was what happened to the young

52) loc.cit. Note 50, p. 249 f.
Greenlander mentioned above, and if the decision of where he should be placed was already made before the mental declaration was submitted.

Further, we must recognize the obvious problems of having Danish psychiatrists undertake mental assessment of persons with a non-Danish cultural background. An example of this is discussed in the investigation from 1986⁵³ returned to above in which a quote is taken from a psychiatrist's report (anonymized):

The brutal criminal act briefly described seems to follow a pattern which is increasingly known in Greenland. Without the mental observation the accused would probably have been sentenced to 4 years' stay in an open institution in accordance with current legal usage. This must be characterized, beforehand, as being totally unacceptable and a severe violation of the sentiment of justice in the population. To this may be added that such placement would hardly be of any social or pedagogical consequence or serve any crime preventive aim, and finally it does not seem to be a sufficient measure to prevent new, perhaps equally serious, criminal acts during the serving period.

In the author's opinion, this statement is unacceptable interference and a call on the courts for harder sanctions. It is a substantiation of the findings of Lynge and Køster that the very decision whether the observation should be made in Denmark or Greenland involves an estimate of the person's dangerousness and of the necessity of measures being taken in Denmark.

The observed person in question was later sentenced to treatment at a mental hospital in Denmark.

The circumstances under which mental observations are made in Denmark and Greenland respectively are very different. In Denmark there may be up to half a year's delay from the time of the crime to the observation which makes precise diagnosis very difficult and also is rather burdensome to the accused.

In the investigation of 1986\textsuperscript{54}) it was found that the mental certificates of the psychiatrists in charge were based on very few considerations regarding the person's Greenlandic background. Moreover, only rarely was there an attempt made to relate the person's behaviour and attitude to the Greenlandic social conditions. This is most disturbing given the potentially serious consequences of the psychiatric determinations. If a person is found to be sufficiently "dangerous", he may be placed at Herstedvester rather than one of the more open institutions for convicts in Greenland.

A factor of some importance is the failure of the observed person and the psychiatrist to understand each other's language. Often the mental certificate says that "the person in question speaks and understands Danish tolerably, although

\textsuperscript{54}) \hspace{1em} \textit{loc.cit. Note 51, p. 50.}
he has difficulties with linguistic subtleties." Nevertheless, interpreters are rarely used.

Some of the observed persons tell the psychiatrists about the old Greenlandic myths and legends in connection with their crimes. Some have seen the Greenlandic ogres called "Kivitoqs" and spoken to them. In order to understand such ideas you must be very familiar with the Greenlandic culture so as not to confuse this phenomenon with, for instance, schizophrenia, a disease which can lead to the patient hearing "voices" etc.

As an example of the lack of knowledge and understanding demonstrated by Danish psychiatrists, a quote is provided from a mental certificate (name of psychiatrist omitted) which was used to justify a particular sentence:

In some respects the child of nature - the primitive people - in the young Greenlander seems to emerge (his father is still living as a hunter and whaler), for instance in such a manner that, in spite of his intelligence, he has difficulty in getting up and going to work in the morning. It seems as if he who has so far had a sheltered life in different institutions, has had difficulties in "standing on his own feet" outside these institutions.

Finally, in its conclusion, this paradoxical and quite incomprehensible statement mentions that the observed person has had "a bungled adolescence and from his 2nd to his 10th year has been placed in an infant home and later in an approved school and a continuation school." The mental
certificate ends with the following words: "Further observation is found unnecessary." 55) 

4. Stigmatization

In the clash of the Danish and Greenlandic cultures it is interesting to consider stigmatization theories. Such theories deal with the role of social control agencies in creating deviation and deviants. According to the stigmatization theories, which were introduced by Lemert 56) and Becker, 57) no acts or persons are inherently deviant. Acts or persons become deviant only when designated deviant. Deviations occur because society has adopted a number of rules designating certain acts as deviant. Initial, often minor, breaches of norms or laws are met with a societal reaction, for instance from the police. In this way the person adopts a deviant self-image, which may trigger a long-term pattern of criminality.

There is, so to speak, a polarization established with the conformist majority on one side and the labelled deviant persons on the other. This intensifies feelings of community solidarity against a common "enemy."

55) loc.cit. Note 51, p. 50.


When a labelled person has served his formal sentence, he will rarely have suffered the total punishment because of the reaction of his neighbours, who will expect him to be more likely to commit another breach of rules than his non-labelled fellow men. He is stigmatized.

This, for instance, may result in a more intense scrutiny of his behaviour. These community expectations may combine with the deviant self-image acquired during the previous court experience to create a self-fulfilling prophecy. The person commits another offence and a vicious circle has been created, the person being unable to escape from the stigmatized identity imposed on him by the community.

There is a presumption, more or less firmly anchored in Denmark, that many Greenlanders are criminally inclined. The mass media relate dubious and often incorrect information regarding the Greenlanders' criminality and alcohol consumption, contributing to a cultural stereotype. The possibility cannot be excluded that stigmatization may be a criminogenic factor if it is able to make Greenlanders internalize the criminal stereotype which, in turn, may make them more likely to engage in criminal behaviour.

There is a case in point discussed in the 1986 study. It is a story of a young murderer who at the age of only 13 months
was adopted by a Danish family living in Denmark and so was taken away from Greenland and Greenlandic culture. He was a Dane but with a Greenlandic appearance. He did not speak or understand Greenlandic and he had only been in Greenland on a visit of one week's duration. In prison he was called "the false Greenlander."

During his court-ordered mental assessment, he described his early childhood, until he was four or five years old, as totally happy both in relation to his adoptive parents and his playmates. But as school age approached and especially after he had begun school he was teased about his Greenlandic physical features and he found this teasing so trying that he lost his interest in school. He did not blame his home as a child, which was reasonably nice and secure, for his social and mental failures. He emphasized that these were most probably due to his Greenlandic origin and the Danish population's lack of accept of Greenlanders.

Since this exceptional position made him feel very uneasy at school, and as time went on also in his leisure hours, he became very tense and restless and he thought that this was the reason why at the young age of 11 or 12 years he found that alcohol had a soothing effect on it all. As the consumption increased, however, he had to get the money for it by petty thefts.

58) loc.cit. Note 51, p. 54f.
At a certain time he considered moving to Greenland where he would probably not be teased about his looks but he abandoned the idea because he doubted his ability to secure employment since he did not speak or understand Greenlandic. He also thought of training himself to be an adviser for different ethnic groups such as the Greenlanders.

The irony and tragedy of this young man's fate was that he killed a Greenlandic woman (in Denmark) in anger because she teased him and insulted him. She said he "was neither one nor the other and as a born Greenlander should be ashamed of himself for neither speaking nor understanding Greenlandic."

This young man had been exposed to serious stigmatization during his adolescence which had led to excessive alcohol consumption and minor crime. It must be supposed that serious problems of identification were an important contributory cause of the murder. This case illustrates that Greenlanders in Denmark may be subject to violent stigmatization which may cause a relatively greater probability of criminal acts.
B. Application of the criminal law

1. Examples from practice.

In order to make it possible to form a clear picture of the measures applied against sexual crime in Greenland, a few practical examples will be provided:

1) Accused found guilty of sexual relations other than sexual intercourse with 10 year old girl and fined d.kr. 4,000 (US$ 750) (Case list no. 322/87, Magistrate’s Court V).

