

## Response

### CSC AND THE 2 PER CENT SOLUTION: THE P4W INQUIRY

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Although the Inquiry has been over for a number weeks and the final report of **The Commission of Inquiry Into Certain Events at the Prison for Women at Kingston, Ontario** is due out March 31, 1996, I feel as though I am only now emerging from the shroud of the events and proceedings. I am left without even a fleeting sense that things might actually change as a result.

As I write this, many of us are grieving the suicides of yet another two women in our prisons. I hope both Brenda and Denise may now rest in peace, and that the rest of us have the strength to continue on in our push for justice. I pray that we will see a time when no more women will lose their lives or their spirits in our prisons. I wish the Prison for Women (P4W) and other prisons could close permanently. I find myself increasingly vibrating between despair and anger. Rather than be immobilized by the despair, I urgently call for action.

Before I discuss what happened to whom and when, what my personal and CAEFS responses were, I need to start by articulating what I consider to be the most profoundly disturbing and disappointing revelations of the Inquiry. Throughout the process, I was shocked by the disdain for the women and the flagrant disregard for the law exhibited and articulated by Correctional Service of Canada (CSC) witnesses. This extended from those on the front line to those at the top, including the Commissioner and his Senior Deputy Commissioner. I was also incredulous at the extent of the systemic disorder and ineptitude of what seemed to be a bureaucracy out of control.

In the end, it was most disturbing to realize that every matter raised by Commission counsel in their final submissions to Justice Arbour had been raised prior to the C.B.C.'s *Fifth Estate* exposé, with the Commissioner of Corrections, and in many instances the Minister as well. These matters were raised by the women themselves, via third level grievances as well as direct appeals to the Commissioner, and the Minister and some of his colleagues in Parliament. They were also raised by the Correctional Investigator. Issues were of course also raised by CAEFS, our membership, as well as our coalition partners in the women's social and criminal justice network.

In all cases then, the Commissioner had heard the same matters raised once, twice, three, or more times. This fact notwithstanding, he had chosen to believe the information he was receiving internally, even after such input had been clearly shown to be significantly flawed or obviously wrong. In the final days of the Inquiry, briefing notes disclosed that even after such issues as the use of force, the

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involvement of men in the strip searching of the women and the women's lack of access to counsel had been established in evidence, the Commissioner was still being given erroneous information. Unfortunately, despite the existence of transcripts and media accounts to the contrary, the Commissioner chose to follow his briefing notes rather than question his own staff.

What emerged was the portrait of a very insular, insecure yet self-righteously arrogant government department, where prisoners or anyone who questions their actions are relegated to the margins and classified as unimportant and misinformed, regardless of the facts. I must admit that I naively believed that somewhere along the line someone would express regret and accept responsibility for at least some of what had so clearly gone wrong. I seriously underestimated the extent of the bureaucratic brainwash, Orwellian double speak and rudderless direction of CSC. All energies seemed to be focused instead upon efforts to obfuscate the issues, discredit any perceived detractors and continue on with business as usual.

Why am I still incredulous when the suicides this past week do not seem to cause a questioning of policies and procedures, and that efforts instead seem to be focused upon the frailties of the women themselves or to scapegoating their sister prisoners? At times it feels a little too weird doing this work, but then I remind myself of the basics -- that social control and industry are what imprisonment is really about, not justice.

I also remind myself that the focus of the Inquiry from CSC's perspective was myopic: federally sentenced women are, after all, only 2 per cent of the federal prison population. In addition, we considered the implications of the Inquiry to be much more extensive than did CSC for whom it seemed to be just another brief spotlight on a past event at the Prison for Women, and not particularly relevant or significant to the future of women's corrections. We certainly hope that the reality will ultimately be otherwise. I will outline CAEFS perspective on the future -- and mine -- throughout the rest of this article.

A discussion of the Inquiry must start with the situation at the prison more than 2½ years ago. Despite the release in 1990 of the recommendations of the Task Force on Federally Sentenced Women, and the pending closure of P4W, transitional planning had not proceeded as suggested. Despite clear interim recommendations, liaison workers and all programs and services for the women at P4W were not maintained. For at least the past two years, such contracted services as psychology and the library were in jeopardy. In addition, some positions vacated by staff were not necessarily filled. There was also a reduction in the availability of educational programs. There was increasingly limited availability of staff to escort women to other prisons for programs, ETAs, medical appointments, et cetera.

Despite the Solicitor General Doug Lewis' announcements in September and December of 1994 that the level of services and programs offered would be maintained until closure of the Prison for Women, cutbacks at P4W were included in CSC's regional and national budget reductions. This Minister had also previously announced that the prison would close by September 1994.

In the past 2½ years, security levels within the Prison were increased as opposed to being revised or relaxed in preparation for the movement of women from P4W to the new prisons. For example, B-Range was established as a Separation Unit in July 1991. There have been increasingly limited opportunities for B-Range women to access non B-Range jobs, services and programs. There was a particular crackdown in this regard following the stabbing of a prisoner in August/September 1993. The administration refused to "open up" B-Range until such time as the "victim" of the stabbing was transferred to the Burnaby Correctional Center for Women (BCCW). She was held in the P4W hospital area until January 1994. In the interim, there was no relaxing of security.

Many B-Range women were only permitted security visits with their families. The rationale given was that the administration suspected, had intelligence information regarding, or had actually detected drug use by those women who were being denied access to support (family, or friends who might visit). In reality, most of the other women who were not placed under such visiting restrictions did not generally receive visitors. B-Range women were not permitted access to the full yard, nor eventually at the same time as the rest of the general population.

The power struggle between the P4W administration and the B-Range women was exacerbated in December 1993, when all of the B-Range women went on a hunger strike after one of them had her Private Family Visit (PFV) cancelled within 1-2 hours of its commencement. This occurred in the midst of the women (and CAEFS) trying to negotiate with the prison administration for the women to be permitted to have their families attend the December 1993 Family Day. A standoff ensued, ending some 2-3 days later, when the women terminated their hunger strike so as not to interfere with the next woman's PFV. This was also a response to their discouragement caused by the warden's unwillingness to even agree to meet with them. These matters subsequently formed part of the rationale for not relaxing security on B-Range once the stabbing victim left P4W.

