

## **Canadian Association of Elizabeth Fry Societies**

### **ANNUAL REPORT 1997-1998**

#### **ORIGINS**

Elizabeth Fry (Gurney) was born into a family of Quakers in 1780 in England. Her mother's father, the Scottish theologian Robert Barclay, played an important role in defining early Quaker beliefs. It was fortunate for all concerned that Quakers believed in the equality of women (250 years before they won the vote), otherwise Elizabeth Fry's unusual talents in the area of prison reform might never have been realized.

Her insight, persistence, organizational ability and her willingness to see a "divine light" in every person resulted in striking reforms taking place in the manner in which women and children were treated in London's Newgate Prison. She was a strong proponent of humane treatment for prisoners and regarded by many as a leading expert in prison reform. Most of her life was spent in England, although she did visit Ireland and continental Europe. She also offered advice to the Americas, Russia and Australia. She died in 1845 at the age of 66 years.

The first Elizabeth Fry Society was established in Vancouver in 1939. The Canadian Association of Elizabeth Fry Societies (CAEFS) was originally conceived of in 1969 and was incorporated as a voluntary non-profit organization in 1978. Today there are 23 member societies across Canada.

#### **MISSION STATEMENT**

CAEFS is a federation of autonomous societies which works with, and on behalf of, women involved with the justice system, particularly women in conflict with the law. Elizabeth Fry Societies are community based agencies dedicated to offering services and programs to marginalized women, advocating for legislative and administrative reform and offering fora within which the public may be informed about, and participate in, aspects of the justice system which affect women.

Voluntarism is an essential part of Elizabeth Fry work. Both volunteer and paid staff are involved in governance as well as program and service delivery throughout the association. The CAEFS Board of Directors is composed of one representative from each local society, as well as a President and a past President. The priority agenda, as well as policies and positions, are established by the Association's membership at each Annual General Meeting.

#### **PRINCIPLES**

The strength of our federation is the freedom to meet the needs of our communities in unique and effective ways. As an Association, CAEFS develops policies and positions and acts on common interests affecting women. Member societies support the following principles:

- Every individual is equal before and under the law and has the right to equal benefit of the law without discrimination.
- Every individual has a right to legal counsel, due process and natural justice protection. Women have the right of access to equal opportunities and programs in the justice system; women have the right to justice without fear of prejudice or gender discrimination.
- Commitment to equality rights does not preclude any practice, program or activity of our association that has as its object the amelioration of the conditions of disadvantaged individuals or groups.
- Action is required in order to ensure quality programs, services and facilities for women in conflict with the law, based on individual needs.
- Responses of the justice system to individual behaviour should interfere with individual rights and freedoms only to the minimum extent necessary. The correction of the offender should take place in the community, unless there are compelling reasons to the contrary. Further, the offender should retain all the rights and privileges of an ordinary citizen, except those expressly removed by law.
- Because the community and all its members have the ultimate responsibility for the response of the system and the handling of offenders, it is essential that the community be involved in all aspects of the criminal justice system.
- The active participation of volunteers in all aspects of our organization is fundamental to attainment of the Association's goals.
- In pursuit of excellence and efficiency, CAEFS and its members shall always seek to improve their standards and programs, to identify and address the gaps and unmet needs and to seek changes through reforms of the law and penal and correctional regulations, practices and conditions.

## GOALS

To provide an Association of Elizabeth Fry Societies and to encourage suitable reform at all levels of the criminal justice system.

To assist member societies in developing and maintaining high standards of programs and services for the purposes of aiding adult and young women who have come into, or who are at risk of coming into conflict with the law, whether such programs be in courts, institutions, or in the community, and whether they be for the purpose of assistance, guidance, rehabilitation or prevention, and whether provided by paid or volunteer personnel.

To promote public awareness and understanding of the needs of women in conflict with the law and the need for change in the criminal justice system as it affects women. Promote awareness of the ways in which individuals and communities can address these

needs.

To facilitate communication and cooperation among Elizabeth Fry Societies and similar societies.

To obtain funds for the financial support of the organization, and for such other purposes as may from time to time seem desirable for furthering the aims of the Association.

To communicate and cooperate with agencies and services in the correctional field and with governments in furthering the aims of the Association.

To encourage the formation of Elizabeth Fry Societies and societies with similar purposes.

#### CAEFS BOARD OF DIRECTORS (1997/98)

President  
Healing Lodge Representative  
**Regional Representatives**

Susan Hendricks  
Brenda Morrison

Atlantic - Rhonda Crawford, Cathie Penny, Lois Weatherby Quebec - Sylvie Bordelais, Nathalie Duhamel, Margaret Shaw Ontario - Claire Price, Margaret Beare, Tia Falldien Prairies - Carol Hutchings, Dawn McBride, Dawn Sealey B.C. - Mollie Both, Bernice Blackburn, Marilyn Fleger

#### CAEFS STAFF (1997/98)

Executive Director

Kim Pate

Executive Assistant

Gayle Bray

#### PRESIDENT'S REPORT

1997-98 has been a challenging and demanding year for CAEFS. Again we have had some successes and disappointments, and I continue to have great confidence in all of the staff and volunteers of our organization to continue our work for the women we serve. I believe that the solidarity of our organization is strong and effective, and that we will continue to face all of our future challenges as well as we have. My leadership of the Canadian Association of Elizabeth Fry Societies has included the dedicated assistance of our Executive Director, Kim Pate, and the members of the Executive Committee: Dawn McBride, Mollie Both and Margaret Shaw.

This year one of our priority concerns has involved the decision of the Correctional

Services of Canada to transfer maximum security women to men's prisons or other institutions. Our efforts to negotiate this matter with the Correctional Service of Canada failed and under direction from the CAEFS' Board of Directors, we undertook legal action. As a result of our action, and that of the women at the Prison for Women in Kingston, we succeeded in preventing CSC from moving them to the Kingston Penitentiary. We have wanted to achieve the same result for women in other regions, but in view of our limited resources we can only persist in our continued work towards the same result throughout the coming year.

After many years of work, this year we saw four women receive some relief as a result of the government's response to the Self Defence Review. CAEFS remains committed to ensuring that other women who have been jailed for defending themselves against abusive partners also receive justice. We will continue to follow-up with the Minister and Department of Justice in respect of the law reform components of our battered women's defence work. We are very proud of our work on this issue to date and will continue to advocate for the release of women who have been jailed for defending themselves against abusive partners.