2) Accused found guilty of consummated rape against 23 year old woman and fined d.kr. 3,000 (US$ 428) equal to three weeks’ wages (Case list no. 32/87, Magistrate’s Court XVIII).

3) Accused found guilty of attempted rape against 40 year old woman and fined d.kr. 500 (US$ 71) equal to one week’s wages (Case list no. 730/87, Magistrate’s Court VIII).

4) Accused found guilty of sexual relations other than sexual intercourse with two boys of six and eight years respectively and fined d.kr. 6,000 (US$ 857) equal to 2 weeks’ wages (Case list no. 1701/87, Magistrate’s Court VI).

5) Accused found guilty of two cases of rape against his 22 year old stepdaughter and sentenced to supervision by Probation Services for one year and six months (Case list no. 65/87, Magistrate’s Court XII).

6) Danish artisan fined d.kr. 7,000 (US$ 1,000) for consummated rape enforced by coercion committed together with a female accomplice (Case list no. 82/89, Magistrate’s Court I).

7) 36 year old Greenlander fined d.kr. 1,500 (US$ 214) for attempted sexual intercourse with 13 year old girl (Case list no. 626/87, Magistrate’s Court VIII).

8) 32 year old male in Eastern Greenland convinced of attempted rape against his sister, attempted rape against a 26 year old woman, threats, consummated rape against unconscious (intoxicated) 26 year old
woman, offence against decency towards a 12 year old boy and theft sentenced to placing in Institution for Convicts for six months (Case list no. 93/89, Magistrate’s Court XVIII).

9) Accused found guilty of rape with two coaccused against 31 year old woman sentenced to supervision by Probation Services for two years of which 30 days in institution for initiation (Case list no. 53/88, Magistrate’s Court XII).

10) Accused found guilty of rape against 12 year old girl and sentenced to be placed in institution for six months (Case list no. 90/88, Magistrate’s Court VII).

11) Accused found guilty of rape against a person of the same sex and of violence in having, in connection with the rape, inflicted a 4-5 cm long wound on the right forearm of the injured party. Sentenced to be placed in Institution for Convicts for one year and six months (Case list no. 93/88, Magistrate’s Court III).

In all the examples mentioned, the Magistrates’ Courts followed the recommendations of the Prosecution as to measures. According to an interview with the Head of Police Mr. Jens Wacher, the Crown is said to have been directing the courts to sentence more severely in sexual crime cases during the last two-year period.

In May 1988, the 14th Meeting of the Magistrate’s Court Judges was held at Nuuk, a little less than 35 years after the first one had been held at the same place. At this meeting, as often before, the Criminal Code was intensely debated. Some Magistrate’s Court judges criticized the Code rather severely. For instance one said:

You often feel that your sentences are too mild. Sometimes you are considering to set aside the claim of the
Prosecution to give a fine and sentence the convict to supervision by the Probation Services instead, but you give it up because you know that the Probation Services is overburdened as it is.

Another judge stated that

...in cases concerning sexual relations with minors or in cases of rape you feel that you ought to give a sentence of placement in an institution, but you give a fine instead on account of the lack of room in the institutions....

When the Criminal Code was made it was adapted to Greenlandic conditions, but now we have been so much involved in the civilisation and the European conditions that the Criminal Code today is to some extent inadequate.

In a discussion on whether a person who evades the supervision of the Probation Services should be put into an institution for a short period, one of the most experienced Magistrate’s Court judges said it this way:

If you want to improve somebody's mind you cannot do it solely by patting his shoulders, you must necessarily impose conditions on him.

It is significant that, during the years past, the criticism has been directed towards the Criminal Code, even though it is not the Code itself which is too lenient. On the contrary, it contains sanctions covering steps from dismissal with a caution to placement in an institution for an indefinite period.59) To justify their "lenient sentences" the

59) Such placement can usually not exceed 10 years, except when the accused is found guilty of homicide, robbery, rape or other serious sexual crime, deprivation of liberty, gross violence, threats, arson or of attempting such crimes, and when the accused is found likely to be dangerous to other persons' lives, bodies, health or liberty, and
Magistrate’s Court judges claim feeling "bound" by the submission of the Prosecution or their awareness of the Probation Services being overburdened and of the lack of room in the institutions.

In some cases, however, the Magistrate’s Court judges do set aside the recommendations of the Prosecution and give far more severe sentences than requested, as illustrated by these cases:

1. The Magistrate’s Court sentenced an accused person for attempted rape against a 33 year old woman and for raping a four year old girl. The Prosecution had recommended placement in the Institution for Convicts for one year and six months. The Magistrate’s Court set aside that recommendation and sentenced the accused to three years. In the reasons it is stated: "As a measure against the crimes committed the court finds it appropriate, under consideration of the serious nature of the crimes and of the young age and possible succeeding psychic harm of the victim of crime II, that the accused is sentenced to placement in the institution for three years including time served." This sentence was not appealed to the High Court of Greenland. (Case list no. 256/87, Magistrate’s Court III.)

2. In a case from 1981 the accused was found guilty of breach of 1) attempted homicide (having tried to kill A by inflicting numerous superficial cuts and stabs on her neck, arms, chest, stomach and back with a knife and afterwards trying to strangle her so that she became unconscious); 2) violence (having inflicted on 1½ year old B a wound, about 3 cm long and 1-2 cm deep, on left buttock); and, 3) homicide (having killed C by inflicting on her a stab with a knife in her breast and shortly afterwards, on the staircase to which she had fled, inflicting on her several stabs on both sides of her neck, in her breast and both arms and hands hereby causing such it is found necessary to put him into an institution in order to prevent such danger, cf. Sec. 102 of the Criminal Code.
injuries that she died immediately). The Prosecution recommended five years imprisonment and the confiscation of two knives.

The Magistrate’s Court, however, sentenced the accused to eight years, and confiscated two knives, citing the serious nature of the offences. While the convicted person accepted the sentence, the Prosecution appealed to the High Court of Greenland pleading mitigation, arguing that even the seriousness of the crime does not justify a deviation from the usual court practice. Therefore, the sentence ought to be reduced to five years.

The High Court of Greenland reduced the sentence to seven years, stating among other things: "Since, without any reasonable cause and without other extenuating circumstances, the accused has committed both attempted homicide and consummated homicide under such circumstances which show that his intention to kill both A and C has been exceedingly firm, it is found that, pursuant to Sec. 87 of the Criminal Code, the accused ought to be sentenced to placing in an institution for convicts for a period which, according to the above mentioned remarks about the nature and extent of the committed crimes, should be fixed at seven years." (High Court of Greenland, Case list no. 243/81.)

3. In a sentence passed in June 1988, the Magistrate’s Court found an accused guilty of 12 counts of theft, 3 counts of attempted theft, and one count of receiving stolen goods. Before the Magistrate’s Court the Prosecution had recommended nine months. The Magistrate’s Court judge set aside this recommendation and sentenced the accused to the Institution for Convicts for 18 months. The convicted person did not appeal the sentence. (Case list no. 9988, Magistrate’s Court XVIII.)

This sentence, however, was appealed to the High Court of Greenland by the Prosecution pleading mitigation. Before the High Court, the Prosecution maintained that, according to the usual Greenlandic practice, a sentence to institution for 18 months would seem quite out of proportion, especially considering the severity of the crimes. The Prosecution, therefore, requested the measure be reduced to nine months in institution as previously recommended before the Magistrate’s Court. The High Court agreed and thereby set aside the sentence of the Magistrate’s Court. (High Court of Greenland, Case list no. 235/88.)
Considering the fact that the Criminal Code is to such a wide extent made up to express a Greenlandic concept of law, it is interesting to note that it is the Chief Constable of Greenland (who is a Danish lawyer) who appealed the last mentioned case to the High Court of Greenland pleading mitigation, and that afterwards it is the High Court (whose chairman is a Danish lawyer) who reduces the measure.

