

## **Guidelines for Advocacy: Introduction**

*If you have come to help me,  
You are wasting your time  
But if you have come because your liberation  
is bound up with mine  
Then let us work together.*

**Lilla Watson**

(Australian Aboriginal Woman)

### **Who is an Advocate?**

An Advocate can be any person or any group who **seeks justice** for another –one who for various reasons is disabled in their ability to act for themselves. An advocate may:

- uphold the cause of another through support or pleadings
- defend by argument and/or
- intercede on behalf of another

### **What should the governing principles of any prisoners' advocate entail?**

- To a pursuit of justice that is seen to be done
- To understand that any information collected and/or given by a prisoner is **confidential** unless told otherwise
- To use a vocabulary which reflects at all times the **reality** of imprisonment (see Section I)
- To uphold the focus on truthfulness and **normative legitimation** (see Section III)
- To reject any means/ends rationality which is indifferent to culture, society, personality and Constitutional entitlement in particular the guarantees under section 15 of the Charter of Rights and Freedoms of the *Constitutional Act of Canada*.

When confronted with a problem concerning the rightness or wrongs of “treatment” and the willingness or unwillingness of an advocate to speak for the cause of the prisoner, one needs to ask the questions:

- Does the matter evoke in the prisoner a deeper respect for another person, or enhance his or her own interpersonal, social, cultural or spiritual evolution towards becoming a better member of humankind?
- Does the matter contribute towards a good opportunity for an effective and permanent method of preventing recidivism?
- Is the “power exercised over the prisoner by the prison seen to be legitimate, and not power which is divisive, oppressive or exploitative?”(2000:68)<sup>1</sup>

Any negative response to these questions affirms advocacy.

Advocates wish to strengthen bonds of human solidarity. Decreasing the dominance of systems is one method.

### How does a prisoners' advocate work?

Upon the acceptance of assistance offered to those with no voice or those whose voice is not heard, enabled or accepted to be legitimate, the advocate works by seeking justice on their behalf:

- By showing the same respect to the prisoner as you would to any person you were acting on behalf of
- By asking the prisoner what s/he thinks could remedy the situation before making suggestions of your own. *Sometimes the prisoner knows what to do, but doesn't know how to begin the process. Often the prisoner may not have any ideas, but it shows respect to ask first.*
- By assisting the person to become productively pro-active in his or her own situation through education and example. *The most help you can provide to any prisoner is to assist them in building on their own strengths. Often the prisoner simply does not understand that s/he does have strengths and therefore can make choices positive to her or his existence. Most prisoners need help in understanding that for the time being, prison is their existence but no matter how long or how short a time, it is mainly in their hands how the time is spent.*
- By understanding that you are not expected to know the many nuances involved in the prison experience. *Use care when using descriptive terms. If you are unsure of the application of any descriptive, refrain from using it until you are sure. (see Appendix I – Language)*
- By acting as a resource person in the capacity that you are most comfortable with. *The needs of prisoners encompass all aspects of existence, however each prisoner has her or his own priority list.*
- By always asking permission of the prisoner to request the assistance of another person and/or group. *If you are referring any question or request to another person, ask the prisoner if that is acceptable before involving anyone else.*
- By quickly acting to refer the matter to another advocate, specialist or group when in an emergency situation i.e.: *If the person you are assisting is held incommunicado causing you concern*
- By returning phone calls and requests by prisoners as soon as possible even if not being able to help immediately
- By leaving a message on your answering service stating return time when out of the area and preferably leaving someone else to reference

**58.** *The purpose and justification of a sentence of imprisonment or a similar measure deprivative of liberty is ultimately to protect society against crime. This end can only be achieved if the period of imprisonment is used to ensure, so far as possible, that upon her/his return to society the offender is not only willing but able to lead a law-abiding and self-supporting life;*

**60.** *The regime of the institution should seek to minimize any differences between prison life and life at liberty which tend to lessen the responsibility of the prisoners or the respect due to their dignity as human beings.*

**61.** *The treatment of prisoners should emphasize not their exclusion from the community, but their continuing part in it...*

**United Nations Standard Minimum Rules for the Treatment of Prisoners New York, 1984**

### **An advocate does not:**

- ask the prisoner what s/he is doing time for (*considered by prisoners to be extremely rude*)
- betray anything considered by the prisoner to be confidential
- ask a prisoner anything about any other prisoner
- seek counsel from prison authorities
- make promises s/he cannot keep
- *When agreeing to find information, etc. give yourself a reasonable amount of time to obtain results and communicate the length of time required in a clear manner. I.e. "This may take (specified period of time) to find out for you. I will get back to you on this (day & date)."*
- reinforce the *ideal* of penal authority
- rationalize punishment particularly when euphemized as "treatment"
- assist in the control of prisoners
- accept any oral or written statements concerning a prisoner and/or her/his behaviour as the complete and unmitigated truth of the matter without first listening to the prisoner's perspective in privacy
- participate in the searching of a prisoner and/or her/his belongings
- speak "down" to a prisoner ( *It will be obvious and your attempts at helping may be rejected. On the other hand, don't expect that all prisoners will understand terms that you use. If you are unsure, affirm their understanding from time to time when in dialogue.*)

### **Effective Advocacy**

- *Understand yourself and your motivations for involvement.*
- Understand that every situation in all of our lives is "political"
- Be realistic but maintain a strong focus. Understand that the prison regime is a very complex and complicated one. It is most unlikely that you could help any prisoner in all of the areas of need. *If the entire gamut of needs by prisoners seems overwhelming, you might consider a selection of particular areas of personal interest.*

Would your advocacy interests, talents and focus be better used as a therapist or a teacher? a counselor or a leader? a spiritual guide or a meditation partner? a housing advocate and liaison? a First Nations advocate? Women of colour advocate? community liaison? Post-secondary education advisor? assertiveness trainer? transportation coordinator? volunteer crisis intervenor? liaison in family relationships? legal inreach? vocational assistance? health and fitness counselor? Fine arts or applied sciences?