In 1996, the CAEFS' Board of Directors elected to establish a regionalization process and we continue to be extremely pleased with the results of that process. Our regional representatives and advocates are committed to updating the agencies in their regions and maintaining involvement with their CAEFS' work throughout the year, particularly between meetings of the Board of Directors. Indeed the transition to regionalization in the CAEFS' organization has proceeded with relative ease as a result of the impressive commitment of the staff and volunteers of all of the agencies across the country.

In the past year, Kim Pate, our Executive Director, has visited each of the regional prisons, the Okimaw Ohci Healing Lodge, as well as the Prison for Women on several occasions. Kim Pate will continue to visit the Prison for Women in Kingston on a monthly basis until the time that P4W finally closes. As well, the regional advocates visit with the women and wardens of the regional prisons on a monthly basis. The regular reports of the regional advocates to the Executive Director of CAEFS and the regional agencies help to ensure that the CAEFS' office and membership are continually informed and updated about emerging issues for federally sentenced women throughout the country. The regionalization process has emphasized the need for communication and I am proud to state the regional advocates and agencies within our organization have worked hard to advance our goals for regionalization.

As time permits, I also visit the prisons and I am continuing in the CAEFS' position on the Kekuwemkunawuk, the Keepers of the Vision Circle at Okimaw Ohci Healing Lodge. CAEFS continues to promote the successes and lessons being learned by and via the elders, women, staff and Nekaneet community members who support the Lodge. We continue to encourage the Correctional Service of Canada to learn from and follow the leadership, staff training and humane intervention approaches modelled and exemplified by the Okimaw Ohci Healing Lodge. I believe that CSC has much to learn from its

Aboriginal staff, non-governmental partners and prisoners alike.

This year we also continued to push for the full implementation of Madam Justice Arbour's recommendations in her report of the Commission of Inquiry into Certain Events at the Prison for Women in Kingston. The CAEFS' membership continues to be extremely disappointed in the lack of response to the implementation of the Arbour recommendations. The Correctional Service of Canada continues to exhibit persistent disregard for the law and disrespect for the rights and entitlements of prisoners. Regrettably, there continues to be a deflection and defensive refusal to acknowledge responsibility or accountability for the action and inaction at the Prison for Women, in the regional prisons and the segregated maximum security units for women in men's prisons. This continues to be a priority issue for CAEFS and we will continue to seek government response to that Inquiry.

Our Social Action Committee has had an overwhelming agenda and has made considerable contributions on issues such as segregation, classification, cross-gender staffing, mental health, community strategies, and law reform. I continue to be impressed with the professional commitment towards the work on these important issues by our staff and volunteers.

In closing, I would like to state that I continue to be optimistic about the recommendations that have evolved from Inquiries such as the Morin Inquiry, and continue to look forward to the implementation of the Arbour recommendations. I am also optimistic about the relationship with the Correctional Service of Canada, and particularly with the Solicitor General, the Commissioner of Corrections, and the Deputy Commissioner for Women. Again this year, I commend the staff and network for another year of tremendous effort and diligent commitment to our work. I continue to be inspired by the women and the work of CAEFS and I am reminded of the work of Elizabeth Fry who said:

“When the builds a prison, thee had better build  
with the thought ever in thy mind that thee and thy  
children may occupy the cells.”

Elizabeth Fry (1780 - 1845)

It has been an honour and a pleasure to serve as the President of the Canadian Association of Elizabeth Fry Societies.

## TREASURER'S REPORT

I am very pleased to report that CAEFS once again ends our fiscal year within budget and with much accomplished as a result of our expenditures. Thanks to the financial support provided by the Ministry of the Solicitor General, as well as our corporate and individual donations, we are able to continue our work. In addition, this year staff

worked hard seeking alternative sources of funding in order to diversify our financial resource base. Unfortunately, despite targeted applications for resources to purchase equipment and training for CAEFS members, these efforts to assist the membership in coming “on-line” have not yet been achieved.

Please refer to the copy of CAEFS’ audited financial statements, which follows these reports, for more specific information regarding CAEFS’ financial picture. To sum up, CAEFS looks forward to our every new challenge as we fulfill our mandate to work with and on behalf of women who come into conflict with the law. While our resources are continuously stretched to cover this ever expanding agenda, we are proud of our staff’s ability to continue to manage our resources and to once again close our financial year well within the budget approved by the CAEFS membership and Board of Directors.

## PRIORITY ISSUES AND LAW REFORM INITIATIVES

We close this year with hope and optimism notwithstanding our ongoing concerns about the future and fate of women subjected to our corrections, criminal and social justice systems in Canada. Although the majority of the systemic issues and difficulties of preceding years persist, CAEFS has enjoyed the benefits of strengthened coalitions and mounting public concern about difficulties faced in gaining full public exposure of past, current and future violations of legislation and policy.

There seems to be a growing recognition that official versions of events can and do include significant shaping of the issue for those who are generally also the gatekeepers of the information. Accordingly, we end the year with the persistent challenge of ensuring that women behind prison walls have access to justice. The manner in which CAEFS will need to proceed to fulfil our mandate, given the specifics of issues faced these past years are highlighted in the following activity and issue summaries.

### Federally Sentenced Women

#### **a) Women Classified as Maximum Security not to be Segregated in Men’s Prisons in Ontario**

In June of 1997, pursuant to a unanimous decision of the CAEFS’ membership, CAEFS sought and obtained full party intervenor status in the court case commenced by the women who were then scheduled to be moved from the Prison for Women (P4W) to the segregated maximum security unit established at Kingston Penitentiary.

After several unsuccessful bids to stop the process, including appeals of interim decisions of the court (eg. that the women should remain at P4W pending the completion of the action, the jurisdiction of the court to hear the matter), in mid-December, CSCs appeal to the Ontario Court of Appeal was heard. CSC wanted the Court to reverse the decision of the lower court regarding the availability of the habeas

corpus remedy. CSC argued that habeas corpus was not available, as the alleged illegal detention had not yet occurred. They argued that we should have been seeking an injunction in the Federal Court, rather than habeas corpus in the Provincial Court, because the women had not yet been moved. Relying on the Supreme Court of Canada decisions in immigration cases, such as the Idziak case, we argued that habeas corpus proceedings are appropriate prior to the illegal detention actually occurring, where such illegal detention is a certainty. The Ontario Court of Appeal agreed and dismissed CSCs appeal.

