



Canadian Association of Elizabeth Fry Societies™
Association canadienne des sociétés Elizabeth Fry
701-151 Slater Street, Ottawa, Ontario K1P5H3
Telephone : (613) 238-2422
Facsimile : (613) 232-7130
e-mail : caefs@web.ca
Home Page : www.elizabethfry.ca

Canadian Association of Elizabeth Fry Societies

Annual General Meeting – 2014

President's Report

Many thanks to all of you for the work you do with and on behalf of marginalized, victimized, criminalized and institutionalized women and girls. This was another full year for CAEFS and saw us involved in the following initiatives:

- Participation in and making recommendations at the inquest into the death of Ashley Smith;
- Advocacy for an inquest into the death of Kinew James, who died at the Regional Psychiatric Centre in Saskatoon, on January 20, 2013;
- Preparation for hearings in relation to complaints to the Canadian Human Rights Commission regarding CSC's classification process, especially for Indigenous women and women with mental health issues, in addition to CSC's discriminatory treatment of Indigenous women vis-à-vis their access to relevant and appropriate religious/cultural services and programs;
- Assessing cases for potential conviction reviews;
- Providing expert testimony in a "dangerous offender" hearing and a fifteen-year review, held pursuant to s. 745 at the *Criminal Code of Canada*.
- Assisting defence counsel to challenge the charging and prosecuting of women who use force to defend themselves and/or their children;

- Intervening in the Bedford case at the Supreme Court of Canada, in support of women's substantive equality and the decriminalization of women who are prostituted;
- Presenting evidence to counter the regressive law and order agenda outlined in successive new legislative reforms tabled in Parliament;
- Updating CAEFS' articles of incorporation, in accordance with changes to federal legislation regarding charities and not-for-profit corporations.

On behalf of the entire network, we express sincere gratitude to all of the members of the Board of Directors and our membership for your continued dedication to the women and girls with and on behalf of whom we work.

A handwritten signature in blue ink that reads "Cathie Penny". The signature is written in a cursive, flowing style.

Cathie Penny
President

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Treasurer's Report

Fiscal Year: April 1, 2013 – March 31, 2014

It is with pleasure that I am able to report to our membership that Canadian Association of Elizabeth Fry Societies (CAEFS) remains fiscally stable and the membership continues to be well managed by our national office.

Fiscal constraints have not diminished our efforts on behalf of the victimized, marginalized, criminalized and institutionalized women with and on behalf of whom we exist. In addition to our sustaining funding grant from Public Safety and some additional donations to our education funds, this year, our Executive Director has continued to offset some of these expenses by donating to CAEFS the resources she raises via her speaking engagements, awards and her teaching at the University of Ottawa and Dalhousie University, Faculties of Law.

A detailed accounting of our expenditures is available in our audited financial statements. All financial commitments have been met and CAEFS has operated in accordance with the direction of the Board and membership throughout the past year. On behalf of the Board of Directors, I thank all of the membership for your continued efforts to maintain CAEFS' fiscal stability.

A handwritten signature in blue ink, appearing to read 'Diane Bergeron', is written over a light blue horizontal line.

Diane Bergeron
Treasurer
Canadian Association of Elizabeth Fry Societies



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Annual General Meeting – 2014

Executive Director’s Report

“The purpose of law in a free and democratic society is to liberate, not to restrain. It is to create a safe and just environment in which human conduct is regulated, and power is constrained so that maximum freedom and safety is attained by all.” - Louise Arbour

Notwithstanding increasingly problematic and punitive legislative reforms, this year has provided valuable opportunities to reinforce existing and form new coalitions. It continues to be an honour and profound privilege to work with all of you, especially our membership, Board of Directors, and the women whose lived experience drive and inform our work. Thank you once again to each and every one of you for your ongoing commitment, care, compassion, strength, resilience and tenacity.

In terms of our activities, during the past year, we were invited by individual Members of Parliament, Senators, Parliamentary and Senate Committees to meet with and/or appear before them to comment on current legislative and policy reform issues on 35 occasions. Furthermore, we were invited to participate in 321 meetings with political staff and bureaucrats.

We spoke at 216 individual events, from public talks, recognition ceremonies, and conference presentations to media events. I also attended regional meetings, either in person or via teleconference, and accompanied Regional Advocates to the federal prisons, in addition to having the opportunity to meet with Board members, staff and/or volunteers and clientele of 15 of our 24 members.