*Try to be thorough in a general way or in a specific way if you have selected a specific area of advocacy (see Section IV for specific needs of prisoners).*

- In researching and in keeping updated on new legislation and correctional policies.
- In clarifying to yourself the differences between "*privileges*" and "rights", between "*treatment*" and "punishment".

- An Advocate must accept that correctional policies will often **not** flow directly from law but rather may be in opposition in the prison environment. This may occur through deliberate and/or unintentional, misguided and/or misunderstood comprehension and interpretation of laws. It may also occur simply because the particular prison employee or regime is ignorant of the applicability of the law to prisoners. There are varying degrees of non-compliance with the law within prison environments.
- The less educated, less supported, less communicative prisoner will more often be the target of these misinterpretations of law and/or policy. The higher the security level that a prisoner is held under runs parallel to the degree of misguided and misunderstood interpretations of and/or ignorance of the law as applied by prison regimes to the prisoner .i.e. *maximum-security prisoner; segregated prisoner*
- An advocate must therefore be careful when making any assumption that policy is necessarily lawful or that policy quoted is formally authorized policy. For example, a prison employee may tell you that it is policy that no one can file a grievance for the prisoner, but the prisoner herself. This is clearly a statement in opposition to Section III of the CCRA which states:  
*170.(1)The Correctional Investigator may commence an investigation  
(a) on the receipt of a complaint in writing by or on behalf of an offender*

The Advocate, along with the prisoner, also has the right to accessibility of a full set of the Commissioner's Directives (CDs) as per CCRA 98. (2). Remember however, that the right to accessibility does not mean that a complete updated set of CDs may be found in the prison library. This is a practical example of how many of us have inherent rights under the law, but this is not the same as the ability to access those rights. It is the Advocate who may best be able to assist and/or advise a prisoner in these areas.

It is therefore suggested that the advocate have some knowledge of and is able to reference the CCRA and the challenges to the CCRA put forward by CAEFS and the Canadian Bar Association if so required.

### **Educate yourself**

Familiarize yourself with an outline of the history of incarceration of women in Canada like the now classic, *Too Few To Count*<sup>ii</sup>. Know that though federal and provincial prison regimes may often operate in differing proprietary ways they are always focused upon control. Read material prepared by Kim Pate<sup>iii</sup>, other advocacy groups and by abolitionists like Karlene Faith,<sup>iv</sup> Ruth Morris<sup>v</sup> and by prisoners. Many excellent edited collections are now available through different universities across the country.

### **Conclusion**

Criminal law has basis in Roman law that is rooted in Hammurabai's 1927 BC Law of Retaliation - "AN EYE FOR AN EYE." Even after nearly 4,000 years there are still many who subscribe to this form of "justice" and in fact at present the subscribers' numbers appear growing. Even if a part of you believes in a form of retribution to right wrongs done but also believes that permanent psychological, physical or mental impairment should not result, then prisoner advocacy is the correct path to improving the outcome.

"If you are to punish a (wo)man retributively you must injure (her) him. If you are to reform him(her), you must improve him(her). And (wo)men are not improved by injuries. (1978:119)"<sup>vi</sup>

In many ways, the position of prison advocate and the activities of advocacy are among the most abstract conundrums. When should an advocate speak out? What are the "unwritten rules" with regard to assisting prisoners? When deciding to speak out, who is the dialogue best directed to? What are the repercussions if one stands against a seemingly insurmountable bureaucracy as well-funded, staffed and technologically supported as prison regimes?

An advocate is often caught between “a rock and a hard place”, not knowing if one’s actions are indeed helping or may be hindering the process of seeking justice. And it is true that sometimes one believes one is performing an act of advocacy but in fact is only maintaining “the status quo.” You will learn by experience what is what. Ask your peers for advice without divulging the person involved if confidence was a precondition of your advocacy.

At this point you may say, “yes, what’s the point of carrying on when it seems that the more I try to help, the more it seems I don’t understand why it is not helping.” I heard someone say the other day that; “There are no perfect people, only perfect intentions.” This is a credo one can live and work by. Just do your best and be sincere and you will gain respect from all involved. I hope that even one advocate may have a clearer idea of what is facing her/him when venturing within the walls of the growth industry called corrections and have confidence that the efforts of all advocates are sources of wonder and inspiration to those who are locked inside the walls.

This material is presented from the viewpoint of a lifer. You may not wholly agree with the contents but I am hoping that there will be some worthwhile information within it, such that one prisoner or member of a prisoner’s family in need of an advocate may be assisted in some way. There is not one prisoner who would not benefit.

We thank you for your wonderful examples of humanity.

Compliance with the law ultimately depends upon an interdependent trust --trust in the rightness of the law and in the right enforcement of that law which "reflects ideals of liberty, equality and fairness (*nullum crimen sine lege, nulla poena sine lege* - there can be no crime, nor punishment, without law)"(Arbour 1996:179).

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<sup>vi</sup> Ryan, Mick. 1978. “The Acceptable Pressure Group.” *Inequality in the Penal Lobby: A Case Study of the Howard League and Radical Alternatives to Prison*. (RAP) Westmead: Saxon. House.

## **Guidelines for Advocacy: Section I**

*"It is through language that the process of dehumanization becomes acceptable just as "the process of humanization is not founded in the conscious production of the necessities of life (Marx) or in the use of tools (Rousseau), but rather in the use of language"(Horster 1992:63).*

### **Reality vs the covert power of Euphemisms**

#### **Cell**

A prisoner exists in a cell. A prisoner does *not* "live" in one's "house, home or room"--one always has the key to one's house and has the freedom to enter and leave at will, the right to refuse entry to anyone and the reasonable expectation that it is at all times a safe place.

#### **Use: Imprisoned, Incarcerated, Jailed**

Not "managed".