Within 24 hours of the dismissal by the Ontario Court of Appeal of the application by the Correctional Service of Canada (CSC) to have the case blocked, CSCs lawyer from Justice advised counsel for the women and CAEFS that the Commissioner of Corrections had decided not to move the women to Kingston Penitentiary after all, and that they would remain in the Prison for Women for the foreseeable future.

Rather than merely see a dismissal of the matter, CAEFS sought a ruling from Mr. Justice Cosgrove. After negotiations between the parties, we seem to have agreed on a wording of the order to the effect that the Commissioner of Corrections undertakes not to move the women to Kingston Penitentiary. CAEFS and the women were also granted legal costs, so CSC must pay for a portion of CAEFS' legal fees.

#### **b) Prison for Women (P4W)**

When CSC decided to abandon its decision to move women to Kingston Penitentiary, they also determined that P4W would remain open. CSC has indicated that they plan to leave the institution open for another 2 - 5 years. Staff and resources from the Kingston Penitentiary units were moved to P4W after the court case ended. At P4W, they then established a "treatment unit" in the Special Needs Unit. Women are now being encouraged to move to P4W for treatment purposes.

During the course of the court case, approximately half of the women at P4W were reclassified to medium and even minimum security. In P4W, women remain housed on A and B ranges, in addition to the Special Need Unit. The segregation unit is also still being used.

During the ice storm, a power failure at the minimum security Isabel McNeill House resulted in the transfer of the women from the house to P4W. At P4W, these women were housed in the Segregation Unit.

#### **c) Atlantic and Prairie Challenges**

CAEFS is currently examining the possibilities of bringing actions in the Atlantic and Prairie Regions if negotiations remain stalled with CSC regarding the overall situation of women classified as maximum security prisoners, especially those with significant mental health issues. Particularly in the Atlantic Region, the majority of women

classified as maximum security prisoners in the segregated maximum security unit at Springhill Institution are women who have significant histories and ongoing mental health issues. CSC's policies contradict their own research in this whole area, so CAEFS will continue to challenge this, with a special focus upon questioning the entire classification process.

The Deputy Commissioner for Women (DCW), Nancy Stableforth, has indicated that she has requested that each region develop a plan of potential alternative accommodation options for FSW classified as maximum security prisoners. Apparently, CSC is now of the view that housing the women in men's prisons is not a viable option, although they fall short of agreeing with CAEFS' position on the matter.

#### **d) Exchange of Services Agreement (ESA) for the Burnaby Correctional Centre for Women (BCCW)**

As part of our ongoing concerns regarding the needs of federally sentenced women (FSW) at BCCW, CAEFS remains of the view that CSC cannot transfer away the rights of FSW at BCCW via its ESA with the BC Ministry of Corrections.

CAEFS will continue to explore the manner in which the rights and entitlements of FSW in British Columbia may be ensured. BC is one of three provinces (the other two are Newfoundland and Manitoba) with active ESAs to house federally sentenced women in provincial jails. If the ongoing evaluative process does not result in a re-negotiation of the ESA, CAEFS will examine the possibility of mounting a challenge in BC

#### **e) Two Years Later: the Status of the Arbour Recommendations**

Regrettably, since the release of the Arbour Report, the Correctional Service of Canada (CSC) has continued to deny that it has engaged in any further illegal activities. Further attempts to cover-up legal and policy transgressions persist, despite mounting evidence to the contrary. We continue to see an organization focused upon maintaining an image of righteous indignation in the face of evidence of significant wrongdoing and blatant disregard for the law.

CAEFS continues to play a key role in the forewarning, monitoring and exposure of procedural and policy problems highlighted and exemplified by the manner in which the Correctional Service of Canada chooses to address problems which emanate from or have been visited upon P4W and the regional women's prisons. In addition to wishing to assist in elucidating the particular facts specific to incidents or events, CAEFS is also committed to ensuring that relevant policy issues are fully examined and addressed. Regrettably, as the Prison for Women sits poised yet again to close, and as the regional prisons and segregated maximum security units in men's prisons continue their operations, CSC is reluctant to relinquish the vestiges of models designed to deal predominantly with the men in their prisons.

CSC is still a rather insular and arrogant governmental department, where prisoners and those who questions CSCs actions are too often relegated to the margins and classified as unimportant and misinformed, regardless of the seriousness and implications of the matters raised. Energies seemed to be focused upon efforts to obfuscate the issues, discredit any perceived detractors and continue on with business as usual.

The manner in which the federally sentenced women's initiative is unfolding, particularly in the Prairies and at the Edmonton Institution for Women (EIFW), where prisoners continue to be subjected to invasive and excessive pat down searches and excessive use of force. Despite such evident violations of the provisions of the Corrections and Conditional Release Act and the Charter of Rights and Freedoms, CSC continues to justify the pat downs as a replacement for their illegal strip searches which were also conducted in a routine manner and without any just or reasonable cause.

In addition, minimum security women who are being escorted into the community have been handcuffed and shackled. The regional Deputy Commissioner has been notified of these issues by the women and CAEFS, yet has refused to take action to date. He did, however, intervene in a situation where a woman housed at the Saskatchewan Penitentiary in the segregated maximum security unit was threatened with an involuntary transfer on the basis of a number of charges, seven of which involved staff amendments and then misrepresentations to the Independent Chairperson of the charges. The charges were eventually withdrawn and the Regional Deputy Commissioner acknowledged that staff should not have inserted false information. We often hear about these sorts of situations, but rarely do the women retain the damning paperwork. Since then, another instance of staff tampering with a charge sheet was similarly documented by a woman at the Prison for Women.