We contributed to media stories on 410 occasions and wrote 9 reports, articles or papers for presentation or publication, as well as 267 letters. This does not include the volume of additional information influx that the CAEFS office receives. For instance, we also dealt with tens of thousands of emails, telephone calls, and even a few faxes.

The figures I just listed do not reflect the additional work contributed by our amazingly passionate and ingeniously resourceful membership across Canada. Despite significant resource limitations, our network of local Elizabeth Fry societies makes vital contributions to their respective communities, regions, and the country as a whole.

The remainder of this report will provide an overview of our work to promote the rights and entitlements of women with the lived experience of marginalization, victimization, criminalization and/or institutionalization. We continue to learn and grow via our collective and collaborative efforts, and we celebrate the strength, flexibility and persistence of our network and the amazingly courageous and resilient women and girls with whom we walk and work.

CAEFS' Office and Membership

It is with regret that we accepted the resignation of Candice Pilgrim from her position as Associate Director. Candice did join our Ontario Regional Advocacy Team, however, so she will continue to contribute her knowledge and advocacy efforts to assist criminalized women. We wish her all the best with her future endeavours.

We are pleased that in addition to attending law school part-time at the University of Ottawa, Catherine Sleightholm continues to work at the CAEFS office.

In November of 2013, the Council of Elizabeth Fry Societies of Ontario (CEFSO) shut its doors in order to consolidate resources. In accordance with the agreement negotiated last year, CAEFS will administer the remaining funds for the Ontario region.

As of September 2014, I will work between Ottawa and Saskatoon, Saskatchewan. Accepting the Ariel Sallows Chair in Human Rights at the University of Saskatchewan Faculty of Law will enable me to further develop our prison law alumnae. It will also allow CAEFS to participate more fully in the inquest into the death of Kinew James, who died on January 20, 2013, in the Regional Psychiatric Centre in Saskatoon.

Priority Issues and Law Reform Initiatives

Inquest into the Death of Ashley Smith

Much of this past year saw considerable public attention focused on the Inquest into the death of Ashley Smith. The world has rightfully been shocked by the life and death of Ashley Smith. The coronial jury – five courageous Canadian women -- understood that, but for the inactions of front line Correctional Service of Canada staff and the actions of senior managers at the prison, regional and national levels, Ashley would not have died on the floor of her cell in the Grand Valley prison for women in Kitchener on October 19th, 2007. That jury found her death was a homicide.

Despite the expenditure of tens of millions of dollars -- \$5 million on their attendance at the Inquest alone – the Correctional Service of Canada's attempts to defend against indefensible

actions and inactions, deny wrongdoing and error, and deflect accountability and responsibility, the horrific abuses of human rights and constitutionally entrenched *Charter* rights were finally exposed more than six years after Ashley's death.

Every employee of the Correctional Service of Canada identified that s/he was acting on behalf of the Canadian government when they interacted with Ashley Smith. Although Ashley also suffered unlawful and brutalizing treatment in juvenile and provincial custody, the scope of the inquest only included her 11½ months in the custody of the federal government.

Ashley Smith was a scant 15 years of age when she began a 30-day sentence in youth custody. According to our *Youth Criminal Justice Act*, her time in custody should have focused on rehabilitation. Instead, during her time in custody, despite an abundance of negative documentation about her, and more than a hundred minor assault charges to which she consistently entered guilty pleas, there was a noticeable absence of reliable evidence of any behaviour that posed a risk to individual, much less public, safety.

Thanks to the courage and decisiveness of Ashley's mother, all of the Inquest proceedings were live streamed and therefore aired publicly. Among the hundreds of hours of videotaped interactions of correctional staff with Ashley, we witnessed countless uses of such force as full body shackling, hundreds of instances of pepper spraying, emergency response team takedowns, as well as forcible injections, unlawful solitary confinement and assaults. In both the youth and the adult prisons, Ashley was charged with a number of minor assaults and pranks such as pulling a fire alarm. The result was additional sentences adding up to more than six years in custody, 17 transfers between prisons, and her death.

Despite being under near constant observation, not one example of Ashley posing a bona fide risk nor overt intent to harm staff was produced. If one existed, it most certainly would have been produced and publicly aired. Canada's treatment of Ashley Smith is emblematic of all that is wrong in Canada, where we have decimated state supports in favour of invasive state interaction.