In addition, women in P4W, particularly on B-Range, were reporting harassment by staff, particularly the disrespectful and condescending attitudes, of some of the younger, less experienced staff. For example, women being called for "kibbles and bits" at dinner time, stomping and banging and flipping up shams during the night shift. First Nations women on A-Range, as well as in the Wing, had complained of interference with bundles, prayer time and the destruction of the Sisterhood's grandmother drum. The latter has never been acknowledged by the warden (et al.,) although the women told me there was a "bootmark" in the middle of the drum and it's covering had been opened up. It had been a gift from the Native Women's Association of Canada to the Sisterhood in May of 1993 during their spring Pow Wow.

CAEFS encouraged women to seek the assistance of the Correctional Investigator, raise matters with the Citizens' Advisory Committee, and to utilize complaints and grievance procedures. The women were initially reluctant, but did gradually increase calls to the Office of the Correctional Investigator and laid complaints and grievances. Mary

Cassidy, the Warden at that time, was specifically advised by the author that CAEFS would be increasingly encouraging Federally Sentenced Women (FSW) to avail themselves of the "legitimate complaint mechanisms", as we felt that they needed to utilize that process to assist their efforts since the prison administration was not budging.

I advised the warden of this in an effort to take some of the heat off of the women -- which I assumed they would experience. I also advised the women that from my experience, I shared their conclusion that "things would likely heat up" before conditions would improve. The warden considered this as possibly inciting the women. In fact, in addition to advising me that she felt I was possibly inciting the women, two B-Range women were segregated after they attempted to file a group grievance on behalf of their colleagues on the range. Their behaviour was classified as threatening to the order of the institution.

Despite the rhetorical commitment of the Solicitor General and the CSC, there are decreasing opportunities for women to be empowered and have meaningful choices. For example, women still do not generally have access to CORCAN jobs or other work release opportunities; except for some hairdressing experience, no vocational training opportunities exist. There is also a lack of development of joint strategies to link the community into the new prisons and assist women with the transition, despite offers from Elizabeth Fry Societies and other groups to facilitate it.

Further, staff training in preparation for the new approaches contemplated by the Federal Task Force's recommendations were not undertaken and there was insufficient training of new staff coming on board. This took place in a situation characterized by an increasing exodus of staff. The Commissioner of Corrections indicated that there was a 70 per cent staff turnover at P4W over the last few years. The women were reporting inconsistencies amongst staff re: security practices, provision of privileges, access to the Correctional Investigator, to CAEFS and to their lawyers. They noted the staff's lack of knowledge of policies and procedures, and their failure to adhere to them, especially in relation to complaints and grievances; the lack of support for the work of the Peer Support Team, psychology, and outside contract staff. Also, the warden had indicated that she was short staffed at times, thereby limiting the Prison's ability to provide escorts for temporary absences, social events and the like.

From the first telephone calls and my April 28, 1994 visit to P4W, CAEFS was integrally involved in attempting to ensure that there would be a full and open investigation into the matters and issues relating to what has come to be known as the "April incidents" at the Kingston Prison for Women. In addition to raising concerns with staff at the regional and national levels of the Correctional Services of Canada regarding the state of affairs at P4W both prior to and since the April 1994 incidents, CAEFS encouraged the Solicitor General to conduct an independent investigation into these matters.

Two days after the Solicitor General announced that he would be commissioning an independent inquiry into the matter, the author was advised by John Edwards, the Commissioner of Corrections for the

Correctional Service of Canada, that the videos of the "incidents" were available for viewing at national headquarters. Sharon McIvor, of the Native Women's Association of Canada and I, viewed the videos of the April 26, 1994, Kingston Penitentiary Emergency Response Team's (ERT) actions in P4W, and the May 6, 1994, transfer of five women from P4W to Kingston Penitentiary.

The difference in the manner in which procedures were followed in both instances was strikingly disparate. In stark contrast to the intervention of April 26, 1994 (as presented by C.B.C's *The Fifth Estate*) the strip search and shackling procedure on May 6, 1994, was a calm, methodical procedure, carried out by three women correctional staff. The Kingston Penitentiary ERT stood outside on standby and subsequently escorted the women out of P4W and over to Kingston Penitentiary.

The Canadian Human Rights Commission included the P4W issues in its Annual Report of March, 1995. In addition, the Senior Commissioner, Max Yalden, met with the Commissioner of Corrections and advised of their concerns with respect to the ERT involvement at P4W and the decision to allow the hiring of men for front line positions in the new women's prisons. Similar concerns were discussed by *Penal Reform International* (1991) in their newsletter. The problems identified at P4W were related to their own attempts to report upon international incongruence with and lack of implementation of the United Nations' *Standard Minimum Rules for the Treatment of Prisoners*. Amnesty International referred the matter to their international office in London, England. I also forwarded information to the International Centre for Human Rights and Democratic development, and to women who participated in the United Nations 4th World Conference on Women in Beijing (China), from September 4-15, 1995.

In addition, Michael Jackson has included information in the report he is authoring on justice for the Royal Commission on Aboriginal Peoples. Resolutions have also been proposed for national women's groups, and these issues were on the agenda for the "Violence Against Women" consultations with the Department of Justice in June of 1994 and 1995. Attempts to keep the issue alive with the media also remain a high priority.

Two of the women involved in the April "incidents" and subsequently segregated for eight months, have now been released. One is on the west coast, the other on the east coast. One woman was recently maced, stripped, shackled, and re-segregated following what began as a drug-induced state. We currently await the results of her counsel's investigation into the incident. We have also requested the intervention of the Correctional Investigator, as well as an accounting from the prison administration. This theme is shockingly familiar.

Adherence to the inmate grievance procedures are still highly variable. We continue the two year wait for a Grievance Committee (consisting of prisoner and staff representation) to address complaints that arise in the institution. We continue to have significant concerns about the resistance amongst staff at P4W to adhering to the CSC's own inmate grievance process.