Other issues related to the regional prisons for women in Canada pertain to the lack of national leadership in the area of women's corrections. Although the Correctional Service of Canada has appointed a Deputy Commissioner for Women following Madam Justice Arbour's recommendation for same, they have unfortunately chosen to not implement the rest of the recommendations related to the position. Not only does this result in significant limitations to the authority of the position, but it also means that there continues to be a leadership vacuum, where the wardens of the new women's prisons and the Okimaw Ohci Healing Lodge report to regional Deputy Commissioners responsible for the men's prisons and community corrections in their respective regions. The Deputy Commissioner for Women still has no ability to veto decisions made by the regional Deputy Commissioners, nor any separate authority to decide the manner in which the federally sentenced women's prison and community programs are implemented.

The current Solicitor General, the Honourable Andy Scott, has requested that CSC develop a plan to address the needs of federally sentenced women within the regional prisons, particularly those who are currently segregated in the maximum security units in men's prisons. He is expected to make an announcement about this matter in early June 1998. While the foregoing chronicling of the realities faced by women illustrate

some of the reasons that we continue to have significant concerns regarding the future for federally sentenced women in Canada, Minister Scott's interest in the area gives CAEFS hope that CSC will now be challenged too .

Unfortunately, we remain apprehensive about the willingness and ability of the Correctional Service of Canada to institute the necessary reforms to address the needs and challenges of federally sentenced women. The projected image of a criminal justice system whose personnel promote the utmost respect for the law by modelling humane and just exercise of power is a stark contrast to the reality that the women and CAEFS experience.

Two years after the release of Madam Justice Arbour's recommendations, we still await CSC's articulation and action plan for a national strategy for the provision of community release or supervision options for federally sentenced women. With the exception of a halfway house in the Greater Vancouver area, and the option for the CSC to purchase beds in provincially funded houses there are no other halfway houses for federally sentenced women west of central Ontario. There are four in Ontario and one in Quebec and none in Eastern Canada. CAEFS continues to urge CSC to develop a clear national community integration strategy and standards for the FSW initiative.

The experiences of women prisoners has tended to involve 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 indifference to prisoners, disregard for its own policies, and disrespect for the very legislation pursuant to which it operates. CAEFS would like to see CSC developing clear action plans designed to ensure that the needs of federally sentenced women are met in the institutional and community release contexts for those women still imprisoned at the Prison for Women, as well as of those in the regional prisons, the Okimaw Ohci Healing Lodge and the segregated maximum security units in men's prisons. Much more emphasis is needed on the development of community supports for women prisoners.

In the new regional prisons, CAEFS and its membership continue to discharge our monitoring function in efforts 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, CAEFS continues to assert 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.

#### **f) Criminalization of Women Labelled as Having Mental Health Concerns**

Within the context of the program strategy, multi-disciplinary external therapeutic and

personal supports need to be encouraged. In order to facilitate a continuum of care for federally sentenced women, externally-located counselling, therapeutic and spiritual supports must also be respected and regarded as integral to the overall strategy by institutional partners. Rather than see CSC isolate the women in segregated maximum security units, CAEFS would prefer the notion of small centres associated with the regional prisons. We would like to see women who are engaged in "treatment" being able to maintain their relationships with their personal community of supports and to assist them in building and maintaining bridges to their communities of origin and/or support.

We also remain concerned about the ability of the regional prisons to accommodate a therapeutic milieu, whereby women-centred, holistic and intensive therapy or treatment would be the focus and opportunities would be provided to inspire women to create choices in a manner that does not infantilise or scapegoat them. We continue to encourage CSC to focus upon the development of an institutional atmosphere where staff model, support and reinforce positive attitudes and relationships and where trust is earned. In short, CSC management and staff must move away from power and control models and work on instilling hope and encouraging women. Furthermore, they must recognize that the responsibility for healing and growth does not rest solely with the women and that they must be able to model behaviours and be mentors to the women.

Many of the federally sentenced women who are currently classified as maximum security prisoners are women who are identified by CSC as having mental health needs. The practical reality is that mental health needs have been equated with risk. Physical and mental disability are included in s. 17 of the Regulations as factors which must be considered in determining security classification. This does not mean, however, that the presence of a disability should result in an increased security classification.

Mental health concerns that are disabling undoubtedly create very real needs for federally sentenced women and therefore for CSC. But, equating mental health disabilities with risks only serves to perpetuate a social construction of persons with mental disabilities as dangerous. This is precisely the kind of stereotyping which is prohibited by the equality provisions of the Charter. Many of the women identified as having mental health needs do not pose the kind of risks to which s. 17 of the Regulations is directed.

Most certainly, some women with mental health needs might require additional supports to function at a lower security level, by reason of their disability. Section 15 of the Charter has been interpreted by the courts to clarify that equal treatment does not necessarily mean the same treatment. Persons with disabilities, for example, may require that extra measures be implemented to provide them with the same level of service as the non-disabled community. Similarly, if a federally sentenced woman with a mental disability is having difficulty coping at a lower level of security, the response should not be to raise her security level. Rather, the appropriate response would be to provide her with the extra support required as a result of her disability to help her function at that

lower security level.

CSC's Mental Health Strategy for Women Offenders advocates a structured and controlled environment in which to deliver mental health treatment. While this may be appropriate for some of the women currently classified as maximum security prisoners, it does not address the needs of all.

In a 1996 Report entitled *Giving Us A Chance - Needs Assessment: Mental Health Resources for Federally Sentenced Women in the Regional Facilities*, Dr. Margo Rivera reviewed the mental health needs of 26 women who CSC was concerned could not function adequately in the new regional prisons. She was asked whether the regional prisons had an appropriate level of mental health services to enable the women to cope with the responsibilities entailed in living in a less secure setting.

Dr. Rivera identified only 8 women in the entire population of federally sentenced women across the country who she identified as having mental health needs which required a very structured environment. She further found that none of the new prisons, as they were then being operated, had the capacity to accommodate such an environment. One of Dr. Rivera's recommendations was that a house in each of the regional prisons be dedicated and resourced to meet the needs of women who need a long term intensive healing program. She also suggested that, in the interim, an intensive program should be developed and established outside or separate from the regional prisons. Dr. Rivera recommended that this "healing house" be quickly established for the 8 women whom she had assessed as being in need of more structure.

