



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

Pre-Budget Consultations: 2011 Federal Budget

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Submitted By:

**Canadian Association of Elizabeth Fry Societies (CAEFS)
#701 – 151 Slater Street
Ottawa, Ontario
K1P 5H3**

**Telephone: 613-238-2422
Facsimile: 613-232-7130**

**Email: kpate@web.ca
Web Site: www.elizabethfry.ca**

Executive Summary

The introduction of more harsh and mandatory sentences is already exacting significant human, social and fiscal cost, in addition to off-loading of responsibility for the marginalized, victimized, criminalized and institutionalized onto families, communities, provinces and territories without the requisite resources to address the growing needs occasioned by this increased reliance on our criminal justice system. Crime bills are promoted as in the interests of public safety, yet they are not only not going to make Canadians more safe, they also come with a price tag that could bankrupt Canada.

The High Price of Violence Against Women

Personal security is a necessary pre-determinate to well-being and productivity. Although there are signs that some forms of violence against women are decreasing, women are still far more likely than men to be victims of sexual violence, family violence, and intimate-partner violence.¹ Women are four times as likely to be killed by their spouse as are men.² 83% of the reported victims of spousal violence are female and estimates suggest that as many as 70% of incidents of spousal violence are never reported.³ Girls in Canada are also at high risk of violence. According to police-reported data, over half (59%) of sexual assault victims were under the age of eighteen, and 82% of those child sexual assault victims are girls.⁴

Levels of violence against women vary significantly across different groups and regions, with Aboriginal women being disproportionately subject to violence. At least three out of four Aboriginal women has been the victim of violence at the hands of men in their own homes. The mortality rate for this type of violence is three times greater for Aboriginal women than non-Aboriginal women overall and five times greater for Aboriginal women aged 25 to 44 compared to their non-Aboriginal peers.⁵ Other groups who are disproportionately subject to violence include: women with disabilities, criminalized and imprisoned women, single women over 65, and women living in poverty.

Ending violence against women will provide multiple social and economic benefits by providing for increased security and productivity for women in Canada. Moreover, increasing women's access to employment, closing the wage gap, and providing sufficient support to women living below the LICO will not only increase their economic security but will contribute to lowering rates of violence.

The World Health Organization and other national health agencies, including Health Canada and the Center for Disease Control have demonstrated that domestic violence alone has a significant impact on the economy.⁶ The Centre for Disease Control estimates that in the United States "the costs of intimate

¹ Statistics Canada, "Women and the Criminal Justice System." *Women in Canada: A Gender-based Statistical Report*. Government of Canada, 2010.

² Statistics Canada. *Family Violence in Canada: A Statistical Profile*. Government of Canada, 2009.

³ Statistics Canada. *Family Violence in Canada: A Statistical Profile*. Government of Canada, 2009.

⁴ Statistics Canada. *Child and Youth Victims of Police-reported Violent Crime*. Government of Canada, 2010; Statistics Canada. *Sexual Assault in Canada 2004 and 2007*. Government of Canada, 2008.

⁵ Native Women's Association of Canada. *Background Document on Aboriginal Women's Health for the Health Sectoral Session*. Ohsweken: Native Women's Association of Canada, 2004.

⁶ *Preventing Intimate Partner and Sexual Violence Against Women: Taking Action and Generating Evidence*. Geneva, World Health Organization, 2010.

partner rape, physical assault, and stalking exceed \$5.8 billion each year.”⁷ The equivalent percentage of Canadian GDP would suggest an annual cost in 2010 of \$766,749,244.

With such high levels of gender-based violence targeting women, it is not surprising that there is increased support amongst women for policies that address violent crime. However, the current Government’s “Truth in Sentencing Act” appears to address a problem that isn’t there. Research demonstrates that sentencing rates have changed little over the past decade.⁸ The legislation will impact the economy more than sentencing practices. The Parliamentary Budget Office estimates that the Truth in Sentencing Act will double the cost of the penal system over five years – to \$9.5 billion—and will require an additional \$1.8 billion for the cost of constructing new prisons.⁹

Recommendation: That the federal government exercise its spending power in accordance with Canadian human rights and Charter protections by introducing national standards (recognizing flexible federalism) regarding the provision of a guaranteed liveable income, social programs, as well as health care and educational services.

