

Criminalized and Imprisoned Women

Current Trends

We have learned that a preoccupation with punishment can easily divert us from doing what actually makes us safer... but we have also learned – from the evidence and from our experience – that prison can harm those who would have been better diverted from the system in the first instance, and that overlong sentences can lose those who might otherwise have been successfully reintegrated into their communities as law-abiding citizens.¹

- Crime rates in Canada reached a 30-year low in 2013, yet the number of women being incarcerated is on the rise. Women – particularly those who are racialized, young, impoverished, and/or struggling with mental health issues – represent the fastest growing prison population.²
- The increase in women’s imprisonment is connected to the evisceration of health, social, and education services.³
- Over the last five years, the total number of federally sentenced women has increased by almost 40%.⁴ In the past decade, the number of federally sentenced Indigenous women has increased by almost 85%.⁵
- Women account for 11% of all provincial custodial sentences, and 6% of federal custodial sentences.⁶ Most are in prison for the first time.⁷
- Women also account for 18% of probation sentences, and 19% of conditional sentences.⁸
- In 2011, 47.9% of federally sentenced women were incarcerated and approximately 52% were serving sentences in the community.⁹ For Indigenous women, 63% were incarcerated and approximately 37% were serving sentences in the community.¹⁰ This statistic reflects the reality that Indigenous women serve longer and more restrictive sentences than non-Indigenous women.

¹ Alex Himelfarb, “Is it getting tough on crime, or getting tough on the poor?” *The CCPA Monitor* (July/August 2011) 14, online: Canadian Centre for Policy Alternatives <<http://www.policyalternatives.ca>>.

² Shoshana Pollack, *Locked In, Locked Out: Imprisoning Women in the Shrinking and Punitive Welfare State* (Waterloo: Wilfrid Laurier University, 2008) at 5-6, online: Wilfrid Laurier University <https://legacy.wlu.ca/docsnpubs_detail.php?grp_id=1067&doc_id=30852>.

³ Shoshana Pollack, *Locked In, Locked Out: Imprisoning Women in the Shrinking and Punitive Welfare State* (Waterloo: Wilfrid Laurier University, 2008) at 6, online: Wilfrid Laurier University <https://legacy.wlu.ca/docsnpubs_detail.php?grp_id=1067&doc_id=30852>.

⁴ The Correctional Investigator of Canada, *Annual Report of the Office of the Correctional Investigator 2011-2012* (Ottawa: Minister of Public Works and Government Services Canada, 2012) at 2, online: The Correctional Investigator of Canada <<http://www.oci-bec.gc.ca/cnt/rpt/pdf/annrpt/annrpt20112012-eng.pdf>>.

⁵ The Correctional Investigator of Canada, *Annual Report of the Office of the Correctional Investigator 2011-2012* (Ottawa: Minister of Public Works and Government Services Canada, 2012) at 33, online: The Correctional Investigator of Canada <<http://www.oci-bec.gc.ca/cnt/rpt/pdf/annrpt/annrpt20112012-eng.pdf>>.

⁶ Statistics Canada, *Women in Canada: A gender-based statistical report* (Ottawa: Minister of Industry Canada, 2011) at 195, online: Statistics Canada <<http://www5.statcan.gc.ca/olc-cel/olc.action?objId=89-503-X&objType=2&lang=en&limit=0>>.

⁷ Canadian Human Rights Commission, *Protecting Their Rights: A Systematic Review of Human Rights in Correctional Services for Federally Sentenced Women* (Ottawa: Minister of Public Works and Government Services Canada, 2003) at 5, online: CHRC <<http://www.chrc-ccdp.ca/eng/content/protecting-their-rights-systemic-review-human-rights-correctional-services-federally>>.

⁸ Statistics Canada, *Women in Canada: A gender-based statistical report* (Ottawa: Minister of Industry Canada, 2011) at 195, online: Statistics Canada <<http://www5.statcan.gc.ca/olc-cel/olc.action?objId=89-503-X&objType=2&lang=en&limit=0>>.

⁹ Public Safety Canada, *Corrections and Conditional Release Statistical Overview 2012* (Ottawa: Public Works and Government Services Canada, 2012) at 55, online: Public Safety Canada <<http://www.publicsafety.gc.ca/cnt/rsrscs/pblctns/2012-crcs/index-eng.aspx>>.

¹⁰ Public Safety Canada, *Corrections and Conditional Release Statistical Overview 2012* (Ottawa: Public Works and Government Services Canada, 2012) at 55, online: Public Safety Canada <<http://www.publicsafety.gc.ca/cnt/rsrscs/pblctns/2012-crcs/index-eng.aspx>>.