#### **Involuntary transfer**

Can include that of women to men's Special Handling Units (SHUs) where the CSC insist the woman can receive "specialized treatment" or "programs" in "special needs units"

#### **Jail, Lock-Up, Prison (Provincial authority)**

#### **Penitentiary (Federal authority)**

#### **Not: Institution**

This attempts to "civilize" the penitentiary since it brings to mind other familiar institutions like hospitals, the family, marriage, etc. "Institution" is used to *normalize* and *sanitize* the experiences of imprisonment, clearly not "normal" at all. Tragically, many prisoners internalize this *fake normalcy* and become totally "manageable" (*institutionalized*). After years inside, many are completely "programmed" (debilitated), are unable to apply critical thinking, and have no understanding of "real world" inter-relationships between work, family and community. When released, many "good inmates" fail at "reintegration," returning to prison (*their "normal" "homes"*) over and over and over again. Prison "treatment and programs" produce good "recidivists" not good citizens.

#### **Not: Reformatory**

Prisons do not 'reform' the individual.

#### **Not: Corrections**

Prisons do not "correct".

#### **Prisoner - is the only correct term**

This describes a person locked into a cage or cell within a facility not of one's choice and whose quality of existence therein depends upon the keeper(s).

#### **Not: inmate**

This is an inpatient of a mental hospital that may or may not have voluntarily entered the "institution".

Not: *client*

A person who has purchased the services of a chosen deliverer, is a patron of the one hired and/or is an outpatient-- someone who chooses to be a client. The term "*resident*" is also an obvious corruption.

**Prisoner is the only correct term**NEVER: *OFFENDER*

The continual use of the term "*offender*" justifies everything done to "*an inmate in the name of the law.*" Yet "*offender*" describes a person who commits an offence--a current transgression, one that is occurring at a specific time. Charged with an offence, the person is tried, and if convicted becomes a prisoner. The offence has already happened. It is in the past. The prisoner in prison is not offending. S/he has already offended. S/he may have "offended" once and may never "offend" again, but utilizing the label, "*offender*" permits ***an ongoing and static reference*** justifying brutalization and degradation (euphemistically referred to as "*treatment of the offender*") and enables the continuum of power distinctions.

*Punishment – cannot be treatment*

It is not "*treatment*" that is administered in "*enhanced security and/or special needs units.*" It is punishment to be held under segregated or solitary confinement conditions within fortified sensory-deprivation cells. "*Programs*" clearly cannot be delivered in segregation. Prisons and penitentiaries are not objective medical or psychiatric facilities.

**Descriptives**

Use care when using descriptive terms. They may be more insulting or have a different meaning inside the walls from the one acknowledged outside the walls.

e.g.: "goof" (you may understand the word to mean simply a bit of a cut-up or a foolish person, however one whose behaviour is still innocuous. Inside the walls, however, this term is one of the utmost insults to another person. A "goof" is someone who totally messes up, in a way that is intentionally harmful to other prisoners and as such is someone who could engender retaliation. If you are unsure of the application of any descriptive, refrain from using it until you are certain of the definition.

**List of Acronyms/Abbreviations and Definitions**

**APR:** Accelerated Parole Review (removed in April, 2010)

**CCC:** The *Criminal Code of Canada*

**Charter:** The *Canadian Charter of Rights and Freedoms*

**Crown:** Federal or provincial prosecutors

**CSC:** Correctional Service of Canada

**DBT:** Dialectical Behaviour Therapy

**DSM-IV:** *The Diagnostic and Statistical Manual of Mental Disorders*, 4<sup>th</sup> Edition, published by the American Psychiatric Association

**U/ETA:** Unescorted/Escorted Temporary Absence

**FSW:** Federally Sentenced Woman. The term FSW refers to women sentenced to two years or more and therefore under the jurisdiction of federal corrections. The term avoids the euphemisms associated with the terms "inmate" or "offender". CSC uses those terms for anyone under its jurisdiction or supervision even if she is on parole, serving a sentence in the community, or otherwise not in custody.

**“max”:** Segregated Maximum Security Unit within the regional prisons for women

**PBC:** Parole Board of Canada (formerly National Parole Board)

**“seg”:** Segregation (a status, as well as a ‘place’) within the regional prisons for women

**SLE:** Structured or Special Living Environment within the regional prisons for women

**Prisoner:** Preferred term for women serving prison sentences

**Adjournment:** Postponement of a legal proceeding by a judge, often to allow time for the preparation of a report, to retain council, or to prepare for trial.

**Admissible:** Evidence that can be presented in court. The judge decides whether the evidence is admissible.

**Assault:** Physical harm to or verbal threats against a person. Levels of assault are set out in the *Criminal Code of Canada*.

**Bail:** The release of a person from custody by a judge until that person’s trial. Correct terminology is *Judicial Interim Release*.

**Bail Hearing:** The Crown prosecutor must show why the accused should remain in custody rather than be released on bail. Also called a “show cause hearing”.

**Conviction:** When a judge or jury finds an accused person guilty of an offence.

**Correctional Officer:** Term used by CSC for guard.

**Criminal Code Review Board:** Provincial/Territorial bodies mandated by that *Criminal Code* to oversee the treatment and placement of accused or convicted persons with mental disorders.

**Custody:** Being imprisoned or detained in such a way that your liberty and freedom of movement is restricted.

**Disease of the mind:** Includes any medically recognized mental disorder or condition that would make a person incapable of appreciating the nature of an act or knowing it is wrong.

**Dry cell:** A cell without running water. A woman in prison may be placed in this kind of cell by CSC if they allege that they suspect she is carrying drugs in her body.

**Guard:** Prisoners and most staff use this term, but CSC officially uses the term Correctional Officer.

**Hearing:** A proceeding in court other than a trial. For example, a sentencing hearing or a hearing to determine if a piece of evidence is admissible.

**Hybrid Offence:** In a hybrid offence (such as theft under \$5 000), the Crown has the option to treat the offence as Indictable or Summary. See also, Indictable Offence and Summary Offence.

**Indictable Offence:** A serious criminal offence, such as murder or robbery. The penalties are serious and there is no time limit for laying charges (see also, Summary Offence).