It must be added, however, that the practice of the Prosecution appealing the sentences of the Magistrates' Courts to the High Court of Greenland should not be understood solely as a desire to safeguard a principle of objectivity. It is no less a manifestation of the unspoken necessity of using space in the institutions economically.

2. Sentencing to Denmark.

If, on account of mental deficiency, an offender is found unsuitable for placement in an institution for convicts, or if such an institution does not provide the security required, the offender may be sentenced to an indefinite period in a psychiatric institution under the Probation Services in Denmark.\textsuperscript{60)}

\textsuperscript{60)} Cf. Sec. 102, Susec. 3 of the Criminal Code of Greenland.
In practice, this means the Institution at Herstedvester near Copenhagen. This institution is still considered as being "psychiatric" as regards the Greenlandic convicts, although in reality it is not so any longer. This practice has often been characterized as being deportation with the denial of human rights, because it cuts off the convicts from the Greenlandic society.

Paradoxically, the reason why it is found necessary to send convicts to Denmark is the very lenient criminal policy adopted which has meant that there do not exist any closed prisons or closed psychiatric wards in Greenland. None of the currently existing institutions provide the necessary security.

At the moment about 12 Greenlandic convicts are at Herstedvester.

At the recent meeting of Magistrate's Court judges at Nuuk, the transfer of convicts to Herstedvester was discussed together with the need for a closed prison in Greenland. One of the judges said: "It may be necessary for us to place some in Denmark. It is no fun to do so and it is not done without thorough consideration. We have to state, however, that serious crime is not stopping, so it is necessary to have a closed institution in Greenland." Another judge said: "We have got some persons who must necessarily be isolated from
society and we therefore need a closed prison, but we must state that it is going to be very, very expensive to build and run such a prison." Finally a judge expressed it as follows: "We ought to have had such a prison long ago." 61)

3. The concept of responsibility for one’s actions in the Greenland Criminal Code.

When talking about placing convicts in Danish psychiatric institutions, the concept of responsibility for one’s actions, as laid down by the Criminal Code of Greenland, must also be considered. From the content of the Greenlandic state of law the Juridical Expedition found that, as to responsibility for their actions, there was nothing to prevent young persons from being placed in institutions in the same way as adults. The Expedition observed that a specific minimum age could not be stated, but that nothing seemed to speak against a limit of 15 years. In the Criminal Code, therefore, the lower age of criminal responsibility was set at 15 years. This is still in force.

About the other aspect of the responsibility concept, the question of psychic normality, the Expedition found that it had not been considered by former court practice and that, on the whole, it had not been thought of very much. The

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Expedition, therefore, found that it would not be expedient to introduce the same concept of responsibility as the one applied according to the Danish Penal Code:

The Expedition is of the opinion that, in a court system mainly borne by lay judges, standards regarding personal responsibility must be expected to be more misleading than guiding. Such standards are fully replaceable by a system directing the courts, if possible with expert advice, to find in each individual case the most suitable measure to prevent further crime. The Expedition finds this the less inadvisable as it is in harmony with modern criminological views. 62)

The Greenlandic courts follow the same principles of deciding and fixing the punishment when sentencing a mentally deficient person as those followed in case of a "normal" person, and the legal reaction will be decided according to the person's individual needs (including mental ones) in either case. However, it will always be established beforehand whether the offender has objectively committed the crime, but not, then, whether he is subjectively responsible for it. This is expressed in Sec. 113(1) of the Criminal Code:

If the offender is in a state of mental deficiency the court may decide that he shall be placed in a hospital or other institution in Denmark, if this is found suitable to prevent further offences. In cases where less radical measures are found sufficient such measure may be given, including supervision according to the provisions of Sec.s 94-98. No maximum duration of the measure has to be fixed.

Such measures, then, are given for an indefinite period. As mentioned there is still no closed psychiatric ward in any of

the hospitals in Greenland nor any possibility of medical treatment at all, and convicts, therefore, who have been sentenced to psychiatric placement or treatment are transferred to Denmark.

Because sentences are individualized, it is very important that the necessary personal information be as correct as possible. Such information is typically procured through personal investigation or mental observation. This procedure in criminal cases exempts the courts from the difficulty of establishing criteria for personal responsibility or lack of such responsibility.

In return, the courts must grapple with other problems, such as the difficulty of getting the necessary information about the offender, the risk of placing sound persons in the same institution as mentally ill persons and, last but not least, the risk of social and mental damage resulting from unnecessary psychiatric treatment.\textsuperscript{63)}

\textsuperscript{63)} Also see Inge Lyngø & Anne Køster in: Nordisk Tidsskrift for Kriminalvidenskab (Nordic Journal for Criminal Science), p. 242 ff and 249 ff, about Greenlandic provisions regarding mentally deficient persons and Greenlandic mental observations.
CHAPTER 6

RECONSIDERING LAW AND JUSTICE IN GREENLAND

1. The future of the justice system in Greenland

The participation of laymen in the Greenlandic administration of justice has been said to be an advantage rather than a disadvantage. This system, however, has its drawbacks. For instance, the rules on the jurisdiction of judges are often being sorely tried and it must be presumed that these rules are interpreted in a wider sense than according to Danish practice. The principle, for instance, of "disqualification of a judge who has previously decided to remand an accused in custody" would be very difficult to respect in Greenland. This would require a continual exchange of magistrates between the cities. Since none of the cities in Greenland are connected by roads and traffic between the cities must therefore take place by boat or by plane the fulfillment of this principle would cause consequences, and besides it would shake the fundamental principle of the Administration of Justice Act which places knowledge of the local conditions as primary among the qualifications for a judge.

It can generally be stated that the provisions of the Greenland Administration of Justice Act are very simple. The legislature has endeavoured to make them as understandable as
possible, knowing that the statute is going to be used and interpreted most often by laymen. On the other hand, a legally trained person will easily run the risk of misinterpretation. This eventuality can only be met by the acquisition of as extensive a knowledge of Greenlandic conditions as possible, since the overall purpose of the administration of justice must still be the solution of conflicts. A narrow interpretation dictated solely by points of law will not further this end. However, the increasing use of lawyers makes it doubtful whether this risk can be avoided. During recent years, the number of lawyers has risen dramatically. Perhaps it must be conceded that the Greenlandic society of today is so modern that the use of educated lawyers has become a necessity. Greenland is now considered one of the most modern countries in the world as measured by material goods calculated per inhabitant. As an example of this it is stated that Greenland has more computers per inhabitant than any other country in the world, including Japan.

When describing the Greenlandic legal system and its future, it is necessary to address the possibility of a transfer of the Danish system to the Homerule Government of Greenland. This would seem to be a natural consequence of the decolonization in this century.

The Greenland Homerule has now been in operation for 10 years. It is codified in the Act of the Greenlandic Homerule
Government (Lov om Grønlands Hjemmestyre). When the statute was being drafted, no Greenlandic wish was expressed that the Greenlandic administration of justice, including the court system and the police force, be transferred to the authority of the Greenlandic Home Rule Government. These two areas are today subject to the authority of the Danish Ministry of Justice.