The new segregation unit was officially opened on April 14, 1995. Solid doors, locked metal slots, glaring neon lights, questionable ventilation, indiscernible programming and limited personal contact make it a most unpleasant environment. When the unit opened, Thérèse LeBlanc, the warden at P4W, maintained that stays in the unit would be short term and that she would like to keep the unit closed as much as possible. The reality is disturbing, albeit not surprising.

Meanwhile, the old segregation unit was physically altered by the removal of the tread plate which was installed on the bars when the women were transferred back to P4W from Kingston Penitentiary in July of 1994. The prison now refers to the area as a "special needs unit" for women who have significant mental health concerns.

After more than four years of pressure for the development of policies and procedures for B-Range, these are now being developed. Although we had been pushing for such an examination for some time, the warden and her senior administration claimed that this could not occur until after the segregation policies and individual plans for the gradual release of the women from segregation were developed. The rationale for this decision was twofold. First, the pressures from CAEFS and others (including nation wide media coverage) to release the women from segregation as quickly as possible, increased the level of energy expended in responding to the many media calls, and was creating time and resource crunches. Secondly, the staff at P4W were not yet ready for the reintegration of the women from segregation, much less the relaxing of the tight security on B-Range. The current justifications for delays include the need to focus more attention upon the transition of the women from P4W to the new prisons.

Regional representatives of the Union of Solicitor General Employees (USGE) intimidated CSC and management made life extremely uncomfortable for Bob Bater. The harassment culminated in a meeting with the heads of the Emergency Response Teams (ERTs) from the penitentiaries in the region in June 1995. As a result, the 12-year volunteer member and then Chair of the Citizens' Advisory Committee for the Prison for Women felt that he had no alternative but to resign his position. Many staff remain angry with Bob because of the comments he made on the C.B.C.'s *Fifth Estate*.

Despite the objections and interventions of CAEFS and other national women's groups, the Executive Committee for CSC adopted the security classification scheme. At the same time, CAEFS also expressed concerns about the manner in which the April "incidents" were used to mythologize federally sentenced women by classifying increasing numbers of women as high security risks. At the end of April 1995, we took a snapshot of the 134 women then in P4W: 52 were classified as maximum security, 44 as medium security and only 38 as minimum security, 12 of whom are actually resident at the Minimum House across the street from the prison. In addition to the havoc it has wreaked at P4W, the security classification scheme is creating additional concerns regarding the integration of women into the new, supposedly minimum security prisons for women in the regions.

## The Commission of Inquiry

Up to and throughout the Inquiry, we were committed to uncovering the layers of decision making and the basis upon which CSC actions were taken. We also had profound concerns regarding the impact of the events upon the policies and practices of the Correctional Service of Canada vis-a-vis federally sentenced women, both at P4W between now and the closure of the prison, and in relationship to the planning for the new regional prisons for women and the national Healing Lodge.

Primarily due to the nature of the information we had gleaned as a result of our organization's mandate and work, we led the development of a coalition of other national justice, First Nations', women's and labour organizations. This coalition joined CAEFS in advocating for the sort of investigative inquiry that was ultimately announced immediately prior to the airing of the C.B.C.'s *Fifth Estate* exposé. In particular, we encouraged the Solicitor General to ensure that the scope of a public inquiry include the following.

### P4W 1992-95

A thorough investigation into the entire handling by the Correctional Service of Canada of the events surrounding the "April 1994 incidents" at the Prison for Women in Kingston, with particular emphasis upon the assessment and identification of responsibility for decisions made regarding:

- a) the situation at the Prison for Women during the eight months preceding the April incidents;
- b) the April 22-26, 1994 incidents themselves;
- c) the events following the April 1994 incidents, including: the involuntary transfer of five women to Kingston Penitentiary; the excessive length of segregation at the Prison for Women; and the continued punitive responses, including the re-segregation in January 1995 of two of the women involved in the April 1994 incidents; and,
- d) the actions of both staff and prisoners throughout the previous 18-24 months at the Prison for Women.

### Policy

A thorough examination of the policies in place for federally sentenced women in Canada, with a view to ensuring a more positive and proactive manner of addressing the needs, and the risks of and to women imprisoned, both during the transitional period between now and the closure of the Prison for Women, as well as in the new prisons and the national Healing Lodge. We most particularly believed that the Inquiry must examine at least the following Correctional Service of Canada policies:

- a) staff screening, selection, training and deployment policies; especially the decision to allow men to work on the front lines in the new prisons;
- b) security classification, risk assessment and case management practices for federally sentenced women; and,

c) roles, responsibilities and powers of intervention of the Citizen's Advisory Committee and others.

We were also of the view that the Inquiry must include the perspectives of the following key participants, both amongst those who would have standing to fully participate in the investigations, as well as those who would testify during the proceedings:

- 1) the federally sentenced women involved both directly and indirectly in the incidents at the Prison for Women;
- 2) external individuals and organizations such as staff and volunteers of Elizabeth Fry, First Nations' and other community based groups;
- 3) staff of the Office of the Correctional Investigator (to the extent that they are permitted, pursuant to the provisions of the *Corrections and Conditional Release Act*) and members of the Citizen's Advisory Committee;
- 4) Correctional Services staff, including Union and contract staff representation; and,
- 5) individuals and/or groups with expertise in such areas as violence against women as well as those with an understanding of issues related to incarceration, sensory deprivation and prison conditions.

CAEFS' objectives in participating in the Inquiry were primarily to ensure that there was a full review of what transpired, especially the need for a clear articulation of the role and responsibility of CSC in creating the pre and post April 1994 atmosphere and environment of unrest at P4W. We also hoped to encourage changes to policies and procedures for federally sentenced women, in part by highlighting the problems exemplified by how CSC dealt with the issues they created at P4W.

Accordingly, CAEFS sought and was granted full standing as public interest intervenors in the Inquiry. Without funding, we would not have been able to participate fully and effectively in the Inquiry process. While some resourcing for CAEFS, the women and the Citizen's Advisory Committee was provided, those bureaucrats who were funded directly from the public purse had significantly more resources available than did the rest of us.