Rather than implement the foregoing, CSC seems to have extrapolated from Dr. Rivera's Report that women identified as having mental health needs must be dealt with in highly structured and controlled environments which cannot be provided in the new regional prisons. During the October 15-16, 1997 conference on "Mental Health Problems of Women Offenders: Second Annual Queen's Conference on Mental Health Issues in Correctional Services", Dr. Rivera clarified that her report could not be read to justify the confinement of women with mental health concerns in separate units in men's prisons. She also indicated that her findings did not conclude that such women should be excluded from the regional prisons.

Using the need for mental health treatment as a reason to classify women as maximum security imposes harsher treatment on such women. Since this is based on their disability, it is clearly discriminatory and contrary to s. 15(1) of the Charter.

#### **g) Classification and Placement of Federally Sentenced Women**

Recently, individuals within the Correctional Service of Canada (CSC) have made a number of proposals concerning carceral placement options for housing federally sentenced women classified as maximum security prisoners. These options have included, the construction of new maximum security prisons, the incarceration of

women in isolated units in men's prisons, and the construction of new maximum security units at the regional women's prisons. CAEFS' remains firmly of the view that all federally sentenced women should be confined in the new women's prisons within their respective regions or at the Okimaw Ohci Healing Lodge, and that new maximum security units should not be constructed in those prisons.

CAEFS' believes that no useful purpose is served by ascribing different security levels to the federally sentenced women population. CAEFS' position in this regard is consistent with the majority of the research literature by concluding that women are over classified when tools designed for men are applied to them (Federally Sentenced Women Program (FSWP), Literature Review, CSC, 1994). We do, however, recognize that such a determination is a matter for legislative amendment since section 30 of the Corrections and Conditional Release Act (CCRA) currently requires that all federally sentenced prisoners be assigned a minimum, medium or maximum security classification.

CAEFS' also believes that the number of women who are classified as maximum security is far too great. It is our view that this reality exists for the following reasons:

- 1) the current classification system is not appropriate for women and, when applied to federally sentenced women, results in their over classification;
- 2) the classification, as maximum security prisoners, of women who are identified by CSC as having mental health needs, in order to enable CSC to place them in a more controlled environment for treatment, contravenes the equality provisions of the constitution.

It has been repeatedly recognized that the current system, which was designed for men, results in significant over classification when applied to federally sentenced women. This is particularly true for Aboriginal women who are disproportionately classified as maximum security. Indeed, 50% of federally sentenced women who are classified as maximum security women are Aboriginal, whereas Aboriginal women represent only 18.7 % of the total population of federally sentenced women, and less than 2% of the population of Canada.

The determination of a security classification, as required pursuant to the provisions of the CCRA, is based upon an assessment by the CSC of each prisoner's probability of escape, level of risk to the safety of the public if s/he were to escape and the degree of supervision and control required in the penitentiary setting. As s. 17 of the Regulations indicates, those prisoners who pose a greater risk and need more control will be subject to more restrictive conditions of confinement.

Because escapes from prison by women occur so rarely and have consequently not been sufficiently studied, it is not possible to make reliable predictions about a woman's risk to escape. Moreover, because it occurs in such a completely different context, any prior

failure to return from a temporary absence pass is not considered to be a good predictor of escape risk. Risk to the safety of the public is also difficult to predict for women because they have a lower overall recidivism rate than do men and a much smaller percentage of the crimes committed by them are violent (FSWP, Literature Review, CSC, 1994).

A gender neutral assessment of risk, based on women's offences, does not capture the circumstances in which women participate in violent offences and the fact that their violent offences are most often reactive and situational. Furthermore, women's offences are not contextualized by or correlated with their participation in institutional violence, or behavioural difficulties in prison. (Shaw, M. and Dubois, S. *Understanding Violence by Women: A Review of the Literature*, CSC, 1995).

A prisoner's "social history" is listed among the factors outlined in s. 17 of the Regulations which must be taken into account in determining the appropriate security classification level. These factors are assessed by CSC in accordance with the Needs Identification and Analysis component of the Offender Intake Assessment. In essence, this means that a prisoner's experiential background and degree of disadvantage prior to incarceration is identified, then assessed in a manner that basically identifies such as need factors, and then generally converts them into risk factors.

CSC utilizes risk factors to identify and assess those prisoners who require high security classification. For example, if an individual is assessed as having been the victim of spousal abuse or was considered unemployed at the time of arrest, she will be identified as having a "need" in those areas. The greater the number of identified needs, the higher the resulting security classification. Some examples of the criteria which measure the nature and degree of disadvantage experienced include: low educational level, poor employment history, a childhood that lacked family ties, physical "problems", physical problems which interfere with work.

Some criteria do not measure disadvantage at all. Rather, they expose explicit as well as implicit biases in the form of middle class standards of behaviour. Moreover, they attach significance to deviation from such norms. Examples of some of these criteria are listed as: has no bank account; has no collateral; has no hobbies; does not participate in organized activities; has used social assistance; lacks a skill/trade, profession; resides in a criminogenic area; unattached to any community groups; residence is poorly maintained.

Still other criteria leave open the possibility of an interpretation of need which is racist or homophobic. Examples of criteria that exhibit such discriminatory biases include: ethnicity is problematic; religion is problematic; inappropriate sexual preferences; sexual attitudes are problematic. Overall, many of the criteria require CSC employees to make subjective appraisals of their respective applicability to each prisoner. Consequently, prisoners' individual assessments very much depend upon the judgment

of staff.

A 1997 study by CSC research staff ("Maximum-Security Female and Male Offenders: A Comparison") compared the characteristics of a group of men prisoners and women prisoners who had been classified as maximum security upon admission into prison. When security classifications were assigned, the same criteria were applied to both men and women. No account was taken of the ways in which the various criteria might impact women and men differently, particularly in terms of how they might affect their degree of risk within the meaning of s. 17 of the Regulations.

If the security classification of federally sentenced women were based on demonstrated behaviour and individual achievements within institutional settings, as opposed to being predictions based upon criteria which has not been shown to have a reliable link to risk, and if women with mental health disabilities are properly supported to help them maintain a lower security level, then the number of women receiving a maximum security classification would be very small.

CAEFS' believes that all federally sentenced women should be incarcerated in the new regional prisons and that all Aboriginal women who choose to commit to the healing focus should have access to the Okimaw Ohci Healing Lodge. This was the plan that was adopted by CSC following the tabling in 1990 of the report of the Task Force on Federally Sentenced Women, Creating Choices. The extensive research conducted by and for the Task Force, as well as subsequent research and planning activities conducted by the Federally Sentenced Women Program since then, reinforced the validity of this approach.