**Indictment:** A formal document charging a person with an indictable offence.

**Interim Order:** A temporary court order that remains in force for a specified period of time until another order is made.

**Mental Disability:** An impairment that affects mental or cognitive functioning including mental illness or disorder, developmental disabilities, cognitive impairments, learning disabilities, or brain injuries.

**Parole:** Having served part of a prison term, a person may be conditionally released (paroled) by the Parole Board of Canada.

**Penitentiary:** A federal prison. See also, Regional Facility.

**Plea:** A formal statement in court by the accused informing the judge whether the accused pleads guilty or not guilty to the offence with which she is charged.

**Primary Worker:** A CSC staff member, a guard or Correctional Officer, who is involved with the delivery of programs and the case management of FSW.

**Probation:** A sentence served in the community that requires the person to comply with specified conditions for a set period of time.

**Recognizance:** A procedure releasing a person from custody on her promise to appear in court later to answer the charges against her.

**Regional Facility:** CSC uses this term for the prisons for women that were build in the regions after the Prison for Women in Kingston was closed.

**Remand:** Keeping the women in custody until her trial. A remand is usually to a provincial prison. An accused person may also be remanded for a psychiatric assessment.

**Search Warrant:** A court order signed by a judge authorizing the police to search a specific place on a certain date or dates.

**Seizure:** The taking and keeping of evidence, usually by the police.

**Subpoena:** A document requiring a witness to appear in court. If the subpoena had been properly 'served' (delivered) and the witness does not appear, a warrant will be issued for her arrest.

**Summary Offence:** A less serious criminal offence (such as causing a disturbance) where the maximum penalty is a fine and/or up to six months in jail. The police have to lay the charge within six months of the date of the incident (See also, Indictable Offence).

**Warrant:** A court order directing the police to arrest the person named in the warrant, or to search premises named in the warrant.

## **Guidelines for Advocacy: Section II**

*"Compliance with the law ultimately depends upon an interdependent trust --trust in the rightness of the law and in the right enforcement of that law which "reflects ideals of liberty, equality and fairness (nullum crimen sine lege, nulla poena sine lege - there can be no crime, nor punishment, without law)"(Arbour 1996:179).*

<p>One who seeks justice for women in the area of <b>Legal &amp; Equality Issues may advocate for</b></p>
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- a) a complete law referencing library as a distinct but separate part of the library facility which is available to all incarcerated women in that facility on a daily basis regardless of the security level of the woman (To offset the costs of this facility, it could also be open to members of the community who need access to similar materials)
- b) prisoner training for a paid legal clerk's position:
  - to assist First Nations' women in their legal applications for status and with other legal matters unique to First Nations' women
  - to assist those women who are not Canadian citizens to search out the applicable immigration laws, parole-by-exception applications and other specialty legal matters
  - to file updates on family law, criminal law and prison law matters
  - to assist women to locate particular legislation and case law and
  - to act as a liaison to organize legal workshops

This position could be open to women serving lengthy sentences and who may be interested in pursuing a career in computers, administration, law, education, social services etc.
- c) access to free semi-annual legal workshops as could be coordinated by the provincial legal services societies, the prison legal services societies and/or the community law colleges and universities.
- d) training for the paid position of a grievance consultant in order to assist those women unable to understand the complaint and grievance process. The woman occupying this position would also be responsible for record keeping of all complaints and grievances filed and their disposition and would complete a semi-annual statistical report, which while protecting the identities of all involved could assist to measure any difficulties encountered and flag areas where these difficulties are not meeting with satisfying resolutions for all concerned. This report would be automatically copied to advocacy groups who request it as well as to the Commissioner of Corrections and the Correctional Investigator on FSW matters.
- e) the right of regular conciliation in unresolved grievance and legal areas

### **Why Grievance Advocacy?**

The grievance procedure was implemented as a method to reduce tensions in prisons by offering the prisoner an opportunity to make written responses to perceived wrongs done. It may have also been an effort to make penal authorities accountable to the law, a more ideal interpretation of the old Charter of Rights that could suggest that both rights and responsibilities attached to the laws of this country are applicable whether one is a prisoner or whether one is employed as part of the prison industry.

To **assist** a woman in writing an effective grievance is to enable her to cope within the prison environment with a sense of self-respect. The process helps her to understand what her rights are and how to access them. If she is confined in segregation writing the grievance for her (upon her request) may be the only way to help. In most cases, however, it is more productive to assist the woman so that she does not become entirely dependent on you. Offer only to help her write her own grievance and to follow it up with her each step of the process. Help her to understand that the grievance system was mandated under law nearly 30 years ago.

Many women in prison do not know how to challenge unfair practices and many become frustrated, angered and sometimes violent because they feel victimized, fearful and helpless. This state of mind is a form of ongoing depression. It disables the woman from benefiting from any program offered, it severely impairs her ability to make sound choices and it drastically decreases her chances for survival inside or outside of prison.

Some prisoners will say, "Why file a grievance – it doesn't get you anywhere!" Tell these very frustrated prisoners who have filed grievance upon grievance only to be denied relief - that it is important to frame one's desires under rules of negotiation--*ask for everything, expect nothing and settle on something*. But in every case where one believes one's rights are being denied, refer to the applicable CD and file the grievance. Grievances can serve the purpose of a peaceful protest to a situation found distasteful or intolerable. If every prisoner filed a grievance every time they believed that their rights were violated, the system would clog up and many matters might be resolved in favour of prisoners. In the least the prisoner should understand that though their keepers hate dealing with grievances they also know that every prisoner has a right to do so.

Keep the grievance and the response(s) for future reference or to send to a central advocates location. By filing grievances the prisoner exercises her/his legal rights to do so. The process aids the prisoner in learning patience, coherence of thought, reading and writing effectively and understanding that they can have some control over their existence.