As the Coroner so aptly stated at the conclusion of the inquest, "the time for words is over now it is the time for actions."

We worked with Ashley and we continue to work with a number of other women with mental health issues. The issues raised by Ashley's life and death in the custody of the Correctional Service of Canada (CSC) underscore the reality that much work needs to be undertaken in order to ensure that no other prisoner with mental health issues suffers like Ashley.

Part of this work involves striving to have implemented, a number of the 104 recommendations made by the five woman jurors following the inquest into Ashley's death. The key areas that require immediate attention are outlined in the attached letter to the Minister of Public Safety.

The letter can also be found at this link:

<http://www.falconers.ca/documents/AshleySmithVerdictSearchable.pdf>.

They focus on:

Implementation of contracts with provinces/territories for mental health beds – The Correctional Service of Canada (CSC) should be moving to immediately negotiate transfer agreements with provincial and territorial health ministries, so that they may transfer prisoners with mental health issues to appropriate mental health or psychiatric facilities. Pursuant to section 29 of the *Corrections and Conditional Release Act*, a prisoner may be transferred out of a penitentiary and into a hospital at any stage of their sentence.

CSC has been in negotiations with Ontario, Nova Scotia, and British Columbia, to provide national mental health placement coverage for federally sentenced women. These negotiations have been going on for several years. For instance, following Ashley's death, we worked to make such an arrangements for a number of women. One woman, whom the staff in various prisons described as "the next Ashley", was eventually transferred to the St. Lawrence Hospital, a forensic psychiatric centre in Brockville. During his testimony at the inquest, the Commissioner of Corrections, Don Head, advised that as many as 30 of the more than 600 women in federal custody were in situations similar to those faced by Ashley, yet it is extremely rare to see the sorts of s. 29 transfers we advocate.

Segregation – Ashley Smith spent most of her time in prison in isolation, in breach of the law and correctional policy. Twenty years ago, incidents at the Prison for Women in Kingston led to the unlawful segregation of eight other women. These incidents led to the Commission of Inquiry into Certain Events at the Prison for Women in Kingston. Conducted by Louise Arbour, the inquiry led to recommendations for significant reform of the correctional and prison system for women. Principal among these was the need for judicial oversight and limits to the use of segregation. Indeed, few correctional issues have been studied as exhaustively in the past 20 years as segregation. There is no further need for further study. The Jury's recommendations for oversight and the elimination of the use of segregation for those with mental health issues should be implemented immediately.

Oversight – Every Canadian has access to a number of different Ombuds or advocates in a variety of aspects of their daily lives. A patient in a hospital has access to a Patient Coordinator or Advocate. A consumer can contact the Better Business Bureau. Prisoners have access to penitentiary staff, as well as the Office of the Correctional Investigator, but their respective resources and mandates are both stretched and restricted. Legal aid resources are also extremely limited, so lawyers are largely unavailable other than to the relatively few high profile and/or wealthy prisoners. Non-governmental organizations such as our member Elizabeth Fry societies are too often frustrated in our attempts to assist. In addition to supporting the over-arching calls for external and judicial oversight, we support the Inquest Jury recommendations with respect to having additional Elizabeth Fry and peer prisoner assistants/advocates at every institution. We share the objective of preventing issues developing from small problems to larger, long-reaching and potentially systemic challenges.

Regional Advocacy

The Regional Advocate Teams in each of the regions continue to be a tremendous credit to CAEFS. Access to women in their institutional living units, segregation, and maximum security

units was an issue in some of the regions, but the Advocates continue to do an commendable job of ensuring that they are as accessible as possible to all imprisoned federally sentenced women and that they document monthly visits with reporting letters to CSC, and copied to CAEFS and the Correctional Investigator. They give voice to the women inside and facilitate linkages between women and our membership, as well as other community supports and resources. Overcrowding and the current legislative and policy climate, as well as the myriad issues related to these growing problems, remain the most significant obstacles to their work.