As a public interest group with standing at this Inquiry, CAEFS valued the opportunity Phase I provided for the examination of the layers of decision-making and the basis upon which actions were taken by the Correctional Service of Canada in 1994, in relation to events at the Prison for Women. The relatively broad range of issues canvassed in Phase II then provided an opportunity for some constructive and timely discussion, which indicated the need for the establishment of progressive and proactive policies and practices, now and in the future.

Phase II highlighted the significance of this Inquiry. It created our first opportunity since the work of the Task Force on Federally Sentenced Women, for women prisoners, groups such as CAEFS, academics and correctional experts to meet in a forum that was not dominated and whose agenda was not determined by CSC. Section 77 of the *Corrections and Conditional Release Act* (CCRA) notwithstanding, our experience has been that there is reluctance on the part of CSC to engage participants in policy development meetings with



respect to federally sentenced women. Indeed, CSC staff have asserted that because there are sufficient numbers of women on staff, they have all the expertise they require and no longer need to consult outside the Service. We maintained that a similar attitude would exist with respect to consultation and advisory provisions of s. 82 of the CCRA if sufficient numbers of First Nations staff were within the ranks of the CSC.

Unfortunately, concerns that were generated prior to the Inquiry, were confirmed by the evidence presented in Phase I, and were exacerbated during Phase II, as the Correctional Service of Canada introduced their "latest" plans for the new prisons. These are the same plans we have repeatedly challenged as mere reconfigurations of current correctional practices. We believe that CSC is reluctant to relinquish the vestiges of models designed to deal predominantly with the men in their prisons.

Moreover, as this Inquiry unfolded, women at the Regional Psychiatric Centre in Saskatoon were subjected to another non-emergency ERT intervention and strip search. Also, women in the segregation unit at the Prison for Women continued to be subjected to longterm 24 hour camera surveillance. A young woman with increasing mental health concerns began to routinely ask to be physically restrained by being strapped to a board. When asked why, she indicated that the staff stayed with her and talked to her if she was on the board. Women transferred to the new regional prison in Edmonton were/are subjected to routine strip searches after every visit with someone from outside the prison, as well as after visits with fellow prisoners in their cottages.

These realities illustrate some of the reasons that we continue to have significant concerns regarding the future for federally sentenced women in Canada. We are apprehensive about the willingness and ability of the Correctional Service of Canada to institute the necessary reforms to address the needs and challenges of women prisoners.

The projected image of a criminal justice system whose personnel promote the utmost respect for the law by modelling a humane and just exercise of power is a stark contrast to the image that has emerged throughout both phases of the Commission of Inquiry. The experiences of women prisoners has exposed too many profoundly disturbing examples of oppression and abuse of power, as well as arbitrary decision making. In our view, the Correctional Service of Canada has repeatedly exhibited callous indifference to prisoners, flagrant disregard for its own policies, and disrespect for the very legislation pursuant to which it operates.

Accordingly, CAEFS respectfully submitted that the recommendations we made on the record during Phase II, combined with the ensuing written recommendations and those of other groups, such as LEAF and the Correctional Investigator, as well as those of the Inmate Committee and the Native Sisterhood, should provide the groundwork for this Commission to recommend significant reform of the manner in which women are imprisoned in Canada.

## CAEFS' Recommendations to the Commission of Inquiry

### Accountability

CAEFS joined both the Office of the Correctional Investigator and the Women's Legal Education and Action Fund (LEAF) in recommending that a commissioner of women's corrections be appointed to govern all matters related to federally sentenced women, including the supervision of the wardens of the new regional prisons and the Kikawinaw of the Healing Lodge. This office would be independent of the current Correctional Service of Canada and report directly to the Solicitor General. CAEFS further recommended that the individual appointed not come from within the ranks of CSC, but preferably be a woman whose experience encompasses human service administration in areas that could include social services, education and health services, as well as the criminal justice system.

CAEFS further recommended that the head of women's corrections (or CSC, in the unfortunate event that our first recommendation is not implemented) be part of a mandatory advisory body to be comprised minimally of individuals representing:

- a) federally sentenced women, preferably at least;
  - (i) two who are currently serving prisoners, possibly elected from the chairs of the Sisterhood groups and Prisoners' Committees of the new prisons and the Healing Lodge, and
  - (ii) two who are formerly imprisoned federally sentenced women; these individuals could be representatives of self-organized former prisoners, such as Strength in Sisterhood (SIS) thereby being selected by former and/or serving prisoners;
- b) the Office of the Correctional Investigator;
- c) the Native Women's Association of Canada;
- d) the Canadian Association of Elizabeth Fry Societies;
- e) Black, visible minority and immigrant women's communities - more than one representative; and,
- f) the Union of Solicitor General Employees.

This sort of body was contemplated by the members of the Task Force on Federally Sentenced Women. Moreover, although the CSC did not choose to implement the national body recommended for the federally sentenced women's initiative, CSC does have a National Aboriginal Advisory Committee.

The CSC is mandated, by virtue of the provisions of s. 82(1) of the CCRA, to establish national, regional and local advisory committees. The members of the National Aboriginal Advisory Committee are all external First Nations representatives, whose mandate is to advise the Commissioner, via his Corporate Advisor on Aboriginal Programs, with respect to issues related to CSC's work with aboriginal offenders. Moreover, as LEAF has established in its submissions in this regard, the need for a separately administered aboriginal correctional system has long been discussed and advocated.

CAEFS accordingly recommended that the Commission propose that s. 82 of the CCRA similarly apply to the new national head of women's corrections, as well as the regional / institutional heads. Also, s. 77 of the CCRA should be amended so as to include a provision similar in

principle to that of s. 82(1) of the CCRA, whereby the sort of advisory committee recommended above, as well as regional advisory bodies, can be legislatively mandated, with a duty to report annually to the Solicitor General and the Parliamentary Standing Committee on Justice and Legal Affairs.

The national advisory committee would provide support and advice to the senior administrator of women's corrections. Such advice would primarily relate to the development of policy within the existing legislative framework, as well as suggestions for law reform. At the outset, the committee would undoubtedly need to focus upon the improvement of internal and external accountability mechanisms.