Build Better Solutions

Increased incarceration levels have failed to address the root causes of levels of violence against women. Women’s economic status is chief amongst these causes. The earned income gap between men and women in Canada is among the highest amongst OECD countries, with women earning an average income of \$31,949, compared to \$51,043 for men.¹⁰ The percentage of women in Canada living below the After-Tax Low-Income Cut Off (LICO) is higher than that of the general population, and is significantly higher for Aboriginal women, women with disabilities and racialized women.¹¹ LICO rates for female single-parent families are three times that of male single-parent families.¹²

Poverty not only contributes to the vulnerability of women to violence, it also contributes to the incarceration of women. 80% of women are imprisoned for economic related crimes and the vast majority of property crimes for which women are charged involve either fraud or theft under \$5,000.¹³

Increased incarceration levels have also contributed to the criminalization of women who are survivors of violence.¹⁴ Women protecting themselves against assault or unwanted sexual advances while in the

⁷ *Costs of Intimate Partner Violence Against Women in the United States*. Centers for Disease Control and Prevention, 2003.

⁸ MacQueen, Ken. “Is Canada Tough On Crime Or Doing Just Fine?” *Macleans Magazine*. September 7, 2010. <http://www2.macleans.ca/2010/09/07/jailhouse-nation/>

⁹ “The Funding Requirement and Impact of the “Truth in Sentencing Act” on the Correctional System in Canada.” Parliamentary Budget Office. Parliament of Canada. 2010. www2.parl.gc.ca/sites/pbo-dpb/documents/TISA_C-25.pdf.

¹⁰ OECD, *Gender Pay Gaps For Full-Time Workers And Earnings Differentials By Educational Attainment*. OECD, Social Policy Division: Directorate of Employment, Labour and Social Affairs, 2010. <http://www.oecd.org/dataoecd/29/63/38752746.pdf>; “Interim Table 4: All returns By Age and Sex, All Canada, 2008.” Canada Revenue Agency, 2010.

¹¹ Statistics Canada, “Economic Well-Being.” *Women in Canada: A Gender-based Statistical Report*. Government of Canada, 2010.

¹² Statistics Canada, “Economic Well-Being.” *Women in Canada: A Gender-based Statistical Report*. Government of Canada, 2010.

¹³ Pollock, Shoshana. *Locked In, Locked Out: Imprisoning Women in the Shrinking and Punitive Welfare State*. Waterloo: Wilfred Laurier University, 2008

sex trade are among the 9% of federally sentenced women serving sentences for homicide.¹⁵ Prior to incarceration, 80% of federally sentenced women had experienced physical abuse and 53% had experienced sexual abuse, the incidence is over 90% for Aboriginal women alone.¹⁶

Once inside prison, women are subjected to further physical, sexual and psychological abuse at the hands of the state. On October 19, 2007, 19 year old Ashley Smith was found dead in her segregation cell. Five staff members watched her die. They asserted that they were following orders not to enter her cell unless she stopped breathing.¹⁷

The 1996 Commission of Inquiry, the 2004 report of the Canadian Human Rights Commission, the Office of the Correctional Investigator, the Task Force on Federally Sentenced Women and many previous reports and Commissions of Inquiry, including reports of the Auditor General and the Parliamentary Committee on Justice and Human Rights [as it then was] and the Public Accounts Committee, have called for increased accountability within corrections and between the Correctional Service of Canada and other external bodies.

CAEFS strongly supports the Canadian Human Rights Commission's proposal for independent monitoring and accountability mechanisms. Now, more than ever, we see that many recognize the vital need for an independent body to monitor the adherence to principles of justice, fairness and the rule of law by the Correctional Service of Canada.