Federally Sentenced Women

- Women are generally involved in the criminal justice system as victims of crime, not as individuals charged with offences and women are although they under-report, they are more likely to report being a victim of physical assault, sexual assault, and robbery.¹¹
- Non-violent, property, and drug offences represent the majority of crimes for which women are convicted.¹²
- The serious violent crimes for which women are charged and convicted must be appropriately contextualized. Overwhelmingly, the actions of women in these contexts are defensive or otherwise reactive to violence directed at themselves, their children, or another third party.¹³
- 85% of federally sentenced women have a history of physical abuse, while 68% have a history of sexual abuse.¹⁴ This rate increases to 90% for Indigenous women.¹⁵
- Two-thirds of federally sentenced women are mothers and have primary childcare responsibilities.¹⁶ Separation from their children and the inability to deal with problems surrounding this separation are major anxieties for women in prison.¹⁷
- Approximately 50% of provincially sentenced women do not have a high school diploma, as compared to 15% of women in the general population.¹⁸ For federally sentenced women, this rate is closer to 79%.¹⁹
- Approximately 66% of provincially sentenced women and 78% of federally sentenced women were unemployed at the time of their admission to prison.^{20 21}
- Although several reports have all demonstrated that women prisoners pose a low risk to society and are less likely to return to prison on new charges, the Correctional Service of

¹¹ Statistics Canada, *Women in Canada: A gender-based statistical report* (Ottawa: Minister of Industry Canada, 2011) at 169, online: Statistics Canada <<http://www5.statcan.gc.ca/olc-ce/olc.action?objId=89-503-X&objType=2&lang=en&limit=0>>.

¹² Shoshana Pollack, *Locked In, Locked Out: Imprisoning Women in the Shrinking and Punitive Welfare State* (Waterloo: Wilfrid Laurier University, 2008) at 6, online: Wilfrid Laurier University <https://legacy.wlu.ca/docsnpubs_detail.php?grp_id=1067&doc_id=30852>.

¹³ Canadian Human Rights Commission, *Protecting Their Rights: A Systematic Review of Human Rights in Correctional Services for Federally Sentenced Women* (Ottawa: Minister of Public Works and Government Services Canada, 2003) at 32, online: CHRC <<http://www.chrc-ccdp.ca/eng/content/protecting-their-rights-systemic-review-human-rights-correctional-services-federally>>.

¹⁴ The Correctional Investigator of Canada, *Annual Report of the Office of the Correctional Investigator 2011-2012* (Ottawa: Minister of Public Works and Government Services Canada, 2012) at 7, online: The Correctional Investigator of Canada <<http://www.oci-bec.gc.ca/cnt/rpt/pdf/annrpt/annrpt20112012-eng.pdf>>.

¹⁵ Canadian Human Rights Commission, *Protecting Their Rights: A Systematic Review of Human Rights in Correctional Services for Federally Sentenced Women* (Ottawa: Minister of Public Works and Government Services Canada, 2003) at 7, online: CHRC <<http://www.chrc-ccdp.ca/eng/content/protecting-their-rights-systemic-review-human-rights-correctional-services-federally>>.

¹⁶ Canadian Human Rights Commission, *Protecting Their Rights: A Systematic Review of Human Rights in Correctional Services for Federally Sentenced Women* (Ottawa: Minister of Public Works and Government Services Canada, 2003) at 6, online: CHRC <<http://www.chrc-ccdp.ca/eng/content/protecting-their-rights-systemic-review-human-rights-correctional-services-federally>>.

¹⁷ British Columbia Centre of Excellence for Women's Health, *Women-Centred Harm Reduction*, online: British Columbia Centre of Excellence for Women's Health <http://bcewh.bc.ca/wp-content/uploads/2012/05/2010_GenderingNatFrameworkWomencentredHarmReduction.pdf>.

¹⁸ Statistics Canada, *Women in Canada: A gender-based statistical report* (Ottawa: Minister of Industry Canada, 2011) at 197, online: Statistics Canada <<http://www5.statcan.gc.ca/olc-ce/olc.action?objId=89-503-X&objType=2&lang=en&limit=0>>.

¹⁹ Correctional Service of Canada, *Focus on Federal Women Offenders: High Risk, High Needs, High Profile* (Ottawa, ON: Correctional Service of Canada, 2008), online: Correctional Service of Canada <http://www.csc-ccc.gc.ca/text/pb/ct/hsbulletin/2008/no1/vol6_no1-2008-eng.pdf>.