CAEFS further recommended that regional advisory committees, similar in composition to that proposed for the national body, be established for each of the new regional women's prisons, including the National Healing Lodge and the Burnaby Correctional Centre for Women. These regional bodies would act as a governing board for each of the new prisons.

Unless accountability mechanisms are established in order to maximize the likelihood that federally sentenced women will experience justice and fairness while in prison, the unfortunate reality is that their needs and concerns will once again disappear from public view now that the work of the Inquiry is done. Furthermore, in these times of increasing political and socio-economic polarization and, given the flagrant disregard for the law disclosed by CSC in evidence during Phase I, we anticipate even greater difficulty gaining full public exposure of future crises for federally sentenced women living behind prison walls.

We recognize that there are some good and well intentioned staff within the CSC who have tried to effect change in such areas as risk management and therapeutic programmes and services for federally sentenced women. However, despite their best efforts, their work and words are too often appropriated and finessed into bureaucratic rhetoric.

CAEFS accordingly continues to support the recommendations of the Correctional Investigator with respect to the need for the wardens of the new regional prisons to be held accountable for institutional adherence to the provisions of the CCRA, and that rates of conditional release and availability of relevant institutional and community programming to achieve successful community integration, be included as key variables in the evaluative process.

CAEFS further recommended that commencing with the Exchange of Service Agreement (ESA) pertaining to the Burnaby Correctional Centre for Women (BCCW), all ESAs between the federal and provincial/territorial governments be reviewed in order to ensure that the rights and entitlements of all federally sentenced women are provided and protected thereunder.

By virtue of an Exchange of Services Agreement between CSC and B.C.'s provincial corrections department, the provincially run BCCW serves as the carceral setting for federally sentenced women in the Pacific region. The director of BCCW apparently continues to participate in national meetings with respect to federally sentenced

women's issues. However, BCCW has been excluded by CSC from documentation regarding Task Force implementation matters since shortly after this process became operational in 1991.

CAEFS further recommended that our organization be provided with the mandate and requisite resources, including the financial means, to conduct annual audits of institutional adherence to governing legislation and policy within each of the regional prisons for women. Such audits are to be submitted to the Solicitor General and the Standing Committee on Justice and Legal Affairs.

### Staff

We are concerned that the staffing model for the new prisons has shifted significantly from that envisioned in *Creating Choices*, (1990) and that this could result in a parallel shift from a human services orientation of staff as supportive facilitators, to a fairly clear correctional or custodial orientation. For example, although it was originally envisioned that the heads of the new facilities would be recruited from other social service fields, all of the "wardens" were hired from the administrative ranks of CSC. Also, while the title of the new staff has been changed to "primary workers", their duties will basically be a roll-up of current correctional officer and case management officer duties, with some programming responsibilities. In addition, their training will consist of basic CSC correctional officer training, plus a mere ten days of "woman-centred" training.

Of most significance is the decision to open up frontline staff positions to men in the new regional prisons currently under construction. The Federal Task Force (1990) found that more than 80% of federally sentenced women have histories of physical and or sexual abuse, most at the hands of men in positions of authority over them. The figure rises to over 90% for First Nations' women alone, a group that is over-represented in the prison population. CAEFS is of the view that the potential risks and/or perceived risks of abuses of power in general, and sexual coercion, harassment and/or assault more particularly, are likely to be exacerbated by the presence of men in frontline correctional worker positions.

With the tabling of *Creating Choices*, (1990) the Correctional Service itself acknowledged that federally sentenced women would likely benefit in terms of personal growth, individuality and independence by having supportive and sensitive women as frontline workers, and that staffing policies would then be consistent with the current Correctional Service of Canada policy of not hiring men as frontline correctional officers at the Prison for Women. Moreover, in 1980 Canada endorsed international norms with respect to the assignment of male and female prison guards. Article 53 of the United Nations' *Standard Minimum Rules for the Treatment of Prisoners* (1958), specifies that women prisoners are to be "... attended and supervised only by women officers." In addition, the recent decision of the Supreme Court of Canada in the *Conway* case, essentially reaffirmed current practices at the Prison for Women of allowing only women to fill frontline positions, stating that such practices were in

keeping with the provisions of the *Canadian Charter of Rights and Freedoms*.

For all of the foregoing reasons, CAEFS urges the Commission to recommend that correctional policy for women prohibit the employment of men to work in frontline positions at the Prison for Women and in the new regional prisons and that sexual harassment policies be established for the new prisons.

### **Approach**

CAEFS also continues to view the need for a gender specific process as vitally important to the implementation, in the new prisons, of the recommendations of the Task Force on Federally Sentenced Women (1990). While we recognize that some women sometimes pose a risk to themselves or to others, CAEFS advocates an holistic approach to the security needs of federally sentenced women, as opposed to pursuing the "male-oriented" offence based models. By focusing on what is essentially a negative approach to classifying women, the model currently being proposed appears most likely to further disempower and therefore contribute to the continued infantilization of federally sentenced women.

Rather than promoting such approaches as condemnation and punishment, *Creating Choices* (1990) advocated the promotion of self directed and peer supported alternatives. It was felt that more behavioural change would be possible if prisoners and staff had a better understanding of human behaviour and relational dynamics. Understanding what makes a certain behaviour unsafe and what other alternatives exist is more likely to produce constructive and desirable behavioural change than a punitive or manipulative response. An atmosphere of mutual respect and dignity was identified as the ideal means of maintaining institutional order and discipline.

Current plans for security classification do not seem to have moved sufficiently from the old model and its attendant problems. Therefore, we are worried that these current plans will transport the recent and perennial difficulties at P4W to the new prisons by importing behaviour modification style practices of punishment and privilege bartering. We are fundamentally opposed to continuing the process of transforming women's needs and often desperate life experiences into criminogenic factors and potential instruments of, or rationale for, punishment.

Research into violence and aggression reveal that there are strong situational factors operating either to facilitate or inhibit an outburst of violence. For example, anger and cognitive labelling, dehumanization and deindividuation, stress and perceived alternatives to violence. Even the most passive person is probably capable of some aggression if not outright violence under certain circumstances.