The building of an outside "grievance library" would be of tremendous benefit. Often a grievance may be "won" by a prisoner, but only a few prisoners will know it. The consequences are that the same issue may be grieved by many other prisoners in many other locations. With no "precedent" to refer to, the matter may be ineffectively grieved and subsequently lost. This is a time issue. No one, not even a lifer, has time to waste. It is important to always stress that one must make good use of time, rather than have time make use of you.

### **Examples of Events which justify grievance relief**

#### **Event**

A woman is denied private family visits because she was convicted of an infraction such as "disobeys a justifiable order of a staff member" [40.(a)]

#### **Rationale for Grievance**

In most prisons, the only infraction which justifies denial of private family visits is when the prisoner or prisoner's visitors are convicted of contraband infractions so that the conviction above should not be justifiably used to deny private family visiting "privileges." See also the many references in the "Mission Statement" to "honouring family bonds, etc."

#### **Event**

A woman is placed in Involuntary Segregation and is denied her radio though there are power receptacles in her segregation cell.

#### **Rationale**

This is contrary to CCRA 37.

**The Office of the Correctional Investigator – See Part III CCRA**

**Information**

In 1994-1995 Annual General Report, it was noted that there were 6,799 grievances filed to this final stage. The total prisoner population for that period was noted at 13,312.

The categories which received in excess of 300 grievances to the Correctional Investigator level were:

Administrative Segregation:	504
Cell Effects	339
Healthcare	620
Parole Case Preparation	339
Requests for Information	368
Transfers both Voluntary (759) & Involuntary (268)	1027

## **Guidelines for Advocacy: Section III**

### **What do we mean by “normative legitimization?”**

This phrase encompasses what would be considered a “normal” reaction or assessment of a situation in the “outside” world.

For example, if you were developing a migraine headache and you had no aspirin to forego the anticipated progress of heightened pain, but you knew that your neighbour had aspirin, you might ask to borrow some aspirin and pledge to return it as soon as you returned from the store. Your neighbour would most likely not hesitate and more likely would be pleased to provide you with this mild pain relief. When problems arise for a neighbour, it is considered good to offer one’s assistance.

This is a normative definition of a neighbour - someone who lives nearby and in this nearness shares the amenities of and is part of a neighbourhood.

Those who live in the neighbourhood often take pride in its upkeep and social interactions and most often cooperate in keeping the neighbourhood safe and clean. Neighbours share in both the happy events in life and the unhappy. Good neighbours can be called upon to assist when misfortune or adversity is encountered.

Prison authorities however, often construct, deconstruct and bend definitions to suit their main purpose of absolute control. Often this misuse raises contradictory expectations. I.e. *Prison authorities reinforce the idea that a cage is a “home” while at the same time restricting and often punishing the activities, possessions and privacy of and in that “home.” Prisoners are often dissuaded from helping their neighbour with advice to prisoners given by prison authorities to--“do your own time.”*

Prisoners, particularly those who will inhabit the “neighbourhood” for an extended period of time will attempt to make it as comfortable as possible. Whether possessions are simply a box of letters or a television set, a few books or a plant, each possession is often cherished and kept in a particular space in an orderly manner. When prison authorities “search” a cell, (most often unannounced entry) they often leave it in a state of disarray and at times with items destroyed. If this activity (breaks and enters) were to happen in the outside world, the person would be angry and feel violated, however the prisoner is refused legitimization for any similar response. The search is justified for the “security of the institution,” to look for drugs or weapons or contraband (anything not permitted at the time.)

In this situation, advocacy may simply be an acknowledgement to the prisoner that their feelings of being violated are legitimate and/or an offer of assistance to file a grievance. If the cell was left in a state of disarray; if an item was broken or destroyed; if the searching of legal papers or the sacred items of an aboriginal prisoner like a feather box or hair violated a prisoner’s rights and/or if an item was confiscated with no receipt given for the item, the matters may be grieved. This is a way that you can help the prisoner to become more active in his or her own existence and to lessen their feelings of helplessness, frustration and anger (see Section II on grievances).

## **Guidelines for Advocacy: Section IV - Areas of Advocacy**

### **Educational and Vocational Areas**

- ⇒ Poverty is a major contributing factor in recidivism. Marketable skills could assist the former prisoner to support herself/himself and his or her family in an adequate manner
- ⇒ Education to attain those skills is a necessary requirement
- ⇒ Creative and critical thinking are attributes necessary for an evolution towards positive coping skills. (The "on-site" university program was canceled by the CSC June 30, 1993)

### **A few reasons for advocating for educational and vocational needs**

- Many of the activities that brought people to prison were activities carried out for economic purposes. The expectations that these people would consider working at a job paying the minimum wage are unrealistic.
- Many prisoners lack a sense of control over their lives, and have very low self-esteem. Lack of choices linked to poverty is an important factor. Many of these people have never earned enough money to pay for essential items of living and/or believed that they could better their standard of living.
- Some prisoners are products of generations of people on welfare, people who have succumbed to living at a bare minimum level. Role models of independence are absent in their lives.
- 40% of prisoners are functionally illiterate and 40% of prisoners are not in relationships

Though various prison regimes offer their version of "programming" there are only a very few programs that might qualify as viable entry requirements for accredited positions outside of prison.

Additionally:

- very few prisoners "qualify" for these programs and some programs are available only on a ½ day basis
- Programs such as welding for men and flower arranging for women provide questionable credentials so that gaining a job once released through completing these prison programs may be an unreasonable expectation.
- Prisons offer education to grade ten levels and/or GED while most apprenticeship programs require grade twelve graduations.
- Correspondence programs for university level courses are expensive and difficult to complete due to the absence of enabling study space and equipment and the impossibility of adequate research abilities particularly in the area of literature reviews.

Any gains and/or knowledge the prisoner may achieve in any program is limited due to:

- a) the dearth of the extent and/or duration of that program,
- b) a lack of qualified instructors and
- c) an inability for the prisoner to have expectations of continuity should s/he be transferred to another prison.