²⁰ Statistics Canada, *Women in Canada: A gender-based statistical report* (Ottawa: Minister of Industry Canada, 2011) at 198, online: Statistics Canada <<http://www5.statcan.gc.ca/olc-ce/olc.action?objId=89-503-X&objType=2&lang=en&limit=0>>.

²¹ Correctional Service of Canada, *Focus on Federal Women Offenders: High Risk, High Needs, High Profile* (Ottawa, ON: Correctional Service of Canada, 2008), online: Correctional Service of Canada <http://www.csc-ccc.gc.ca/text/pb/ct/hsbulletin/2008/no1/vol6_no1-2008-eng.pdf>.

Canada (CSC) continues, for the most part, to use the same risk and needs assessment tools for both women and men.²²

- The Custody Rating Scale used to determine the security classification of federally sentenced women was designed for men. It results in skewed, discriminatory assessments and overly high security classifications of federally sentenced women.²³
- Women who are overclassified as maximum security prisoners are isolated in segregated living units and, unlike their minimum and medium security counterparts, are not eligible to participate in work release programs, community release programs, or other supportive programming designed to enhance their chances of community integration.²⁴
- Almost 90% of federally sentenced Indigenous women are precluded from accessing the Okimaw Ohci Healing Lodge because they are designated as maximum security prisoners.²⁵ Many are confined in segregated maximum security units in the regional prisons for women, while a small number still remain confined in the segregated maximum security unit at the Regional Psychiatric Centre in Saskatoon. No maximum security woman has ever been able to access the Healing Lodge.²⁶

Recidivism

- Relative to men, women have lower rates of recidivism and pose far less risk to community safety.²⁷ Only 2% of federally sentenced women are returned to prison for the commission of a new offence, less than 0.5% for a violence offence.²⁸
- Most women whose parole is revoked are imprisoned for administrative breaches.²⁹

Oversight and Accountability

- In 1996, Madam Justice Louise Arbour found that correctional culture exemplified disrespect for the rule of law, and recommended judicial oversight and external accountability mechanisms to remedy correctional breaches of the law.³⁰

²² Shoshana Pollack, *Locked In, Locked Out: Imprisoning Women in the Shrinking and Punitive Welfare State* (Waterloo: Wilfrid Laurier University, 2008) at 7, online: Wilfrid Laurier University <https://legacy.wlu.ca/docsnpubs_detail.php?grp_id=1067&doc_id=30852>.

²³ Canadian Human Rights Commission, *Protecting Their Rights: A Systematic Review of Human Rights in Correctional Services for Federally Sentenced Women* (Ottawa: Minister of Public Works and Government Services Canada, 2003) at 28, online: CHRC <<http://www.chrc-ccdp.ca/eng/content/protecting-their-rights-systemic-review-human-rights-correctional-services-federally>>.

²⁴ Canadian Human Rights Commission, *Protecting Their Rights: A Systematic Review of Human Rights in Correctional Services for Federally Sentenced Women* (Ottawa: Minister of Public Works and Government Services Canada, 2003) at 28, online: CHRC <<http://www.chrc-ccdp.ca/eng/content/protecting-their-rights-systemic-review-human-rights-correctional-services-federally>>.

²⁵ The Correctional Investigator of Canada, *Spirit Matters: Aboriginal People and the Corrections and Conditional Release Act* (Ottawa: Minister of Public Works and Government Services Canada, 2012) at 3, online: The Correctional Investigator of Canada <<http://www.oci-bec.gc.ca/cnt/rpt/pdf/oth-aut/oth-aut20121022-eng.pdf>>.

²⁶ Canadian Human Rights Commission, *Protecting Their Rights: A Systematic Review of Human Rights in Correctional Services for Federally Sentenced Women* (Ottawa: Minister of Public Works and Government Services Canada, 2003) at 29 online: CHRC <<http://www.chrc-ccdp.ca/eng/content/protecting-their-rights-systemic-review-human-rights-correctional-services-federally>>.

²⁷ Canadian Centre for Justice Statistics, *Female Offenders in Canada* (Ottawa, ON: Statistics Canada, 2008), online: Statistics Canada <<http://www.statcan.gc.ca/pub/85-002-x/2008001/article/10509-eng.htm>>.

²⁸ Shoshana Pollack, *Locked In, Locked Out: Imprisoning Women in the Shrinking and Punitive Welfare State* (Waterloo: Wilfrid Laurier University, 2008) at 7, online: Wilfrid Laurier University <https://legacy.wlu.ca/docsnpubs_detail.php?grp_id=1067&doc_id=30852>.