The Task Force envisioned individualized woman centred approaches as opposed to a continued focus on male based correctional classification strategies. *Creating Choices* (1990) anticipated that all assessment tools and program plans for federally sentenced women would be oriented to and driven by their respective community release

plans, rather than the current move toward a model of specified or core correctional program categories.

As we continued to witness during both phases of the Inquiry, rather than examine the various systemic and institutional factors that contributed to the incident on April 22, 1994, CSC exacerbated the situation and then attempted to justify its actions by demonizing the women involved; portraying them as dangerous, high risk women. As a result, following the April 1994 events at the Prison for Women, CSC developed a new "Strategy to Manage Federally Sentenced Women who Behave Violently" and doubled the capacity of the Enhanced Security Units of the new prisons. They chose this option rather than examine the implications of their own practice of assuming they must change prisoners but may leave the prison environment unchanged. They ignored the importance of legitimacy, fairness and justice, underlying the exercise of prison power, and the role of the institution in generating conflict.

As Margaret Shaw (1995) stated during Phase II of the Inquiry: It is, for me, a curious thing that our knowledge of how to handle violence and destruction in schools or in psychiatric hospitals even has for some time included the organization and management practices of those institutions as a crucial element in the generation and the way that violence is encouraged and a major place for intervention.

In prisons, while there has been some acknowledgement of management practices and routines as ways of improving the handling of events, the major focus is still on the identification of the characteristics of the individual most likely to be disruptive.

(p.598)

Rather than encouraging prisoners to take responsibility for their actions and to respect the law, prisons encourage the development or enhancement of coping skills that rely upon the use of manipulation and coercion. The more powerless and unable to influence their own circumstances people feel, the more likely they are to resort to increasingly desperate measures in order to feel as though they have some control over their lives. In the case of women in prison, this too often results in women resorting to self injurious behaviour in an effort to deal with a dehumanizing situation. Furthermore, prisons tend to promote the very behaviour they are supposed to "correct". Therefore, it is not surprising that in those relatively few prisons where prisoner empowerment and self-actualization and the development of a sense of community are encouraged, self injury, assaults and suicides, and the need for institutional use of force, is rare.

CAEFS has repeatedly advised CSC that we regard the strip searches of the women in Edmonton as an illegal practice that is antithetical to the principles of *Creating Choices* (1990). Given that the "enhanced security units" are not classified as segregation units, the stripping of women in and out of those units contravenes CSC policy (Commissioner's Directive #571) and the legislation governing this area (s.48 CCRA; s. 7 *Canadian Charter of Rights and Freedoms*). This practice is also in contravention of Articles 3 and 5 of the Universal

declaration of Human Rights and the United Nations' *Minimum Standard Rules for the Treatment of Prisoners* and the U.N. Convention against torture and other cruel, inhuman or degrading treatment or punishment.

Moreover, as *Creating Choices* (1990) clearly articulated, the notion of dynamic security did not contemplate regular and routine invasive searches. Rather, we would suggest that the effective use of dynamic security requires regular and intensive staff interaction and trust between prisoners and staff. Strip searches directly interfere with the processes required for the development of trust and the empowerment of the women. We certainly view routine strip searching as unnecessarily intrusive and humiliating, and extremely detrimental to a woman's sense of personal dignity.

In addition, we still await a response to our September 5, 1995, letter to the Commissioner and a copy of the investigative report into the August 19, 1995 incidents at the Regional Psychiatric Centre in Saskatoon.

### **A Call to Action**

In letters to Justice Arbour and the Commissioner of Corrections, we have yet again reiterated and elucidated the roles of the respective local and national Elizabeth Fry representatives. This has been the subject of several formal meetings and numerous informal discussions with the wardens of P4W and the new prisons, staff of the Federally Sentenced Women Program and the Commissioner of Corrections.

In the new regional prisons, CAEFS and its membership will continue to advocate on behalf of the women in an effort to ensure that women's rights and entitlements are being provided. CAEFS' preference is to not be involved in purely "operational" matters at P4W or the new prisons. Consequently, in our Phase II submissions, CAEFS asserted the need for regional governance bodies for the new prisons and a national advisory body for the area of federally sentenced women's corrections as a whole. We would welcome the opportunity to start this process in a somewhat incremental fashion, by first having CAEFS at the National Wardens' and Federally Sentenced Women's Program meetings.

CAEFS is currently in the process of regionalizing its advocacy functions. Although, at the Commission of Inquiry, some members of CSC expressed concern at the impact of our advocacy efforts with and on behalf of women prisoners, these have generally been concerns arising out of our monitoring functions. For more than four years, as the Executive Director of CAEFS, I have had the privilege and responsibility of visiting P4W on a regular basis as part of the manner in which CAEFS monitors and assesses the operational implementation of policies.

The purpose of these visits has been to keep abreast of issues arising for federally sentenced women with a view to informing our broader advocacy and law reform efforts, as well as to assist our membership in their efforts to advocate with and for women in prison. Unfortunately, subtle and overt threats to their supervision and service

delivery contracts have left some of our local societies feeling somewhat reluctant to voice opposition to correctional policy and procedure. As a result, much of this advocacy work has generally been performed by the national office.

With the advent of the new prisons and the national Healing Lodge, the advocacy efforts of CAEFS are being regionalized. Local societies closest to the new prisons will visit and provide services to women in the institutions on a weekly or daily basis, depending upon resources. CAEFS has been asked to assist regions and to continue to perform an advocacy function. This would include visiting the new prisons 1-3 times per year, with regional CAEFS representatives being responsible for monthly visits to the new prisons. Such visits would include meetings with the organized prisoners' groups, such as the Inmate Committee(s), the Sisterhood, Black Women's Group(s), Francophone Women's Group(s), Lifers' Group(s), et cetera, as well as meetings with the prison administration. The regional representatives will keep both the Elizabeth Fry societies and CAEFS advised of issues, needs, and concerns arising in their regions. The Executive Director of CAEFS will coordinate national advocacy and policy reform efforts, with a view to assisting local and regional representatives as required.