Recommendation: That the federal government repeal sub-section 77(b) of the CCRA fund an independent National Women's Governance Committee, co-chaired by Strength in Sisterhood (SIS), the Native Women's Association of Canada (NWAC) and the Canadian Association of Elizabeth Fry Societies (CAEFS), to monitor the imprisonment of federally sentenced women in accordance with domestic law and international agreements; should be repealed and replaced by a new s. 77(b) that establishes the National Women's Governance Committee, mandated to enter women's prisons and monitor and report on adherence [or lack thereof] to the Charter, human rights, and Canada's international obligations, and have the power to refer matters to court when correctional 'treatment' amounts to correctional interference with a sentence; and issue public annual reports to Parliament.

Longer Sentences and Harsh Treatment will Bankrupt Canada

The cost of imprisoning a woman in a federal prison is estimated by Corrections to average \$175,000 per year and can be higher than \$500,000 per year for women kept in the most isolated and segregated conditions of confinement, such as the segregated maximum security units in the prisons for women.

Many women in prison are mothers, the majority of whom were sole-support parents before prison. When a mother is incarcerated, her children can also face emotional and psychological trauma from the separation. Too often they end up in child welfare systems that do not have adequate resources to fully

¹⁴ Gilfus, Mary. "Women's Experiences of Abuse as a Risk Factor for Incarceration." *I'm Just Not Good With Relationships: Victimization Discourses and Gendered Regulation of Criminalized Women*. Ed. Shoshana Pollock. Feminist Criminology: Waterloo, 2007.

¹⁵ Canadian Human Rights Commission. *Protecting Their Rights A Systematic Review of Human Rights in Correctional Services for Federally Sentenced Women*. Ottawa: Canadian Human Rights Commission, 2004.

¹⁶ Canadian Human Rights Commission. *Protecting Their Rights A Systematic Review of Human Rights in Correctional Services for Federally Sentenced Women*. Ottawa: Canadian Human Rights Commission, 2004.

¹⁷ Pollock, Shoshana. *Locked In, Locked Out: Imprisoning Women in the Shrinking and Punitive Welfare State*. Waterloo: Wilfred Laurier University, 2008

address their needs, exacting further human, social and economic costs on the children and their communities.¹⁸

The recidivism rate for federally sentenced women is approximately 21%, as compared to 59% for men.¹⁹ Only 1-2% of federally sentenced women are returned to prison as the result of the commission of new crimes; and less than 0.5% are for a violent offence.²⁰ The overwhelming majority represent women who have their parole revoked as a result of administrative breaches of conditions of their community release.

Recommendation: The current American style of longer and more brutal sentences are already causing massive overcrowding of Canadian prisons for women. U.S. States are reversing these decisions because of human rights violations and because they are going bankrupt. In order to prevent more people, especially women and children, from being marginalized, victimized, criminalized, and imprisoned, we urge the Committee to recommend that the Omnibus crime bill not be tabled or passed; and, ensure tax dollars are spent instead on public housing, child care, pensions, health care (including mental health), public education, services for victims and other social services.

¹⁸ Levy-Pounds, Nekima. "From the Frying Pan into the Fire: How Poor Women of Color and Children are Affected by Sentencing Guidelines and Mandatory Minimums." *Santa Clara Law Review*, 2007, v.47.

¹⁹ Canadian Center for Justice Statistics. *Female Offenders in Canada*. Canadian Center for Justice Statistics, 2008. On line: <http://www.statcan.ca/english/freepub/85-002-XIE/85-002-XIE2008001.pdf>

²⁰ Canadian Center for Justice Statistics. *Female Offenders in Canada*. Canadian Center for Justice Statistics, 2008. On line: <http://www.statcan.ca/english/freepub/85-002-XIE/85-002-XIE2008001.pdf>