²⁹ Canadian Centre for Justice Statistics, *Female Offenders in Canada* (Ottawa, ON: Statistics Canada, 2008), online: Statistics Canada <<http://www.statcan.gc.ca/pub/85-002-x/2008001/article/10509-eng.htm>>.

³⁰ The Solicitor General Canada, *Report of the Commission of Inquiry into Certain Events at the Prison for Women in Kingston* by Louise Arbour (Ottawa: Minister of Public Works and Government Services Canada, 1996) at 135, online: CAEFS <http://www.caefs.ca/wp-content/uploads/2013/05/Arbour_Report.pdf>.

- In 2003, the Canadian Human Rights Commission (CHRC) reiterated the ongoing need for oversight and accountability mechanisms to address the discriminatory treatment of women prisoners.³¹
- In 2005, the United Nations Human Rights Committee (UNHRC) called on Canada to remedy its discriminatory treatment of women prisoners. As part of their review of Canada's performance in relation to the International Covenant on Civil and Political Rights (ICCPR), the Commission called upon Canada to implement the previous recommendations of the CHRC, including those related to external redress and the need for adjudication processes for prisoners. The UNHRC also instructed Canada to report within one year on their progress of implementing these recommendations. No such report has been submitted.³²
- The Office of the Correctional Investigator continues to call upon the Correctional Service of Canada to demonstrate transparency and accountability in its practices.³³

Works Cited

British Columbia Centre of Excellence for Women's Health, *Women-Centred Harm Reduction*, online: British Columbia Centre of Excellence for Women's Health <http://bccewh.bc.ca/wp-content/uploads/2012/05/2010_GenderingNatFrameworkWomencentredHarmReduction.pdf>.

Canadian Centre for Justice Statistics, *Female Offenders in Canada* (Ottawa, ON: Statistics Canada, 2008), online: Statistics Canada <<http://www.statcan.gc.ca/pub/85-002-x/2008001/article/10509-eng.htm>>.

Canadian Human Rights Commission, *Protecting Their Rights: A Systematic Review of Human Rights in Correctional Services for Federally Sentenced Women* (Ottawa: Minister of Public Works and Government Services Canada, 2003), online: CHRC <<http://www.chrc-ccdp.ca/eng/content/protecting-their-rights-systemic-review-human-rights-correctional-services-federally>>.

Concluding Observations of the UNHRC in Relation to the Report Submitted by Canada under Article 40 of the ICCPR, HRC Res 17/19, UNHRC, 19th Sess, UN Doc A/HRC/19/41 (2005), online: Office of the High Commissioner for Human Rights <http://www.ohchr.org/Documents/Issues/Discrimination/A.HRC.19.41_English.pdf>.

Corrections and Conditional Release Act, SC 1992, c 20.

³¹ Canadian Human Rights Commission, *Protecting Their Rights: A Systematic Review of Human Rights in Correctional Services for Federally Sentenced Women* (Ottawa: Minister of Public Works and Government Services Canada, 2003) at 71-72, online: CHRC <<http://www.chrc-ccdp.ca/eng/content/protecting-their-rights-systemic-review-human-rights-correctional-services-federally>>.

³² *Concluding Observations of the UNHRC in Relation to the Report Submitted by Canada under Article 40 of the ICCPR*, HRC Res 17/19, UNHRC, 19th Sess, UN Doc A/HRC/19/41 (2005), online: Office of the High Commissioner for Human Rights <http://www.ohchr.org/Documents/Issues/Discrimination/A.HRC.19.41_English.pdf>.

³³ The Correctional Investigator of Canada, *Annual Report of the Office of the Correctional Investigator 2012-2013* (Ottawa: Minister of Public Works and Government Services Canada, 2013) at 3, online: The Correctional Investigator of Canada <<http://www.oci-bec.gc.ca/cnt/rpt/pdf/annrpt/annrpt20122013-eng.pdf>>.

Correctional Service of Canada, *Focus on Federal Women Offenders: High Risk, High Needs, High Profile* (Ottawa, ON: Correctional Service of Canada, 2008), online: Correctional Service of Canada <http://www.csc-scc.gc.ca/text/pblct/hsbulletin/2008/no1/vol6_no1-2008-eng.pdf>.

CSC Case Files.

Elizabeth Fry Society of Greater Vancouver, *Kids in Crisis*, online: Just Kids <<https://www.elizabethfry.com/programs/atrisk-children.htm>>.