The Act of the Greenlandic Home Rule Government does not stipulate that the Greenlandic courts must be transferred to the Greenlandic Home Rule Government. Neither is this mentioned in the regulations regarding what fields of responsibility can be transferred. However, it is still possible, by authority of Section 7, to transfer jurisdiction of an area not specifically mentioned, but only with "consideration of the national unity and of the object that the Home Rule Government is given an extensive influence on areas which especially affect Greenlandic affairs" (ss. 2).

Accordingly, when addressing the question of whether the Greenlandic courts and police may be transferred to the Greenlandic Home Rule Office, two conflicting claims must be taken into consideration: 1) regard for the interests of the national unity; and, 2) regard for the interest of the Home Rule Government in having an extensive influence on matters belonging to its own areas.
Whether Greenland may be considered so independent of the Danish Kingdom as to be able to take over its own courts and police force is primarily a political question. The author personally thinks that the question must be answered with reference to Subsection 2, since such considerable efforts have been made to create a unique Greenlandic judicial system consistent with Greenlandic legal traditions. Whether this is contrary to "the interests of national unity" must be a purely political question. In this connection it must be mentioned that, in a number of areas, Greenlandic legislation differs significantly from the Danish counterparts. The most outstanding example of this is the creation of the Greenlandic Criminal Code.

Whether from a legal point of view it might be advisable to transfer the courts and the police to the Home Rule Government of Greenland is not for the author to decide. It is assumed, however, that there is nothing actually speaking against it, provided it is held desirable. It may be argued that a transfer will not be to the advantage of the Home Rule Government as long as these authorities continue to function in accordance with the needs and wishes of the Greenlandic society. Moreover, the transfer would impose on Greenland a significant fiscal burden which is now paid by Denmark.
2. Implications of the analysis of the criminal code

The coming into force of the Criminal Code on the 15th of July 1954 was a unique event considering that this Code was founded on Greenland's own legal traditions. As stated earlier, the sanctions are not fixed in proportion to the severity of the offence but most often according to what is thought most expedient to keep the individual offender from recidivism. This is still expressed in Sec. 87 of the Code:

The decision must, in necessary consideration of the nature of the act and of the common interest in counteracting acts of such nature, be made with special regard for the personality of the offender and for what according to the information at hand must be considered necessary to keep him from committing further offences.

Sentencing, thus, to a far higher degree than it is in Denmark and other Western countries, is based on a "principle of the offender" rather than on a "principle of the act".

The Juridical Expedition stated that it would be at variance with the Greenlandic legal tradition to introduce the Danish Penal Code and recommended that a Code for Greenland be created. This code should be as much as possible in harmony with the Danish one but should be based on Greenlandic sanctions. The Expedition concluded:

The members of the Expedition have no hesitation in basing the future Greenlandic system of reactions upon Greenlandic law, because this law is fundamentally in harmony with the requirements of modern criminology.
And further

... that the development of Danish penal law is supposed to be moving away from imprisonment in the direction of prevention and treatment oriented measures.\textsuperscript{64)

With regards to the sanction system the Expedition found that it was characterized by the Greenlanders' individualizing attitude towards the offenders. The reactions were determined according to the offender's personal conditions more than according to the offence he had committed. It also found that the penal schedule of Greenlandic law was different from that of Danish penal law.

The principles of the Criminal Code are founded on a model of conflict resolution which its drafter, Verner Goldschmidt, named the "Arctic peace model." The most important feature of this approach is that in case of norm deviations, it endeavours to reestablish peaceful social and working conditions.\textsuperscript{65) In contrast to the "peace model," Goldschmidt framed a "conformity model," used in the penal systems of most Western countries. It is characterized by trying, in cases of social conflict, to press the conflicting parties to conform to the dominant norms.

\textsuperscript{64) Betaenkning afgivet af Den juridiske Ekspedition til Grønland (Report of the Juridical Expedition to Greenland), Hæfte (Vol.) no. 6, p. 81-82.}

\textsuperscript{65) Retfaerd i Grønland (Justice in Greenland), Århus 1980, p. 118 f.}
The views of Goldschmidt were based specifically on a consideration of economic social structures. The peace model, thus, was derived from the consciousness of solidarity which was reflected in the economic solidarity that was the heart of the Greenlandic mode of production. 66) On the other hand, the conformity model was derived from consideration of capitalistic societies, those characterized by economic contrasts and exploitative relations between capital and work. 67)

Goldschmidt's source of inspiration had been the draft for a penal code made up by Enrico Ferri, the Italian socialist, in 1921. 68) However, Goldschmidt states himself that the codification of the Arctic peace model was a failure and in itself a contradiction since codification itself expresses a tendency towards conformity. 69)

The Expedition, however, adopted the view that consideration should also be had for general deterrence and crime prevention. They found that otherwise the idea of individual deterrence might lead either to inordinate intervention towards the offender or to no intervention at all. The latter

66) Ibid. p. 118.
67) Ibid. p. 118 f.
68) Ibid. p. 122. Ferri's draft was later made the basis of the original Russian penal code.
69) Ibid. p. 128.
case would be inexpedient, for some offenders at least, because the sanction is assumed to be supposed to be the only motivating factor.

Before the creation of the Criminal Code, attempts had been made to set up a common penal code. However, when the Greenlandic Criminal Code was published it was widely looked upon as the first law given which had succeeded in considering an old legal tradition and at the same time corresponding to modern criminological philosophy. When the first Bill was introduced, the then Prime Minister Hans Hedtoft declared:

I assign great importance to the fact that through a Criminal Code like the one proposed we avoid a violation of Greenlandic legal traditions and I hesitate to Danicize the Greenlandic society in an area in which its own regulation is fully satisfying the needs of the country.

However, Mr. Hedtoft’s statement forms a sharp contrast to the severe criticism directed towards the Criminal Code, the criminal policy and the Greenlandic courts today. For instance, under the heading "Forkerte domme" (Wrong sentences), Atuagagdliutit, the Greenlandic newspaper, has in the editorial for August 29, 1988:


71) Folketingstidende (Parliament’s Review) 1953-54, col. 280.
Among the victims are an alarming number of minor girls. But many adult women too are exposed to these atrocities and damaged for life. In 1987 alone the Chief Constable in Greenland registered 120 consummated or attempted rapes and 49 cases of incest, sexual intercourse with children or offences against decency. The previous year, 1986, the number of consummated or attempted rapes was 122 and of cases of incest and sexual intercourse with children 24. These figures are incredibly large in such small communities as ours and they tell us that some very serious human problems are lurking. Lots of sentences for these misdeeds are passed by the various courts around Greenland. But many of these sentences ought to be set aside. It cannot possibly be intended that the victims must suffer for the rest of their lives while the criminals are let off with three or four months in the Institution for Convicts. It cannot be intended either that the courts which are for all of us in the community where we live are making decisions in favour of the criminals, apparently quite careless whether these hard criminals are going to commit the same misdeeds after a few months. It seems quite grotesque when compared to the sentences of the same courts in trite theft cases. They find it much more harmful to pinch some money than to rape an 8 year old girl. That tells something about a totally sick morality within the courts.

Most of the criticism relates to the fact that rapists and other sexual offenders are not given more severe sentences than, for instance, thieves.