The foregoing regionalization plans, as well as existing roles of the respective local and national Elizabeth Fry representatives have been the subject of several formal meetings and numerous informal discussions with the wardens of P4W and the new prisons, staff of the Federally Sentenced Women Program and the Commissioner of Corrections. Indeed, prior to the April 1994 incidents, the Correctional Service of Canada provided CAEFS with a one time grant to help fund our regionalization planning meetings. CAEFS has also offered and is in the process of pursuing opportunities to provide information sessions concerning our mandate, function and objectives, for all staff at P4W, the new regional prisons and the Healing Lodge. In fact, at Warden Leblanc's invitation, we have conducted such "orientation sessions" for her managers and have reiterated our offer to provide "sessions" for frontline staff. We are also in the process of organizing similar assemblies with and for each of the new wardens and their staff.

It is also instructive to note that issues which the CSC identifies as operational matters, are in fact situations which CAEFS has previously identified as involving issues of serious current and future policy implementation significance. For example, the transfer of the women from P4W to Kingston Penitentiary was identified as an operational matter by CSC. CAEFS does not dispute the operational nature of any particular transfer decision by the CSC. However, given the unprecedented nature of the transfer, combined with the reality that CAEFS was not receiving answers to its questions regarding CSC's future plans with respect to involuntary transfers, the implications of that particular transfer for the future treatment of women in the new prisons was of extreme precedential importance to CAEFS.

Following the release of *Creating Choices* (1990), the Federal Task Force steering committee and working groups were disbanded. They were replaced by a National Implementation Committee (NIC) which, despite the recommendations of the Task Force, was devoid of



federally sentenced women, CAEFS or other community representation. Moreover, even since the promulgation of the *Corrections and Conditional Release Act* (1992), with its s. 77 provision of a duty to consult with groups such as ours, the Commissioner of Corrections, as well as members of his staff at national and regional headquarters and the Federally Sentenced Women's Program have resisted involving CAEFS directly in policy development.

CAEFS has obligations to federally sentenced women who look to us to advocate on their behalf. Accordingly, CAEFS has felt it was imperative to impose itself in some operational decisions, particularly where others have no jurisdiction or resourcing to assist the women. For example, the issues with which the Inquiry was concerned could be characterized as "operational concerns". The intervention of the ERT on April 26-27, 1994, the denial of women's rights and entitlements, as well as the extended retention of women in segregation, currently as well as in the past, are but a few such examples.

In the new regional prisons, CAEFS and its membership will continue to discharge a monitoring function in order to ensure that women's rights and entitlements are being provided and that CSC is adhering to the law governing its activities. CAEFS' preference is to not be involved in purely "operational" matters at P4W or the new prisons. Consequently, in our Phase II submissions, CAEFS asserted the need for regional governance bodies for the new prisons and a national advisory body for the area of federally sentenced women's corrections as a whole. Unless truly effective and representative independent mandatory advisory bodies are constituted, CAEFS will undoubtedly continue to be expected to intervene on behalf of the women.

Since being at CAEFS I have also tried to develop linkages with prisoners and other women doing similar work in other countries. During Phase II of the Inquiry, one of the resource people brought in by the Commission was the warden of Bedford Hills, New York, Elaine Lord. In addition to echoing the views of others from the United States to the effect that Canada should address the needs of our relatively small number of federally sentenced women in individualized and community-based ways, Elaine challenged CSC to critically examine its leadership role and responsibilities.

She also spoke about the fact that although there had been only one suicide in the prison where she is the warden/superintendent in 22 years, she and all her staff consider it a major failure. Elaine Lord is the first warden I have ever met who, in response to almost every question I asked her about how she did things in New York, stated that I should really speak to the women in her prison. By the third time I heard that, I had decided I would take her up on the offer.

On December 19, 1995, I visited the women's prison at Bedford Hills, New York. Despite the fact that it is a maximum security prison with 850 prisoners operating within the context of an extremely punitive criminal justice system, and related social and economic policy, the spirit and vibrancy of the women imprisoned there is quite remarkable. It is definitely a prison, but the staff, following the leadership of their "Superintendent" Elaine Lord were clearly most

concerned about the needs and interests of the women. A suicide prevention workshop held while I was there was oversubscribed. Despite the fact that there has not been a suicide in many years, the staff were keen to ensure that they "keep up to speed on intervention strategies." Elaine's requirement that staff engage in a minimum of 40 hours paid professional development activities per year also assists the process.

The women at Bedford clearly felt that while they were never deluded about their state of imprisonment, as much opportunity for self growth and actualization as possible in the circumstances, was encouraged and rewarded. I visited the women as they met and worked. The energy, vibrancy, and lack of slash marks were the most striking things I noticed. The three truck loads of toys and two bus loads of children, as well as the babies and toddlers in the mother-child unit also are indelibly etched in my memory. In comparison, when I think of the many Canadian women prisoners whose arms and bodies have been literally slashed to ribbons; the postponement of the mother-child program in the new prisons; or when I recall the "security concerns" raised by P4W staff when we requested an opportunity to have toys donated for the women to give to their children, I feel my frustration rising. The visit made me slightly more discouraged about the lack of correctional leadership for women imprisoned in Canada, but it also spurred me on to ever more vociferously voice the fact that change is possible and necessary.

In light of the above and the recent suicides at P4W and Edmonton, CAEFS continues to recommend the abandonment of CSC's "new" Security Management Model. We support the suggestion of the Correctional Investigator that access to the Healing Lodge, as well as to programs both within the regional prisons and the community, be determined by the individual needs and circumstances of each woman. Those with the greatest need should receive priority access, and all security classification, risk assessment and case management practices for federally sentenced women should reflect the same priority.

CAEFS further recommended that prisoners be encouraged in self-actualizing and self-expression, and that institutional resources focus upon and promote opportunities for prisoners to exercise choice and preference, whilst staff simultaneously model and expect pro-social, humane and respectful interpersonal interactions.

CAEFS further recommended that staff screening, selection, training and professional development and advancement policies and practices reflect the foregoing by encouraging and rewarding the same.