Although the Creating Choices report has been characterized by CSC as a philosophy statement rather than an operational document, much of the material produced by the Federally Sentenced Women's Program is specifically directed towards implementation of the philosophical approach adopted by the government in 1990. It is also important to emphasize that the reasons offered by the government for abandoning the plan to confine all women in the new regional prisons were the conclusions of Dr. Rivera's Report and incidents which occurred at Edmonton Institution in 1996.

The fact that Dr. Rivera's Report does not support this approach has been referred to above. Furthermore, the Edmonton incidents were the subject of a national Board of Investigation, the results of which did not suggest that maximum security women cannot be confined in the regional prisons, but rather that there were a number of critical deficiencies in the operation of the Edmonton Institution for Women (EIFW). For instance, the investigative report indicated that the prison opened despite the reality that the construction of the physical plant was not complete, and that there was insufficient staff training, negligible programming, and little to no psychological or therapeutic treatment.

In addition, in her report, Dr. Rivera identified the abrupt withdrawal of psychotropic

medication from a number of the women as having contributed to instability of the women in the EIFW prison population. It is CAEFS' view that a Board of Investigation Report which lays the blame on CSC for failing to operate the prison properly should not then have been used to justify the exclusion of maximum security women from all regional prisons and the Okimaw Ohci Healing Lodge. It is also extremely important to note that many of the women involved in the 1996 events at Edmonton were not classified as maximum security prisoners and others were not so classified prior to their arrival at EIFW.

Finally, we must point out that prior to the opening of the regional prisons, in the Ontario and Prairie regions, the CSC was attempting to develop alternative accommodation strategies for federally sentenced women. This was occasioned by an increase in the number of federally sentenced women in those regions which exceeded the capacity of those regional prisons for women. In order to address these accommodation issues, CSC was considering the same sorts of options that they subsequently chose to utilize following the incidents at EIFW, namely, new construction within the regional prisons for women or the placement of women in units in men's prisons.

#### **h) Minimum Security**

Following the incidents which occurred at EIFW in the spring of 1996, and prior to CSC's decision to change policy so as to preclude women classified as maximum security prisoners from being placed in the new regional prisons, the CSC decided to enhance the static security measures in all of the regional prisons and at the Okimaw Ohci Healing Lodge. To this end, security fences were erected, razor wire, new cameras and other security devices were installed. The result is that women classified as minimum and medium security prisoners are now subject to the same perimeter security.

In CAEFS' opinion, this situation creates a significant distinction between the treatment of women and men who are classified as minimum security prisoners. Minimum security men live in prisons without fences. This distinction represents more than a difference in the physical structure, but includes the availability of work releases, temporary absence passes, employment opportunities and other release planning, as well as the likelihood of favourable consideration by the NPB.

Initially, the design of the new regional prisons for women provided minimal static security because research and international experience supported the use of dynamic security approaches. Since women prisoners pose minimal risk to the safety of the public within the meaning of s. 17 of the Regulations and therefore have lower security requirements than men, there should be increased opportunities for progressive experimentation with respect to dynamic security models within women's corrections. Unfortunately, the original design has been reversed. The result is that static security has been increased for all federally sentenced women. It cannot possibly be argued that

minimum security women have higher security needs than minimum security men.

One of the recurring historical criticisms of the Prison for Women in Kingston was that all women were subject to the same high security measures, regardless of their security classification. This situation has now been replicated in the new regional prisons.

CAEFS remains of the view that, at the very least, federally sentenced women classified as minimum security prisoners should live in houses situated outside the fences of the regional prisons as is the case for minimum security men. There is no operational reason why this could not be accomplished at the regional prisons in the same way that the Isabel MacNeill House operates outside the walls of the Prison for Women in Kingston.

Indeed, the entire women's prison population in the state of Minnesota, from minimum to maximum security, mental health and remand prisoners, are all housed in the unfenced Minnesota Correctional Facility - Shakopee. Shakopee was the prison that the Task Force on Federally Sentenced Women and the FSWP utilized as a model for the new regional prisons for women.

#### **i) Women Classified as Maximum Security Prisoners**

CAEFS recognizes that there are some women whose behaviour makes it difficult for them to integrate into the rest of the prison population in a manner which is safe for themselves and for others. This very small number of women who would be assessed as maximum security prisoners if irrelevant criteria were excluded from the classification process should be accommodated in the regional prisons. In order to avoid the application of excessive security to other women within the institutional settings, it is CAEFS' view that it would be appropriate to house the women together in their own house within each of the regional prisons.

Any need for more restrictions, different rules and more structure may be best met by increased dynamic security measures such as enhanced and substantial interaction with properly trained staff. CAEFS is of the view that the rigid separation between the maximum security and lower security population that currently exists and is forecast by CSC to continue interferes with CSC's Mission Statement, Core Values and main strategies. Indeed, experiences to date in the separate maximum security units confirm that women placed in such units are experiencing significant difficulties in accessing the requisite services and programs to enable them to address areas identified as criminogenic factors. Consequently, women are not able to complete correctional plans, much less cascade into the regional prisons and ultimately enjoy successful community integration.

As we are starting to see women being released directly from the maximum security units into the community, concerns mount. It is now quite clear that separate maximum security units are making the eventual integration of women into the community more difficult. In addition, we are witnessing the creation of high tension climates in the

isolated maximum security units. Simply put, the current institutional environment is generating conflict.

Dr. Rivera noted in her Report that maximum security women who had been placed in the enhanced unit at Edmonton Institution felt low in status and self respect in relation to the other women living in the “houses”. The creation of such separate maximum security units in the prisons may result in some women rising to meet the label of maximum security prisoner by feeling that they have to live up to their image. In addition to the obvious institutional management problems, such isolation will invariably heighten the likelihood that the rest of the FSW population will be unreasonably fearful of the maximum women.

If separation is maintained instead by dynamic rather than static security measures, institutional security could be adapted so as to have less impact on the freedom of movement of the women classified as medium and minimum security. These women might very well otherwise have their movement restricted in order to accommodate movement of the maximum security population within the institution. In addition, the enhanced security and segregation units would be available for use in the case of crises. They might also be used to facilitate the transition process for women who previously have been kept in a high static security environment.