Coalition Work and Interventions

Our work continues with the International Human Rights Program, University of Toronto, Faculty of Law, regarding international human rights protections and enforcement mechanisms for prisoners with disabling mental health issues. In coalition and collaboration with other equality seeking groups, we also persist in approaching the United Nations with concerns about the manner in which Canada is increasingly making legislative, policy and fiscal decisions that are exacerbating the marginalization, victimization, criminalization and imprisonment of women, poor people, racialized people – especially our Indigenous sisters, and those with disabling mental health issues.

We participated in visits by UN Special Rapporteurs and the CEDAW committee, where we reiterated our requests to the UN to call upon Canada to establish external, independent correctional oversight and redress mechanisms that are comprehensive and accessible. Committees examining Canada's record with respect to human rights, women's rights, prisoners' rights, civil and political rights, as well as disability, torture and children's rights, have already voiced their clear and cogent denunciation of the policies and procedures in the federal and youth prison systems which result in the over-classification, segregation and disciplining of women and girls, as well as the discriminatory treatment of racialized and disabled women.

Thanks to my Carold Fellowship and the contributions of law students at Dalhousie University and the University of Ottawa, in partnership with women imprisoned in Nova and Grand Valley Institutions, we provided human rights and Gladue training in Nova, Grand Valley and Fraser Valley Prisons for Women. The fellowship resources also permitted us to update the federal Human Rights in Action manual, copies of which are available on our web site and will soon be distributed to federally sentenced women, via our Regional Advocacy Teams.

The decision of the Supreme Court of Canada in the case of *Bedford et al.* requires Parliament to revisit Canada's prostitution laws. Pursuant to our 2008 resolution, we made submissions to the federal government and continue to work with our co-intervenors to implement a response designed to promote women's substantive equality, not the further commodification of women and girls. A copy of a further joint submission for legislative reform, developed by our counsel, is attached for your information.

CAEFS also successfully made submissions to intervene in *R. v. Khela*. The Supreme Court's decision in *Khela* affirmed that prisoners do not have to exhaust the grievance system and then seek judicial review of correctional decisions. The Court upheld prisoners' rights to *habeas corpus* review and confirmed that provincial courts can assess both the procedural fairness and

the reasonableness of a decision in order to decide whether an individual's detention is lawful. The Court also ruled that correctional authorities have significant disclosure obligations in an involuntary transfer context, and that information may only withheld "when the Commissioner has "reasonable grounds to believe" that should the information be released, it might threaten the security of the prison, the safety of any person or the conduct of an investigation."

On April 14, 2014, CAEFS and Native Women's Association of Canada (NWAC) were granted intervener status in *R v Kokopenace*. This case deals with the lack of Aboriginal representation on juries. We will raise systemic concerns arising from Indigenous women's interaction with the criminal law and the unfairness and injustice of the whole system. The experience of both NWAC and CAEFS is that Indigenous women have a distinctive, and often highly problematic, relationship with the criminal justice system. We seek to illuminate the issues in this appeal by contributing that perspective to the Court's deliberations.

We plan to draw on material from the Report of the Independent Review Conducted by The Honourable Frank Iacobucci, *First Nations Representation on Ontario Juries* (February 2013). The perspective of Indigenous women will inform the principal argument of NWAC and CAEFS. The position of NWAC and CAEFS on this issue is that assertion of Canadian sovereignty replaced the traditional Indigenous approach with a criminal justice system that is culturally foreign to Indigenous Peoples. Accordingly, it is appropriate for the Crown to be held to the highest standards of honour, including scrupulous attention to the equality interests of those affected by it, in the administration of its system.

Canada once had an enviable reputation for protecting and promoting human rights throughout the world. We continue to encourage the Canadian public to ensure that our Government works to regain that reputation, starting with a renewed commitment to respecting and upholding human and *Charter* protected rights for all Canadians, regardless of their sex, race, and ability, sexual or political orientation.

Concluding Comments

We remain in awe of the courage, tenacity and resilience of the marginalized, victimized, criminalized and institutionalized women with and on behalf of whom we work. In addition, despite the many challenges of these times, we continue to celebrate you, our most committed, creative and amazingly enthusiastic staff, volunteers, board members and membership. We are most appreciative of our wonderful team, your valuable expertise, and energy.

Thank you for continuing to enliven my interest and enthusiasm for this work. Your incredible compassion, energy and resourcefulness make our work easier. Thank you for the tremendous privilege I enjoy of working with and for all of you.



Kim Pate
Executive Director

Canadian Association of Elizabeth Fry Societies