Over 10 years ago, in June, 1989 the Council of Europe adopted recommendations from its final activity report on education in prison. This was a result of seven meetings held over a four-year period by select experts from nine European countries (1991:3).<sup>1</sup>

The predominant theme was **FIRSTLY** that the education of prisoners must, in its philosophy, methods and content be brought as close as possible to the best adult education in the society outside, and **SECONDLY** that the education should be a constant seeking of ways to **LINK THE PRISONERS WITH THE COMMUNITY OUTSIDE** and to enable both groups to interact with each other as fully and as constructively as possible. These recommendations were made in concert with the philosophy that the whole person in the totality of his or her social, economic and cultural context is taken into consideration.

### **As an Educational and Vocational Advocate, you can:**

1. Provide updated educational and vocational information for prisoners
2. Liaison with Employment agencies, Vocational Schools and Universities
3. Advocate for prisoners in their desires to obtain sufficient study space, materials and equipment, sufficient study time and seminar areas in a separate area of the prison
4. Advocate for outside guest speakers and tutors for motivation and specialty learning

### **One who seeks justice for women in this area might specifically advocate for:**

- a) equivalent pay levels for all “programs” with prisoner participation whether they are the usual prison programs like kitchen worker or academic education
- b) Full payment to prisoners for their labour and work products by ensuring there is no differentiation between “work programs” and “cottage industry.” If need be the payments could be paid to an outside trust fund. *(At present some prison authorities utilize prisoner’s labour to benefit the operational budget of the prison and deny the prisoner the ability to “save” money for her or his release needs and/or families’ benefits – i.e. BCCW ceramics and flower shops)*
- c) educational, vocational, and self-help programs such as “survivor” programs to include community participation in each class in order to promote a better understanding of the similarities of each other’s needs. These programs would include First Nations’ language and life skills. *(Costs for these classes could then be shared with the community and would therefore be affordable by the prison industry.) (tip: research how this was accomplished at Matsqui Prison for Men with university classes in the 80’s)*
- d) a Women’s Studies program to be implemented on an ongoing basis that would:
  - help to educate women about many of the historical struggles for economic independence and liberty by women over the globe.
  - assist in motivating women in prison towards the understanding of how difficulties can be overcome through education, skills training and networking
  - how financial independence for the women and their children may result
- e) an immediate cease to the practice at the BCCW of the use of women to sew men’s prisoner’s uniforms in BCCW in favour of implementing sewing programs which are designed to provide women with accredited skills which lead to employment and to women being paid for their labour
- f) university level programs to be included in the educational agenda and that graduates be sought out to form an on-campus advocacy group *(i.e. the Canadian Federation of University Women)*

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<sup>1</sup> Bedford, Pam. Ed. 1991. *EPEA- Newsletter*. Vol.1 No.1.March. European Prison Education Association:Kent.

- g) prisoner attendance as audit students for women who have incomplete educational requirements for entry
- h) prisoners to attend programs in the community when programs are not cost-enabled within the prison setting
- i) accredited fine arts programs be included (*such as those conducted by the Emily Carr School of Art and the Simon Fraser University film, video and theatre programs be available along with Aboriginal creative arts such as carving, beading and leatherwork*)
- j) a national education and job coordinator to be appointed who will:
  - search out, advise on and implement regionally beneficial programs for women in prison
  - coordinate the delivery of these programs to all disadvantaged women in that community, and
  - to seek support and advocacy from the National Action Committee on the Status of Women
- k) the participation of all incarcerated women in the formulation of programs and policies which may affect them, as is lawful under Bill C-36, *The Service shall provide inmates with the opportunity to contribute to decisions of the Service affecting the inmate population as a whole, or affecting a group within the inmate population, except decisions relating to security matters*<sup>2</sup>

June Callwood once said that freedom without economic security is not liberty.

**One who seeks justice for women in the area of educating and strengthening women's understanding of employment methods, expectations, law, negotiation skills and economic and budgetary survival might specifically advocate for:**

- a) a National Prisoner's Union to be formed, with regional representatives comprised of women serving a minimum of a five-year sentence . Representatives could be nominated by the prison population from any of the boards of the Prisoners' Committee, the Native Sisterhood, the Student Council or other groups from every prison facility which houses federally-sentenced women.
- b) positions of regional representatives to be deemed permanent, paid jobs
- c) communication lines via telephone fax and/or modem to enable liaison between regions and community union organizations be established and protected
- d) the rights of such National Prisoner's Unions to negotiate terms of pay, job conditions, training and upgrading, holidays, and similar such matters as exist in Canadian society

Through participation in a Prisoners' Union, the prisoner might be better positioned to return to society as a ready, willing and able contributor.

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<sup>2</sup> Bill c-36. Item 74.

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**One who seeks justice for women in an area of discrimination against minorities may specifically advocate for:**

- a) the woman's cultural, language, spiritual, health related specialty needs assessed promptly so that the applicable community organization(s) may be contacted . From this organization, a funded community worker might be enlisted to provide support, guidance and assistance on a regular basis such that the assistance in maintaining family ties and the pursuit of personal goals will be enabled
- b) language and content specific media and entertainment be available on a weekly basis (funding for this proposal could be cost-shared with various non-governmental organizations)
- c) the appointment of the National Organization of Immigrant and Visible Minority Women of Canada (or other applicable organization) as ongoing consultants in each region.
- d) lesbian and gay support and community groups be utilized for specialized counseling and meetings on a weekly basis