CAEFS also recommended the development of non-punitive conflict resolution training and support for prisoners and staff, as well as the abolition of any rule prohibiting behaviour or which defines as institutional infractions, attitudes as offences against the good order and discipline of the prison.

With respect to the use of force and other prison issues, CAEFS recommended that the legislative and policy provisions pertaining to the regional prisons and federally sentenced women be amended so as to:

- a) eliminate the use of mace or any other weapons;

- b) eliminate the use and prohibit the establishment of institutional emergency response teams or police squads;
- c) eliminate the use of arbitrary strip searching and restraints;
- d) promote reliance upon the use of dynamic and humane interaction, as opposed to segregation and other forms of "enhanced security"; including the provision of immediate access to therapeutic/personal support and peer group support in crisis situations, so as to assist in diffusing and ultimately resolving situations; provision of additional training for staff, with respect to women's issues, such as how to work with women encountering flashbacks, et cetera;
- e) prohibit the use of involuntary transfers;
- f) mandate the establishment and monitoring of effective accountability and grievance mechanisms for prisoners;
- g) prohibit the development of a Special Handling Unit (SHU) for women, in name or practice; that is the establishment of a new SHU or the continued use of B-Range at P4W, or the Enhanced Security Units in the regional prisons and the Healing Lodge as separation units;
- h) direct reform of the internal investigative process by ensuring that investigators are external to the CSC, with at least one member of each board of investigation examining issues involving federally sentenced women being a nominee of CAEFS; and that such boards have the independence to expand the scope of their investigations, the nature of evidence sought/collected, the publicizing of findings, et cetera;
- i) provide nonviolent, women directed and lesbian positive environments that create healthy atmospheres for prisoners, including lesbian positive staff who understand and support women who are dealing with a multiplicity of issues, including past experiences of violence, separation from children, et cetera;
- j) mandate the provision of a mother-child and prisoner parenting policy in each of the regional prisons and the national Healing Lodge, whereby participation is voluntary and may only be interfered with by relevant child welfare authorities;
- k) mandate the provision of enhanced personal and professional development opportunities in each of the regional prisons and the national Healing Lodge for prisoners, particularly for those serving prison sentences in excess of five years;
- l) mandate the provision of mental health resources in each of the regional prisons and the national Healing Lodge for women who desire/require them; such services are to be developed in conjunction with relevant community-based mental health authorities;
- m) provide training for prisoners and staff in nonviolent crisis intervention techniques, as well as crisis debriefing; also, provide and promote professional support and ongoing professional development in these areas via the provision of a minimum 50 hour per year training requirement for staff;
- n) advance the protection of prisoners' rights and entitlements, such as the access of prisoners to legal counsel;

- o) direct the provision of mandatory staff and prisoner orientation and ongoing educational programs designed to alert both parties to the obligations of staff to protect the human rights of prisoners, in accordance with Canada's agreement with the United Nations' *Minimum Standard Rules for the Treatment of Prisoners* (1958), the *Canadian Charter of Rights and Freedoms*, Canadian Human Rights legislation, the *Corrections and Conditional Release Act* (1992), as well as provincial corrections' legislation and regulations; and,
- p) enhance the power of CAEFS and others whose mandate it is to promote the dignity and autonomy of prisoners, and to positively intervene to support and protect the rights and entitlements of women in Canadian prisons both with respect to specific incidents as well as the more general administration of the regional prisons; including the power to initiate appeals to the regional and/or national advisory bodies previously discussed.

### Conclusion

CAEFS and other national women's and social justice groups persist in our condemnation of the use of incarceration as the least effective and most expensive means of addressing criminal transgressions, as well as its tendency to result in dehumanizing and brutalizing experiences for prisoners. We urged the Commission to call upon the federal government to limit the use of incarceration by making the following recommendations.

That the federal government immediately institute a moratorium on the number of prison beds available for federally sentenced women throughout Canada and limit the utilization of same by capping the number of prison bed days available to each sentencing judge.

That the federal government provide resources to judicial education authorities to support the provision of educational opportunities to enable members of the judiciary to gain a greater understanding and assessment of the relative merits and long term effectiveness of sentencing options.

That the federal government actively support the provision and use of such non-carceral criminal sanctions as probation, suspended sentences, attendance centre, educational and vocational programming or training, therapeutic and self-help services, neighbourhood and community service, restitution, compensation, mediation, and the variety of alternative forms of residentially based treatment and community supervision options -- from halfway or quarterway houses to supported independent living and satellite housing projects.

That the federal government repeal all mandatory minimum sentences and limits for parole eligibility.

That the federal government de-institutionalize as many women in prison as possible, ensuring that all "correctional" resources attached to the incarceration of each woman follow her in to the community for at least the period during which she would have otherwise been in prison. CSC's 1992 figures indicate that the annual cost of incarcerating each federally sentenced woman at the Prison for Women is approximately \$92,000, thereby ensuring that the needs of the women,

as well as their respective communities could be met. Therefore, community-based security concerns could be addressed by 24-hour support and supervision if necessary.

That the federal government fund and promote the access of women in prison to legal aid services to address issues related to their conditions of imprisonment and conditional release. This should insure that adequate legal aid coverage is provided throughout the country and/or legal clinics are established specifically for prisoners, preferably staffed by experienced lawyers, as opposed to reliance upon student staffed clinics alone.

That the federal government promote public access to and exposure to prison, with a view to facilitating public education and dispelling myths with respect to the realities of the role, conditions and ineffectiveness of our prisons.

Finally, CAEFS recommends that the Solicitor General publicly release the report of the Commission of Inquiry, immediately upon receipt thereof and that the government develop an action plan in response to the report by April 30, 1996.

This Commission of Inquiry inspired hope amongst prisoners in the Kingston Prison for Women. Knowing that the Inquiry has had little if any impact upon the current practices in other prisons (notably, Burnaby and the Regional Psychiatric Centre in Saskatoon, but also the new Edmonton prison), we are fearful of what the future holds for federally sentenced women now that the work of the Inquiry is finished. Regardless of how progressive the Final Report is, without the political will to implement its recommendations, federally sentenced women will likely not experience any positive changes to their current situational realities.

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