The Code has also been criticized for not prescribing sufficiently effective measures against crime and therefore not maintaining law and order to the extent required by modern Greenland. It has been said too that the usual sanctions such as fines, suspended sentences and supervision by the Probation Services are ineffective means against crime and that more severe punishments must be used.
Such criticism, however, is not new. Even during the debating of the Bill in Parliament, Mr. A. Lynge, one of the two Greenlandic members, put forth the following views. The speech is quoted extensively, because Mr. Lynge gives a general survey of the Greenlandic criminal policy:

The reason why I have asked for permission to speak is that I want to make a few remarks - not about the Bill itself which is a good and able piece of work and already passed by the National Council - but about the explanatory statement accompanying it. This is, in my opinion, not quite so good on some points.

In the statement the "court practice up till now" is often mentioned as the foundation and guideline for the various sections of the Bill at hand. As far as I can see, this practice has been looked upon as a specific Greenlandic idea and an especially mild view of criminals, a view different from that of other places. However, if things are to be put straight - and they must be so, especially when debating Bills - it must be pointed out that the responsibility of this court practice lies with the Danish officials in Greenland just as much as with the Greenlanders. It must be acknowledged - which cannot be seen from the statement - that Danish lay coassessors have always been in the majority in Greenlandic cases brought before the court, with a few exceptions, as it is prescribed by the law of the Government of Greenland from 1925. The chief administrative officer of the county (sysselmanden) has always been Danish.

Only in a few exceptional cases there have been Greenlandic chief administrative officers and, if so, not until the end of the period before 1950. Greenlandic lay coassessors have almost always been in the minority of the Greenlandic courts.

Further, I want to mention the explanatory statement concerning one single section, a statement which, to my opinion, is rather untimely and which expresses an unfortunate and incorrect understanding, so that it may be harmful to the Greenlandic prestige and should, therefore, not be allowed to pass without protest from the Greenlandic side. I am thinking of the statement concerning Section 53. It has:

"It appears from a number of Greenlandic court cases that sexual intercourse with children below 14-15 years old is regarded as criminal, but that other
forms of sexual exploitation is not. In certain
circles it is supposed to be quite harmless that
adults are handling minors sexually. It is held that
indecent acts will not harm the child physically or
psychically, provided they are not done against the
child's will."

Those are nasty words to be embodied in the statement -
yes, notice this: in the explanatory statements to the
Bill. They are so categorical that not even softening
words as for instance "as if" or "it seems as if" are
used. Therefore, I want to say here, in the right place
for saying that kind of things, that I am convinced that
these quoted words are wrong. I do not know whether it has
happened that individual persons who have been summoned as
witnesses before the court have had such views, but it is
not normally the general view of "certain circles." At any
rate, that is a misunderstanding.

It must be denied that a generally mild view of sexual
criminals who are handling minors indecently is to be
found at any place in Greenland. However, the explanatory
statement goes on a bit further.

At the end of the statement concerning Sec. 53 it is said
that it must be regarded as expedient that the
administrative provisions concerning prosecution "are
provided with a prescription that persons who have treated
minors indecently in harmony with local, traditional
morality should not be prosecuted ..."

I dissociate myself from this line of thought. In the
first place, I think that if such a local morality really
does exist to permit that kind of indecency it must be
fought against and the offenders must be severely punished
in order to protect our children. Secondly, it will be
precarious to have different court practices in different
parts of a country, for instance as regards moral crimes.

That Greenlanders do not look mildly upon such sexual
offences - which, by the way, are very rare up there -
appears, among other circumstances, from a trial which was
brought before the court of one of the colonies a good
deal of years ago. The offender who had assaulted a number
of children was a Greenlander and the chairman of the
court was a Greenlander too, acting for the chief
administrative officer of the county. For once there was
Greenlandic majority in the court. I remember this trial,
with parents crying for distress and indignation in the
court room: There was great indignation among the
Greenlanders, and the offender got the hardest punishment
he could get; he was castrated - although voluntarily.
I am telling this in order to show how Greenlanders look upon that sort of crimes, how seriously they are looked upon.

I do not understand that an explanatory statement to a Bill as the one at hand can contain utterances which are compromising for the population of a part of the country. 72)

In the first draft for the Criminal Code rape and several other kinds of sexual offences were not included as specific acts, since the research of the Juridical Expedition showed that, before the Criminal Code was carried through, rape was included under the concept of violence.

The utterances of A. Lynge, however, had the effect that the draft was amended such that "rape" was included in the Criminal Code as a specific breach of law. The draft was further discussed at the first meeting of the Magistrate's Court judges held at Nuuk in September 1953. These meetings are normally held every second year and here the Magistrates Court judges, who are all laymen without legal training, are given the possibility of discussing certain subjects and individual cases with the High Court judge and others and also of getting instructions in various legal matters. At this meeting the then - Chief Constable of Greenland said that the draft for the Criminal Code was already practically outdated. He also said that the prescriptions of the draft concerning forced labour and custody had been made with inordinate regard for old traditions which were outdated. By this, he referred

to a statement about the desirability of establishing prisons or penitentiaries, passed by the joined National Councils in 1949.

The meeting of the Magistrate's Court judges decided on a common statement in which it is said that

"we find that the practical and legal possibilities offered by the draft of applying more severe measures than fine, forced education and banishment are too scarce. The Magistrate's Court judges, therefore recommend that in two or three towns, homes be established where the convicts should stay when not at work and where they should be kept under constant supervision. If this is not done we are afraid that it may be necessary to send down not only abnormal but also normal law breakers to serve their sentences in Denmark which, to our opinion, ought to be avoided as far as possible."\(^{73}\)

The Criminal Code of 1954 warranted only one form of confinement, that being custody. In a few cases, confinement had been provisionally arranged so that the convict was isolated from the surrounding world during his spare time but was working outside in freedom in the day time. In 1956 a so-called custody home was established at Nuuk in a hut with room for six persons.

In 1962, a draft for amendment of the Criminal Code was debated by the National Council of Greenland, and here it was indicated that the principles of the measure system of the

\(^{73}\) Grønlands første Kredsdommermøde (First Magistrate's Court Judges' Meeting in Greenland), Grønlandsdepartementet (Department of Greenland) 1974, p. 173-74.
Code were sound and in harmony with the conception of law adopted by the population. However, it was stated that it was becoming increasingly difficult to administer the Criminal Code and, therefore, it was urged that new measures were needed and that such measures ought to be established as soon as possible. If not, the Greenlandic courts might come to experience a crisis of public confidence. 74)

When the Criminal Code was revised in 1963, the measure of "custody" was abolished. It was agreed that one or more institutions must be established to take over the measures including imprisonment.

The most radical measure applied today is institutionalization. Apart from that, the sanctions cover a lot of things, from dismissal with a caution, fine, supervision, assignment of work, education and medical treatment to placing in a private home or an institution.

3. Implications of the analysis of the justice system

The involvement of the community in the work of the court is very limited. People living in the community rarely show up in court to follow the trial, and it is unusual for the Inuit population to discuss court cases in public. About the

problems mentioned above, however, an experienced Greenlander who has for more than 20 years acted as an assessor in court writes in the Atuagagdliutit (Grønlandsposten), September 16th 1988:

Why are we always short of room in the institutions? - Why must the court much too often yield to such shortage in "the world’s best criminal legislation," as the chairmen of the courts prefer to call it? Ought it not to be called "the world’s most houseless and rightless court?"

This quotation is a true expression of the problems and the criticism which are burdening the Greenlandic criminal courts of today. The expression "chairmen of the courts" probably refers to the fact that many Danish lawyers still maintain that the Criminal Code is the world’s best because of the special individual possibilities it contains.