**One who seeks justice for Indigenous women in prison, may specifically advocate for:**

- a) a protected and separate Spiritual area within the prison grounds of every regional prison (federal and provincial) across Canada to be available so that women may have daily access to First Nations' elders and a private meeting place for the Sisterhood Groups (*Aboriginal women account for up to 85% of some provincial prison populations*)
- b) sweatlodge participation and pow-wows to be honoured as the spiritual observances that they are
- c) guarantees under section 15 of the Charter of Rights and Freedoms - freedom of association and freedom of religion be designated a right to people in prison and that under no circumstance will attendance for spiritual guidance from an elder and/or sweatlodge participation be construed to be a "program" which can be denied by prison authorities for any reason
- e) guarantees that funding for First Nation's Spirituality and programming will be protected from administrative misappropriation or decrease, by ensuring that Trust Funds will be provided by a Ministry outside of Justice and/or Solicitor General and further that all accounting for use of these funds will be completed by the attending First Nation's Elder or the First Nations' community liaisons
- f) a life contract with the Native Women's Association of Canada to be mandated to monitor and report on the adherence to and/or discrepancies in the treatment and needs of all incarcerated First Nations' Women
- g) federal transfers to the Healing Lodge be based on order of application and family/community proximity
- h) the right to be housed in the Healing Lodge and the order of acceptance into the Healing Lodge not be determined on the basis of performance outside of the Healing Lodge; that all women are first given the opportunity to abide by the standards as set out by the Aboriginal administrators of the Healing Lodge facility, before labeling any woman as too "dangerous" or of too high a security level to be considered for transfer
- i) an unbiased response by staff and an equal opportunity for positive self-realization for federally sentenced women transferred to the Healing Lodge by insuring that any internal prison records from

other prisons concerning discipline should be made available on a confidential basis only to the warden of the Healing Lodge

- j) funding provisions to construct transition houses in every region of Canada to be designed, staffed and administered by First Nations' elders and counselors for First Nations' women who are eligible for release from any prison in Canada including the Healing Lodge

## **Parenting**

Nearly four generations of Aboriginal people were never parented. Children were taken from their parents and grandparents, from an environment that provided the groundwork for maturity and cultural identity through love, teachings, counsel and example to an agency schooling process. There, Aboriginal children endured the fanaticism of their keepers whose ethos included the erasure of all traces of cultural traditions including languages. All of the children suffered years of varying degrees of every form of abuse imaginable. Most learned only painful lessons of silence and shame. After returning to their communities many turned to alcohol and/or drugs as a way to cope with their unresolved conflicts and unacknowledged pain. They became abusers themselves. For generations much of the violence and abuse was turned against their own families and community. Suicide rates are extremely high on reserves. Many Aboriginal people relocated to urban centres where the bigotry and racism are also endemic furthering the cycle of violence.

The increasing rate of imprisonment for Aboriginal men is in epidemic proportions. In the federal system alone in the years 1992 to 1997 the numbers of Aboriginal men as a % of men imprisoned rose from 10.9% to 14.4%. The numbers (1560 to 2130) represent a 36.5% increase. For the years 1997-2007, the CSC forecasts a 38.3% increase in Aboriginal men imprisoned (+816). Numbers sentenced to provincial and territorial reformatories, jails and prisons may be assumed to be as high if not higher. Additionally, due to "high risk behaviours", the "rate of infection of HIV/AIDS among Aboriginals is estimated at 5-6 times the national average."<sup>3</sup> Fetal alcohol syndrome "(FAS/FAE) is also much higher amongst some Aboriginal groups."

Aboriginal people cannot possibly heal in a prison environment that simply mimics the conditions they have endured as children. And what of their children? Statistics support the conclusion that many family members of Aboriginal prisoners also have criminal records. It is therefore paramount that Aboriginal women in prison be granted all opportunities to break the cycle that they were born into; to find pride and dignity in their Aboriginal identities and to begin once more to pass these teachings on to their children. Those who founded the idea of the Okimaw Ochi Healing Lodge in Saskatchewan envisioned that these teachings could begin in the Healing Lodge. These Aboriginal women would then re-discover their dignity and identities and be able to teach their children so that the brutal cycle of children abused and neglected = adult abusers of children, could be broken.

Unfortunately, the Okimaw Ochi Healing Lodge appears on its way towards the predictable focus of punishment and control. The CSC are gradually replacing Aboriginal workers and elders and the path towards healing through the integration of Aboriginal spiritual teachings and cultural identity<sup>4</sup> with CSC custodial staff focused upon control.

Compounding the tragedy, it is not only Aboriginal prisoners who lacked parenting with love. Many prisoners grew up on the street after running away from abuse, impoverishment or cruel foster home situations. Some had already been separated from their siblings. Many have no understanding of what it means to be within a secure family. Many of these prisoners had also turned to drugs and alcohol as a means of escape from their own memories and these people as well, are unable to parent their own

<sup>3</sup> CSC. 2000. *Report on Plans and Priorities 2000-2003*. <http://www.csc-scc.gc.ca>

<sup>4</sup> Monture-Angus, Patricia. 2000. "Aboriginal Women and Correctional Practice: Reflections on the Task Force on Federally Sentenced Women." In Hannah-Moffat, Kelly and Margaret Shaw. Eds. *An Ideal Prison? Critical Essays on Women's Imprisonment in Canada*. Halifax: Fernwood.

children with dignity and in healthful conditions. The ongoing cycle of parents in prison = children of prisoners becoming prisoners is a statistical possibility when help is not available.

**One who seeks justice for women as Family Advocate may petition for:**

- a) the formation of “healing for life” centres for those struggling for liberty from addictions wherein the treatment may involve all members of the families directly affected
- b) free legal services to assist mothers to regain custody where children have been apprehended by any governmental agency
- c) safe and fully resourced community housing to be established to house women as an alternative to imprisonment
- d) all imprisoned mothers with pre-school children to be granted three-hour, daily visiting rights in an area separate from other visiting areas. This special area should include facilities for play, indoors and outdoors, changing and feeding and rest areas and be open only to the child, the person accompanying the child and the mother.
- e) funding to be awarded to community groups who can provide qualified volunteers to accompany and transport children for these special visits
- f) a Special Family Advocate be appointed from CAEFS to assist all women in prison with any difficulties she encounters in any of her parenting and/or relationship efforts
- g) mothers in prison to be encouraged and assisted in their efforts to provide gifts to their children, to have photographs taken, and to participate in their children’s school activities wherever possible.
- h) parenting skills and child care courses to be provided to all women who seek better understanding in this demanding arena and/or who may also seek careers in this field
- i) the **rights** of open communication and correspondence of women in prison with families and friends and the immediate order to desist from the practice of censorship in all forms

The basis for the jurisdictional separation of imprisonment as the punishment for criminal acts is found in the British North America Act. The standard is that if sentenced to imprisonment of two years or more the ruling jurisdiction is federal and the person is imprisoned in a federal penitentiary. If the sentence is less than two years, then provincial jurisdiction and imprisonment is ruled. Due to the small numbers of women imprisoned versus men, “economies of scale” cannot be accomplished which rationalizes the extremely poor and harsh conditions that women in Canadian reformatories, jails, prisons and penitentiaries exist under.