In order to maintain a more structured environment for maximum security women, CAEFS envisions increased complements and consequent availability of staff in the maximum security houses. Additionally, as maximum security women move throughout the prison, they would likely be accompanied by staff, as they moved through the institution either as a group or individually. Examples of such movement and circumstances might include visits, medical and other appointments, and programs with others at lower security classification levels in the general prison population.

The CSC was quite prepared to commit staff to a number of dynamic security measures to keep the federally sentenced women separated from the male population at the RTC in Kingston Penitentiary. In fact, they planned such resource rich approaches as escorting and bussing the women from the range to the yard, regular visits and Private Family Visits (PFV) in on-site trailers, medical and programming activities. In short, staff were going to escort women to all activity areas and remain with them at all times. In addition, staff in the rest of the prison were going to be required to keep all of the men away from the women, including away from windows so that the women would not be viewed while in the prison exercise yard. The same level of separation would of course not be required in the regional prisons, but an appropriate level of attention by staff could permit the maximum security women to interact safely within the prisons.

Finally, as those responsible for women’s correctional services in other jurisdictions internationally have reinforced, an integral part of any plan to house federally sentenced women, particularly maximum security women, is the opportunity for them to participate in meaningful programming. Meaningful employment and educational

opportunities, especially vocational training, are some of the most crucial programming components required to enhance the likelihood of successful community integration for all federally sentenced women. And, as experiences in men's minimum prisons, Minnesota's Shakopee facility and Australia's Emu Plains institution confirm, the possibility of gaining marketable skills and work release options provide a powerful motivational force for prisoners to work to reduce their security levels.

#### **j) LSD Experiments on Federally Sentenced Women**

CAEFS has offered assistance and support to Dorothy Proctor, 1 of at least 22 who were used in LSD experiments while in segregation at the Prison for Women over 35-40 years ago. To date, only Ms. Proctor has been willing to be identified. Other women have expressed a desire to remain anonymous, as their families are not aware that they were ever incarcerated -- some are now grandmothers, some are dead.

Rather than proceed to implement the recommendations supported by the findings of the Board of Investigation in their report, Board of Investigation into Allegations of Mistreatment by a Former Inmate at the Prison for Women Between March 22, 1960 and August 1, 1963, CSC appointed the McGill University Centre for Medicine, Ethics and Law "to obtain independent advice concerning the long term effects of LSD, and to develop guidelines, or protocols, for addressing each individual case". They also suggested that women identify themselves to CSC health services.

It is difficult to imagine what further proof CSC might require of "a direct link" between the treatment and current difficulties of at least the two women whose histories are chronicled. As the investigators point out, it seems abundantly evident that the administration of LSD to these women while they were imprisoned at the Prison for Women did indeed result in "substantial, debilitating, long term negative effects". One wonders how much more direct a link the women must establish.

CAEFS has urged the Commissioner of Corrections to immediately offer compensatory settlements to Ms. Proctor and the unnamed former prisoner who was also interviewed by the Board of Investigation. We also urged him to continue efforts to locate the additional 20+ women who were part of the experiments. Given the obvious sensitivity of these issues and the likelihood that women may not wish to have their families and circumstances jeopardized by unwanted publicity, we further urged him to encourage women to come forth by providing assurances of anonymity.

Given the reality that their past experiences may discourage women from coming forth voluntarily to re-identify themselves to/with the Correctional Service of Canada, CAEFS also offered assistance in this regard. Conversations with the members of the Board of Investigation confirmed that there is a need for some assurances of confidentiality and anonymity before other women are likely to come forth. Even then, none may.

CSC needs to be in a position to satisfy themselves of the veracity of women's claims. CAEFS also faced such challenges in the past during the research phase of our battered women's defence work. We faced the challenge of trying to locate women who wanted assistance, but did not wish to be identified publicly. Accordingly, CAEFS offered to facilitate contacts for women, as well as provide personal support and assist women wanting to come forward. We would, of course, respect the wishes of those women who want to retain their anonymity, while simultaneously facilitating the collection of information necessary to substantiate their claims.

The Minister, Andy Scott, has stated that he is committed to ensuring that the women prisoners who were subjected to the LSD experiments are now treated fairly and that they will finally experience a speedy and just resolution in this matter. The Minister expects to receive the report from the McGill Centre before the House of Commons rises for the summer.

### **NATIONAL ELIZABETH FRY WEEK - Challenging Stereotypes and Encouraging Proactive Action**

The Canadian Association of Elizabeth Fry Societies celebrates National Elizabeth Fry Week annually. Elizabeth Fry Societies across the country organize public events in their communities throughout the week.

Our goal is to enhance public awareness and education regarding the circumstances of women involved in the criminal justice system. We hope to challenge and gradually break down the negative stereotypes that exist about women who come into conflict with the law.

National Elizabeth Fry Week is always the week preceding Mother's Day. The majority of women who come into conflict with the law are mothers. Most of them were the sole supporters of their families at the time they were incarcerated. When mothers are sentenced to prison, their children are sentenced to separation. We try to draw attention to this reality by ending Elizabeth Fry Week on Mother's Day each year.

By focusing on "Alternatives to Incarceration" this year, our 23 member societies hope to encourage the Canadian public to examine some productive and responsible means of encouraging community responses to addressing criminal justice matters from coast to coast. Our hope is that, particularly in this time of fiscal restraint, this sort of proactive focus will encourage the development of and support for community-based alternatives to costly incarceration, particularly for non-violent offenders. Our aim is to increase public awareness of the myriad issues facing women in prison and gradually break down the stereotypes of women in conflict with the law. In addition, CAEFS initiates and responds to media awareness and coverage of the myriad relevant issues on an ongoing basis.

CAEFS challenges Canadians to reach behind the walls and bring women into the

communities, so that they may take responsibility and account for their actions in ways that make sense to them and to us.