However, in Greenland today the interest seems to be far more focussed on the crime victims. The "offender principle" is no longer believed in, and a demand for some kind of maximum and minimum limit for the fixing of punishment has arisen.

It also seems as if the Danish authors of the Criminal Code have been more Greenlandic-minded and culture-oriented than the Greenlanders themselves. Neither can the possibility be precluded that the criminal philosophy prevailing in Denmark and Europe at that time has influenced the legislators greatly. Note for example, the quotation above from the report of the Juridical Expedition where it is said that the
introduction of individual considerations in the Greenlandic concept of law is in harmony with modern legal principles.

Again, it must be emphasized that it is not the Criminal Code that suffers from shortcomings. It is its application that is wanting. It is practical concerns that dictate the level of measures and the criminal policy adhered to. Apparently the Danish lawyers have been unsuccessful in their attempts to unite the idea of nonimprisonment with the practical needs of Greenland. The situation today, therefore, is one where rhetoric and reality are not in harmony.

Another fact which has greatly influenced the criminal policy followed in Greenland has been the scarcity of economic resources. Economic considerations, on the whole, have apparently figured prominently during the work on the Criminal Code and the measure system.

Thus, to the convicts who are sentenced to institutions in Denmark the lenient criminal policy and the consideration for cultural peculiarity have had quite inhumane consequences, involving deprivation of both liberty and culture.

It is necessary, then, that future criminal policy-makers take a close look at the Greenlandic sentiment of justice today. Otherwise the Criminal Code, the courts and the Greenlandic criminal policy on the whole will get into a serious crisis of
confidence on the part of the Greenlandic population, and the consideration of Greenlandic culture and concept of law invoked by theory and practice as well will come to look empty, false and wrong.
SUMMARY

The Greenlandic society is unique, and so is the Greenlandic court system. Today, Greenland has a Homerule Government with the power to enact laws, a customized court system with the traditional use of lay judges as its main cornerstone, a Criminal Code created in consideration of Greenlandic culture and sanctioning practice, a prison system based solely on the idea of rehabilitation, and a police force staffed mainly by officers educated in Greenland. It must be emphasized that the Danish law-makers have shown great willingness to accommodate Greenlandic needs and wishes in the creation and operation of its criminal justice system.

But, has Greenland benefitted from this goodwill? To answer this question, we must consider the historical development. After World War II, during which Greenland had been isolated from Denmark, there was a desire in both countries for a common State and, within certain limits, shared laws. It was recognized, however, that Danish law was not immediately applicable to Greenland because of the considerable cultural differences between the countries. A Juridical Expedition, therefore, consisting of three young Danish jurists, was commissioned to examine the state of Greenlandic law as manifested by written provisions, court practice and customs. After having travelled through Greenland for two years, 1948-
49, the Expedition concluded that the Danish Penal Code would be incompatible with Greenlandic legal tradition. They had found that traditional Greenlandic court practice centered on consideration for the specific needs of the individual offender. In contrast, the Danish Penal Code was based on the concept of punishment in relation to the severity of the crime.

On the basis of the recommendations of the Expedition, a new law was made. It was called the Criminal Code, not the Penal Code as is the Danish one titled. The name was to indicate that the Code was prescribing remedial measures rather than penal ones. Thus, for the first time, a law had been created which held in respect old legal traditions and, at the same time, was in harmony with modern penal law philosophy.

The most distinctive feature of this Code is that it contains no prescriptions regarding maximum and minimum penalties, like those found in the Danish Penal Code. The consideration for the offender’s personal conditions and the desire to help him is to be made the basis of the sentencing, rather than the severity of the criminal act committed. This means that a Greenlandic court, might prefer to fine a murderer or dismiss him with a caution, if that was thought to be for his benefit. However, the court may also sentence the offender to placement for an indefinite period in the Institution at Herstedvester, if the circumstances dictate it. It must be noted that,
anyhow, courts must consider general deterrence on occasion, having regard for the local crime rate and wishes of the public.

The courts of first instance, the Magistrates’ Courts, have local Greenlanders in the judges’ seats. A Magistrate’s Court judge will have had no legal training but, nevertheless, hears all types of cases, from theft to homicide. Sentences passed by the Magistrates’ Courts may be appealed to the Greenland High Court, presided over by a legally trained judge. However, the use of lay judges at the trial level should ensure that court decisions are informed by and responsive to, local priorities.

Today, the Greenlandic court practices are very lenient compared with Danish standards. However, this thesis states that it is not the Criminal Code that necessitates the lenient sentences. The fact is that the Prosecution submits recommendations to the courts and the courts typically follow them. In each case both of these authorities take into account the practical possibilities and resources existing at the moment. Sentences of incarceration, for example, are necessarily uncommon because of the small number of local penal facilities. There are three institutions for convicts in Greenland. One at Nuuk with room for 58 persons and one each at Quaqortoq and Aasiaat. They are all open institutions. The
residents work in town during the day and are confined at night.

Greenland also has free Probation Services, but very few towns have their own departments. Supervision tasks, therefore, often have to be performed by telephone, sometimes at a distance of hundreds of miles. Even though private probation supervisors or the local police will often be of assistance, professional and effective supervision is quite illusory in many places.

Today, as it seems, it is neither the Criminal Code, the cultural regards, nor other idealistic considerations that govern the Greenlandic criminal policy, but solely the practical limits set by the available measures and economic resources.

To avoid a threatening crisis of confidence between the Greenlandic court system and the population, it is necessary to listen carefully to the desires of the latter. Long enough has regard for the Greenlandic culture and concept of law been invoked to justify reforms which in the final analysis have been dictated by economic considerations.

To give the Greenlanders a fair chance of expressing in what direction their sentiment of justice is moving today, they must necessarily be offered the economic resources required to
maintain a tolerably respectable court system. However, it must be remembered that the geography and the climate of Greenland present quite another challenge than we know of in Denmark. The fact remains that the Greenlandic people must be allowed to decide for themselves, on the basis of their own legal ideology, how their court system, their assessment of sanctions and their prisons shall be administered in the future. This must be so, even if it will result in an approximation of the Danish system. The time has come to bury the image of the noble savage living at peace with himself and nature in accordance with the Arctic Peace Model. This idea, however well-intentioned, is an illusion. In the author's experience, it has limited progress and has created a court practice out of touch with the Greenlandic reality and the Greenlanders' concept of justice.

It is hoped that this thesis will prompt more people to take an interest in Greenland. The experiences gained from the work on the Greenlandic administrative evolution will undoubtedly be applicable to other minority groups who are today aspiring to assume control over their own territories, police forces and court systems. This does not mean, however, that the Greenlandic court system is better than other countries' court systems. It still has its shortcomings in spite of the efforts made to Greenlandize legislation, courts, police force and prisons. The reason for this may be the marked institutionalization, known from other parts of the Western
World, which has been the result of the codification of customary law, the establishment of police force and courts and the introduction of the Homerule Government. The formalization and the fixed standards have disrupted the flexibility necessary to maintain a peculiar culture when trying to make it enter into new relations. It is the author’s personal view, however, that no system based on individual consideration can be maintained at all. If a court system is to function without being accused of injustice by those sentenced most severely, it must necessarily apply general provisions and its practice must be fixed and equal, at least to some extent.