Additionally, provincially sentenced women can be transferred to a federal penitentiary at the request of provincial authorities. It is a fact that these transfers are usually enforced upon Aboriginal women. It is now also not uncommon for woman deemed to have mental health needs to be segregated in a men’s prison. All of these transfers are carried out with no regard to the hardships imposed with regard to any possible family contact.

**One who advocates for all women in the area of Canadian criminal justice may seek**

- a) to raise the *standards* of provincially-sentenced women to those governing federally-sentenced women in the federal system where ever and when ever this results in better conditions for women in prison
- b) to further the understanding that it is the organization of the prison which is the main factor explaining behaviour which accounts for the majority of the violence in prisons and **not** the violent nature of imprisoned women. (“...*harsh institutional practices, which induced defiant responses on the part of inmates, which in turn shaped the form of overt behaviour resulting in more punishment.*” (cited in

Mandaraka-Sheppard 1986).<sup>5</sup> "...concentration on control is likely to stimulate disruption..." and "...punitive responses and isolation may increase the incidence of self-destructive behaviour."<sup>6</sup>

- c) to accept and honour the well-documented fact that since the majority of women in prison are not violent, women do not require the stringent security measures now imposed upon them, security measures which contribute to violence and unsafe conditions; therefore to immediately remove this form of unwarranted intrusion into the living conditions of incarcerated women in all penitentiaries including BCCW and other provincial prisons.
- d) to promote the ideal of peaceful mediation, to desist immediately from the practice of using force to confront situations where the "peace and order of the institutions" may be temporarily challenged, in favour of utilizing prisoner committees, native sisterhood groups, and on-call advocacy groups

**One who seeks justice for women in the area of the elimination of dehumanizing conditions of imprisonment might advocate towards**

- a) closing all "enhanced security units" and the immediate ceasing of plans and expenditures for any future segregation units with the recognition that when such perceived segregation from other prisoners is proven necessary, that personal cell lock-up be substituted

Until all segregation for women can be eliminated seek justice for women held in any form of segregation in any lock-up, reformatory, jail, prison or penitentiary by advocating for:

- b) the entitlement of her possessions and needs
- c) the right to daily contact with legal advisors, Elders, Community Board members, Prisoners' Committee member(s), Native Sisterhood members, counselors, and health care workers along with the right for daily personal telephone calls
- d) the notification to the appropriate Community Board on a daily basis of all woman so isolated
- e) the attendance at any hearing to maintain the segregated status of the prisoner by legal and community advisors as requested by the prisoner

**One who seeks justice for women in the area of Community Support may advocate for**

- a) a National Community Board (NCB) whose primary functions will be interventional and auditorial in nature to be established with representation in each region where women are imprisoned; the NCB to have unlimited access to all areas of every prison
- b) the members of the NCB be nominated from the justice, feminist and spiritually based organizations, be they Christian or otherwise whose advocacy for women in prison have already been positively demonstrated; the NCB to include women who have experienced and/or are experiencing prison.
- c) the enabling for the NCB to conduct and negotiate conciliatory discussions between members of the prison population, the prison administrators and security personnel prior to the authorization of the use of any violent means by correctional authorities and in particular where prison administrators might consider the use of mace, weapons and/or involuntary searches of any kind
- d) overseeing the regular audit of funds expended and funds incoming in all prisoner areas, not limited to the Inmate's Welfare Fund, programs and "cottage industry" income and expenditures, and hobby craft sales
- e) the mandate for the NCB to report on a quarterly basis to and meet on an annual basis with a Parliamentary Committee

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<sup>5</sup> Mandaraka-Sheppard, A.1986. *The Dynamics of Aggression in Women's Prisons in England and Wales*. London: Gower.

<sup>6</sup> Shaw, Margaret. 1991. *The Federal Female Offender. Report on a Preliminary Study*. No.1991-3:82-3. Ottawa: Solicitor General of Canada.

- f) a steering committee to be formed in this regard.

**One who seeks justice for women in the area of assisting women towards their earliest possible release may advocate to enable one or all of the following principles to ensure:**

- a) that all federally sentenced women are heard by the National Parole Board in their region with regard to all matters concerning release and applicable conditions.
- b) that a representative from a prisoner-chosen advocacy group such as the National Association of Women and the Law, one whose primary source of funding is not the Solicitor General or provincial Attorney General's departments, be funded through the Ministry of Women's Equality to assist all women with parole matters. (Only in this way can women in prison will be assured of a gender-informed, racially-unbiased process)
- c) that funding be available for community volunteers to escort women on passes
- d) that funding be available to insure that no woman is forced to return to the prison when eligible for day parole or cannot be released on her earliest date due to the lack of halfway house beds as is the situation in B.C. (*By liaisioning with every available alternative such as approved community placements and enlisting the support of other societies such as the BC/Yukon Society of Transition Houses, who have already agreed that many of the women leaving prison could be integrated into their facilities, this problem might be relieved.*)

All of the areas of advocacy and items suggested as items to advocate for are only some of the areas of need and serve as examples. This paper by no means encompasses the totality of efforts that might contribute to the betterment of the status of these women.

However, should the advocate succeed in any of the areas of advocacy, s/he will most definitely become one of the most valuable assets some of these women would have, for true advocacy is a step towards the greater community of sisterhood, one term that could be used to describe an existence in a state of equality and liberty.