### **AFFILIATIONS - Strengthening the Ties**

CAEFS continues to maintain and strengthen its ties with other national justice, women's and voluntary organizations. Some of the key umbrella and member groups with whom we work include: the National Associations Active in Criminal Justice (NAACJ); Equality for Gays and Lesbians Everywhere (EGALE) the National Action Committee on the Status of Women (NAC); the Women's Legal Education and Action Fund (LEAF); the Native Women's Association of Canada (NWAC); Pauktuutit, the Inuit Women's Association; the Métis National Council of Women; the Canadian Association of Sexual Assault Centres (CASAC); the DisAbled Women's Network (DAWN); the Congress of Black Women; the National Anti-Poverty Organization (NAPO); the National Council of Women of Canada (NCWC); National Voluntary Organizations (NVO); the National Association of Women and the Law (NAWL); the National Organization of Immigrant and Visible Minority Women of Canada (NOIVMWC); and the United Way National Agencies Committee.

For copies of CAEFS' position papers or additional information, please contact Kim Pate directly at [kpate@web.net](mailto:kpate@web.net), visit the CAEFS Home Page at <http://www.elizabethfry.ca>, telephone us at (613) 238-2422 or fax us at (613) 232-7130.

### **CAEFS SPONSORS**

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\*BN/Registration Number 10807 4980 RR0001

THANK YOU!

### **MEMBER SOCIETIES**

**Elizabeth Fry Society of Calgary** 650, 1010 - 1St. S.W. Calgary, Alberta T2R 1K4  
(403) 294-0737

**Elizabeth Fry Society of Cape Breton** 106 Townsend Street Sydney, Nova Scotia B1P 5E1 (902) 539-6165

**Central Okanagan Elizabeth Fry Society** 104 - 347 Leon Avenue Kelowna, British

Columbia V1Y 8C7 (250) 763-4613

**Elizabeth Fry Society of Edmonton** 10523-100th Avenue Edmonton, Alberta T5J 0A8  
(403) 421-1175

**Elizabeth Fry Society of Greater Vancouver** 4th Floor- 402 East Columbia  
Street New Westminister, British Columbia V3L 3X1 (604) 520-1166

**Elizabeth Fry Society, Hamilton Branch** 627 Main Street East, 2nd Floor Hamilton,  
Ontario L8M 1J5 (905) 527-3097

**Kamloops and District Elizabeth Fry Society** 261 B Victoria Street Kamloops,  
B.C. V2C 2A1 (250) 374-2119

**Elizabeth Fry Society of Kingston** 129 Charles Street Kingston, Ontario K7K 1V8  
(613) 544-1744

**Elizabeth Fry Society of Mainland Nova Scotia** 217 - 2786 Agricola Street Halifax,  
Nova Scotia B3K 4E1 (902) 454-5041

**Elizabeth Fry Society of Manitoba** 773 Selkirk Avenue Winnipeg, Manitoba R2W  
2N5 (204) 589-7335

**Elizabeth Fry Society of New Brunswick Inc.** 39 McDougall Avenue Moncton, New  
Brunswick E1C 6B1 (506) 855-7781

**Elizabeth Fry Society of Newfoundland & Labrador** 31 Doyle Street St. John's,  
Newfoundland A1E 2N9 (709) 368-6620

**Elizabeth Fry Society of Ottawa** 240 Charlotte Street Ottawa, Ontario K1N 8L3 (613)  
789-7077

**Elizabeth Fry Society of Peel** #401 - 134 Queen Street East Brampton, Ontario L6V  
1B2 (905) 459-1315

**Elizabeth Fry Society of Peterborough** 483 George Street South, Upper  
Level Peterborough, Ontario K9J 3E6 (705) 749-6809

**Prince George & District Elizabeth Fry Society** #101 - 2666 S. Queensway Prince  
George, British Columbia V2L 1N2 (604) 563-1113

**Société Elizabeth Fry du Québec** 5105 Chemin de la Cote St. Antoine Montréal,  
Québec H4A 1N8 (514) 489-2116

**Elizabeth Fry Society of St. John** P.O. Box 23012 St. John, New Brunswick E2J 4M1  
(506) 635-8851

**Elizabeth Fry Society of Saskatchewan** 230 Avenue R South, 4th Floor Saskatoon,  
Saskatchewan S7M 2Z1 (306) 934-4606

**Elizabeth Fry Society of Simcoe County** 102 Maple Avenue Barrie, Ontario L4N 1S1  
(705) 725-0613

**South Cariboo Elizabeth Fry Society** P.O. Box 603 (601 Bancroft Street) Ashcroft,  
British Columbia V0K 1A0 (250) 453-9656

**Elizabeth Fry Society of Sudbury** 204 Elm Street West Sudbury, Ontario P3C 1V3  
(705) 673-1364

**Elizabeth Fry Society of Toronto** 215 Wellesley Street East Toronto, Ontario M4X  
1G1 (416) 924-3708

FINANCIAL SUMMARY 1997/98 INCOME & EXPENDITURES for year ending March 31, 1998

INCOME

Solicitor General Canada Grant:

CAEFS	\$263,455
Societies	188,352
Donations	12,141
Interest & Miscellaneous	4,878
Dues and Registration	5,596
Consulting	<u>15,541</u>
	<b>\$489,963</b>

EXPENDITURES

Grants to Societies	\$188,352
Salaries & Benefits	102,008
Travel & Meetings	78,476
Professional Fees	1,500
Reproduction	17,541
Telephone	14,689
Rent	15,389
Office and Postage	10,883
Office furniture & equipment maintenance	1,997
Depreciation	1,860
Insurance	2,567
Subscriptions & Membership	2,536
Translation	4,504
Bursary fund contribution	000
Healing Lodge allocation	8,239
NGO and government liaison	479
Consulting Fees	<u>37,228</u>
	<b>\$488,248</b>

Excess of Revenue over Expenditure for the year \$ 1,715

BALANCE SHEET AS AT MARCH 31, 1998

	<b>ASSETS</b>	<b>LIABILITIES &amp; EQUITY</b>
Operating Fund	\$189,143	\$115,748
Designated Funds	7,981	7,981
Deferred revenue		<u>73,395</u>
	<b>\$197,124</b>	<b>\$197,124</b>

AUDITOR'S NOTE

This is to confirm that we have examined the information contained in the foregoing 1997/98 financial summary.

We are satisfied that the information presented is prepared directly from the audited financial statements on which we reported, and it fairly represents the position and the results of operations for the year.

McKechnie Moore June 1998