The reason why the Greenlandic court system has become institutionalized may be that it has not been created specifically for Greenland. Since the song fights were abolished there have not been any other standards than those borrowed from the Danish court system. Nevertheless, although the formal structure is Danish, it must be stated that there exists, today, a specific Greenlandic concept of law created on the basis of the actually practised administration. Contributory reasons for the formalization of the Greenlandic court system have been the rapid societal evolution and the fact that the provisions have mostly been administered by Danish officials who, despite their good intentions, have not been able to abandon Danish legal standards.
Today, the Greenlanders are almost unrestrictedly controlling their own legal policy, police force, prisons and courts. This must be looked upon as a very favourable result of the efforts made. It will be interesting to see in which way the Greenlanders are going to manage their administration of justice in the future.
APPENDIX

INTERVIEW WITH HIS HONOUR THE MAGISTRATE'S COURT JUDGE ABRAHAM SVENDSEN

The following is an interview with His Honour the Magistrate's Court Judge Abraham Svendsen from the Magistrate's Court of Ilulissat. The interview took place on May 20, 1989. Abraham Svendsen has been a Magistrate's Court Judge for 27 years.

What is your personal background?

I was born in the small settlement, Prøven, in 1925. I went to "Children’s School" ("Børneskole") in Prøven and was trained by various catechists. At that time about 300 people lived in Prøven. Probably there are only 200 people left now. In those days Prøven was a whaling station which was run by a Danish factor.

In 1940 I left for Aasiaat to go to continuation school (efterskole) and to secondary school (realskole).

As both my parents were dead, I went to Abilatoq in the district of Upernavik where my older brother Peter Svendsen was the manager of a trading station. Later on I received a
telegram from the Commercial Department (Handelsinspektoratet) offering me a chance to attend the telegraph school in Nuuk whereupon I arrived in Nuuk on November 6, 1944 after having sailed from Upernavik on September 24 by schooner. It was a long journey at that time.

I started on the training as a telegraphist, but I never got to the final examination, because our teacher left the school by the end of World War II on May 5, 1945 and after his departure we had no training.

Then I returned to Upernavik and worked as a telegraphist.

How did you get involved in the juridical system?

When I lived in Prøven in 1952 it happened that the Magistrate’s Court Judge came to hear a case. Being curious to learn how a case was heard I went to the sitting of the court, but when I got there, I was almost compelled by the Magistrate’s Court Judge to act as an interpreter. It was very difficult because I did not speak much Danish at that time.

The name of the Magistrate’s Court Judge was Andreas Nussutorsuaq, but he was called Soko. He was the first Magistrate’s Court Judge in the area. Earlier there had been the County Council (Sysselrådet) and the chief administrative officer of the county (Sysselmanden), who normally was a
Danish official. The County Council, also known as the County Court, acted both as Counsel for the Prosecution, Counsel for the Defence and as judge.

It was very difficult to translate legal terminology all of a sudden and when I came to "The sentence of the Court is" (Thikendes for ret), I used a whole lot of Greenlandic words to translate it, because it was almost impossible to translate this sentence into Greenlandic.

Later Andreas Nussutorsuaq was replaced by a Magistrate's Court Judge called Jens Nielsen. He was a police sergeant in Prøven. In 1956 I received a letter from him asking me if I was interested in becoming a Magistrate's Court Judge. For two years I had been acting as lay assessor in a few cases. At that time I was very shy and cautious, but someone in the settlement must have recommended me and people said that it would be a good thing to have a Greenlandic Magistrate's Court Judge. Most Magistrate's Court Judges were, however, Greenlanders and very few Danes acted as Magistrate's Court Judges at that time.

It was not until June 1956 that I officially was appointed Magistrate's Court Judge.
Do you remember anything about the sentences given in those days?

I remember the very first criminal case at which I, being a lay assessor, assisted. We could not help laughing together with the assessor who was a hunter, because he abused the accused for what he had done and did not defend him at all.

Which action was taken against the accused at that time?

At that time there were no alternatives but to fine them. I do not remember any serious crimes from those days. There were mainly small offences such as larceny.

At present, the Criminal Code is being much criticized and it has been said that it is too lenient. What do you think of this?

I have heard lots of people say that the sentences have been much too lenient when it comes to serious crimes, and frankly spoken I also find some of the sentences too lenient. Especially when it comes to repeated offences and here I am specifically thinking of rape.

Last winter I experienced two things which moved me deeply. Two young men were involved. One of them was sentenced to nine
months in the Home for Convicts, but he himself felt that the sentence was too lenient. He had committed lots of burglaries and larcenies, but he needed a home and somebody to look after him, and he knew he would get this if placed in a Home for Convicts.

The other youngster assaulted his cousin with a knife. The reason for this was his wish to get away from his family. He expressed this reason in court and he knew that if he was sentenced, he would be placed under better social conditions.

It moves you when you hear such things in court and what is one to do about it? On that background it is very difficult to take the right action.

Last year (1988) the number of murders in Greenland was 18. What, in your opinion, is the reason for this high figure?

Obviously it is due to drinking and hostility among people. It is often hard to understand the motives of the accused. Most homicides are committed in a state of drunkenness and the offender does not remember anything.
Several Magistrate’s Court Judges have expressed that they want better possibilities for sentencing the offenders to be placed in Homes for Convicts, but they hesitated to do so, because they knew that the institutions and the Probation Services in Greenland were overcrowded.

Yes, we are much aware of that because we know that the Greenlandic detention cells are being used as a sort of institution and that the offenders are placed in the detention cells for up to one month at a time. Even though they have broken the law it is not fair to treat fellow human beings this way.

Do you find that the Greenlandic Criminal Code harmonizes with the Greenlandic traditions of law?

I have always thought that the intentions and the purposes of the Criminal Code were right if one can comply with them. But as I have said before it is difficult now and then to comply with the intentions of the law.

Has it become more difficult to meet the needs of the offender and help him make good?

Yes, it has become more difficult and particularly concerning the youngsters. We must, however, also take into consideration
the public opinion upon the sentences given. But what are we to do? We do not have any alternatives.

Would you like to be able to give a more severe sentence to some of the offenders?

If I must consider the public opinion I would like to be able to give some of the offenders a more severe sentence.

The fact is that the Magistrate’s Court Judges are not bound by maximum and minimum penalties and it is easy to imagine that the Magistrate’s Court Judges themselves began to raise the level by taking more radical actions. Why do you not give a more severe sentence in the cases where you find it right?

Because I am not allowed to give harder sentences than the Criminal Code dictates and that leaves us with no other alternative than to prolong the time of the institutional placement.

Do you feel that the people of Ilulissat are interested in the juridical system? Do you often talk to them about it?

No, I must admit that it does not happen very often. No one talks much about it even though it is my impression that people know what I am doing. Especially in the small settlements in the area around Ilulissat I have sometimes held
a meeting to tell people about the trial of probate cases. If I spend the night in the settlements I usually tell people about the work in the Magistrate's Court.

**What is the most difficult thing about being the Magistrate's Court Judge?**

The most difficult thing is the treatment of a major estate of a deceased person and when it is, for example, about a Dane who lived in Greenland, or when it concerns cohabitants who have not been married. Also the civil cases are getting more and more difficult. It is also very time-consuming when a firm, for example, hands in 80 writs at one time.

**Would it be a good idea to introduce court fees like the way it is in Denmark?**

Yes, I believe it would be a good idea. Among other things because as time goes on we have to deal with so many civil cases which all concern very small amounts.