Elizabeth Fry Society of Toronto, *Women in Conflict with the Law: Some Facts*, online: Community Health Online Digital Archive and Research Resource <<http://chodarr.org/sites/default/files/chodarr1385.pdf>>.

Himelfarb, Alex, "Is it getting tough on crime, or getting tough on the poor?" *The CCPA Monitor* (July/August 2011) 14, online: Canadian Centre for Policy Alternatives <<http://www.policyalternatives.ca>>.

Jaffer, Mobina, *Mental Health Treatment for Federally Sentenced Aboriginal Women*, online: Senator Mobina Jaffer <<http://www.mobinajaffer.ca>>.

Mallea, Paula, *Omnibus Crime Bill an Injustice*, online: Rabble <<http://rabble.ca/blogs/bloggers/behind-numbers/2011/06/omnibus-crime-bill-injustice>>.

Pollack, Shoshana, *Locked In, Locked Out: Imprisoning Women in the Shrinking and Punitive Welfare State* (Waterloo: Wilfrid Laurier University, 2008), online: Wilfrid Laurier University <https://legacy.wlu.ca/docsnpubs_detail.php?grp_id=1067&doc_id=30852>.

Pollack, Shoshana, "I'm just not good with relationships" (2007) 2:2 *Feminist Criminology*, online: Academia <http://www.academia.edu/6470066/Im_just_not_good_in_relationships_Victimization_Discourses_and_the_Gendered_Regulation_of_Criminalized_Women>.

Public Safety Canada, *Corrections and Conditional Release Statistical Overview 2012* (Ottawa: Public Works and Government Services Canada, 2012), online: Public Safety Canada <<http://www.publicsafety.gc.ca/cnt/rsrscs/pblctns/2012-ccrs/index-eng.aspx>>.

Public Safety Canada, *Marginalized: The Aboriginal Women's Experience in Federal Corrections* by Mandy Wesley (Ottawa: The Wesley Group, 2012), online: Public Safety Canada <<http://www.publicsafety.gc.ca/cnt/rsrscs/pblctns/mrgnlzd/index-eng.aspx>>.

Statistics Canada, *Women in Canada: A gender-based statistical report* (Ottawa: Minister of Industry Canada, 2011), online: Statistics Canada <<http://www5.statcan.gc.ca/olc-ocel/olc.action?objId=89-503-X&objType=2&lang=en&limit=0>>.

The Correctional Investigator of Canada, *Annual Report of the Office of the Correctional Investigator 2012-2013* (Ottawa: Minister of Public Works and Government Services Canada,

2013), online: The Correctional Investigator of Canada <<http://www.oci-bec.gc.ca/cnt/rpt/pdf/annrpt/annrpt20122013-eng.pdf>>.

The Correctional Investigator of Canada, *Annual Report of the Office of the Correctional Investigator 2011-2012* (Ottawa: Minister of Public Works and Government Services Canada, 2012), online: The Correctional Investigator of Canada <<http://www.oci-bec.gc.ca/cnt/rpt/pdf/annrpt/annrpt20112012-eng.pdf>>.

The Correctional Investigator of Canada, *Annual Report of the Office of the Correctional Investigator 2007-2008* (Ottawa: Minister of Public Works and Government Services Canada, 2008).

The Correctional Investigator of Canada, *Annual Report of the Office of the Correctional Investigator 2005-2006* (Ottawa: Minister of Public Works and Government Services Canada, 2006).

The Correctional Investigator of Canada, *Risky Business: An Investigation of the Treatment and Management of Chronic Self-Injury among Federally Sentenced Women* (Ottawa: Minister of Public Works and Government Services Canada, 2013), online: The Correctional Investigator of Canada <<http://www.oci-bec.gc.ca/cnt/rpt/pdf/oth-aut/oth-aut20130930-eng.pdf>>.

The Correctional Investigator of Canada, *Spirit Matters: Aboriginal People and the Corrections and Conditional Release Act* (Ottawa: Minister of Public Works and Government Services Canada, 2012), online: The Correctional Investigator of Canada <<http://www.oci-bec.gc.ca/cnt/rpt/pdf/oth-aut/oth-aut20121022-eng.pdf>>.

The Solicitor General Canada, *Report of the Commission of Inquiry into Certain Events at the Prison for Women in Kingston* by Louise Arbour (Ottawa: Minister of Public Works and Government Services Canada, 1996), online: CAEFS <http://www.caefs.ca/wp-content/uploads/2013/05/Arbour_Report.pdf>.