**If we return to the discussion of the Criminal Code and the man, Verner Goldschmidt, who created the law I would like to ask you if you have ever met him?**

Yes, I met Goldschmidt during the first meeting of the Magistrate's Court Judges in Qaqartarsuaq in 1956 and later
also in Upernavik in 1958 together with Guldborg-Chemnitz when they were doing the extensive research of the society. Goldschmidt was a very nice and friendly man. During our official journey I remember that he was playing his accordion on deck. It was a very nice day and when we arrived in a settlement they wanted to see some real traditional Greenlandic dances. After having finished the work the dance began. We had agreed to sail at 10 o'clock but the dance went so well that we postponed the departure till 12 o'clock. I remember that the hunters had shot some narwhales and that they gave Verner Goldschmidt a narwhale tusk as payment for his accordion music.

Nowadays lawyers have come to Greenland and several lawyers also come to Ilulissat. What do you think of the presence of the lawyers in the traditional Greenlandic Magistrates’ Courts?

It is true that we now see more lawyers appear as assessors in criminal cases. We do not, however, make a point of the things they say. But in the civil cases it can be a problem for us when they state too many juridical problems. Furthermore I think that they create more problems than they solve.

How is it to be a Magistrate's Court Judge in a town like Ilulissat? Did you ever have any problems about that?
No, I have never had any problems about being a Magistrate's Court Judge in this town. Nor have I been exposed to threats or anything else in connection with my job. It pleases me very much that the youngsters always are polite and friendly and say hello, even though I sometimes have given them a hard time in court. I surely feel that they respect both me and the court in a positive way.

*What is in your opinion the cause of criminality?*

Concerning the young ones there are many of them who lack contact with their families and this is often due to alcohol and poor housing, but the youngsters of today also want to leave their families. Among other things they wish - contrary to former times - to live alone and live their own lives independent of their families. Earlier the families lived together until the children got married and had their own families. On the other hand, it may also be important that the young ones leave their families, especially if the family has an alcohol abuse problem, but I believe that what is needed is information for the youngsters so that they understand the old family structure better. At the same time, I think that much too little is done to bring up the young people properly. The young ones of today are like children in a playground and have no responsibility towards the family, and they are taken much too little in hand.
Is it your opinion that the young people know the laws well enough and know when they break, for example, the Criminal Code?

To this the answer is both yes and no. In many cases, I have the feeling that they have much too little knowledge of the Criminal Code. So it happens all over again that they do not even realize that they are breaking the law and they do not know the significance of the things they do. They do not consider how serious it is and which consequences it may have. On the other hand some of them know perfectly well when they break the law and hereby the rules of society.

How has crime developed since you became a Magistrate’s Court Judge?

In former times crime was considered a very serious thing. I remember the first burglary that I heard of in Upernavik. It concerned a young man who broke in through a window in the KNI (Kalaallit Niuerfiat) – in those days known as the KGH (Kongelige Grønlandske Handel (Royal Greenlandic Trading Company)) – and stole dkr. 800 (US$ 114). Much time was spent on this case and the offender was questioned for a long time and many witnesses were involved. The conclusion of the case was that the offender was fined and sent out of the district of Upernavik. He was simply sent to a small settlement in the district of Uummannaq. This happened just before the Criminal
Code took effect, which was around 1953 or 54. But in this way the offender changed and became quite a nice person. Later he returned to Upernavik. I think that formerly offences were considered something very bad. Today people are so used to crime that they do not care. A homicide used to be a very, very serious thing, whereas people of today don’t pay nearly as much attention to it.

If we try to look at the system of Magistrate’s Court Judges in the future, is there anything you would like to have changed?

During the latest meetings of the Magistrate’s Court Judges we have discussed the lay judge system and I must say that I am convinced of the benefits of this arrangement, because the Greenlandic Magistrate’s Court Judges usually know about the people who live in their jurisdiction and know who they are. Only once have I felt a considerable contradiction between the Greenlandic and the Danish conception of the law. It was a civil case where father and son disagreed on the payment for a fishing vessel. The son took out a summons against the father with a claim for the payment of dkr. 70,000 (US$ 10,000). In the Magistrate’s Court in Ilulissat the father was found not liable to pay this amount to his son, based on our traditional pattern of family life concerning among other things the distribution of supplies. The case, however, was appealed to the Greenland High Court, which amended this judgment and
sentenced the father to pay the money to his son. I was very angry about this judgement. Even though there are two Greenlandic lay assessors in the Greenlandic High Court together with the Danish lawyer, I believe that the Danish lawyer in a great many cases will be able to convince and influence the two Greenlandic lay assessors and thereby be able to force through his own conception.

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This interview with His Honour the Magistrate’s Court Judge Abraham Svendsen was conducted and translated by the author and published in full, with a few minor linguistic revisions. Abraham Svendsen has given his permission to the publication.
This bibliography is neither comprehensive nor a reader's guide to literature about Greenland. It is merely a list of books and articles to which the text refers, from which quotations have been selected, or which, though not explicitly mentioned in the text, directly contributed to the process of writing this thesis.


Betænkning vedrørende kriminalpolitiske spørgsmål i Grønland (Report concerning questions of criminal policy in Greenland), Copenhagen 1990.

Breinholt Larsen, Regler og konfliktbearbejdningsmetoder hos de grønlandske eskimoer i den førkoloniale periode (Rules and conflict adaptation methods among the Greenlandic Eskimos in the precolonial period), Århus 1982.

Breinholt Larsen, "Death and social change in Illoqqortoormiut (East Greenland)." Paper presented at the 7th Inuit Studies Conference in Fairbanks, Alaska 1990. Available from Resource Centre of the Northern Justice Society, Simon Fraser University, Burnaby, British Columbia.


Folketingstidende (Parliament's Review), Copenhagen 1948 ff.


Gronland 1979(-86), Årsberetning udarbejdet af Ministeriet for Gronland (Yearbook of the Ministry for Greenland), Copenhagen 1980 ff.

Gronland 1987 (ff), Årbog, Statsministeriet, Gronland departementet (Yearbook, Prime Minister's Department, Department for Greenland), Copenhagen 1988 ff.

Gronlands første Kredsdommersmde (First Magistrate’s Court Judges' Meeting in Greenland), Ministeriet for Gronlands (Ministry for Greenland), Copenhagen 1974.


Høyem, T., Dagens Grønland (Greenland Today), Rhodos, Copenhagen 1986.


Kriminalforsorgens Årsberetning (Yearbook of the Probation Services), Copenhagen, 1980 ff.

Kriminalloven og de vestGrønlandske samfund I-II (The Criminal Code and the Western Greenlandic Communities), Copenhagen 1962.

Kristensen, Ella, Dagligliv i Anstalten (Everyday Life at the Home for Convicts), Forlaget Hjulet, Frederiksberg 1987.


Permanent Court of International Justice (PCIJ), Publ. A/BNo. 53, 1933.

Retfærd i Grønland (Justice in Greenland), Modtryk, Århus 1980.


Statistisk Årbog (Yearbook of Statistics), Danmarks Statistik (Denmark's Statistics), Copenhagen 1900 ff.

Sølling, Alkoholforbruget i Grønland (The Consumption of Alcohol in Greenland), Socialforskningsinstituttet (Institute for Social Research), Copenhagen 1974.


Tidsskrift for Grønlands Retsvæsen (Journal for the Legal Administration of Greenland), Copenhagen, 1974 ff.
