

RECENT ISSUES IMPACTING WOMEN'S IMPRISONMENT IN CANADA

Priority Issues and law Reform Initiatives

The last number of years were tumultuous ones for us at the Canadian Association of Elizabeth Fry Societies (CAEFS). In 1995, we started with tremendous optimism, with first the announcement of the Commission of Inquiry into events at the Prison for Women and then the launch of the review by Judge Ratushny of the cases of women jailed for defending themselves against abusive partners. Sadly, 1996 started in the shadow of yet another two deaths of women in prison, Brenda Donovan in the Prison for Women and Denise Fayant in the new Edmonton Institution for Women, and the overall mismanagement of women's imprisonment in Canada.

The result is that we are again facing issues that challenge the very nature and mandate of our association. We emerge with much concern about the future and fate of women subjected to our corrections, criminal and social justice systems in Canada. The release of Madame Justice Arbour's recommendations following the Commission of Inquiry into Certain Events at the Prison for Women in Kingston, combined with the Report of the Royal Commission on Aboriginal People and Criminal Justice in Canada, *Bridging the Cultural Divide*, had left us with significant cause for optimism as to what could be, should logic, good sense and political will favour positive and proactive reform.

In these times of increasing political and socio-economic polarization and given the flagrant disregard for the law disclosed by our federal correctional authorities during the Prison for Women Inquiry, we anticipate even greater difficulty gaining full public exposure of future crises for federally sentenced women behind prison walls. The manner in which CAEFS will need to proceed to fulfil our mandate, given the specifics of issues faced these past years are highlighted in the following activity and issue summaries.

1. Supporting Federally Sentenced Women

a) Prison for Women (P4W) Inquiry

The ever anticipated closure of P4W and the spotlight of the Commission of Inquiry did nothing to ameliorate conditions and tension at the Prison for Women. Regrettably, throughout the Inquiry, the Correctional Service of Canada (CSC) continued to deny that it had engaged in any illegal activities or attempted to subsequently cover-up legal and policy transgressions, despite mounting evidence to the contrary. What emerged was an organization focused upon maintaining an image of righteous indignation in the face of evidence of significant wrongdoing and blatant disregard for the law.

CAEFS sought and obtained standing as a public interest group before the Commission of Inquiry. CAEFS objectives in participating in the Inquiry were primarily to ensure that there was a full review of what transpired, especially the need for a clear articulation of role and responsibility of CSC in creating the pre and post-April 1994 atmosphere and environment of unrest at P4W. We also hoped to encourage changes to policies and procedures for federally sentenced women, in part by highlighting the problems exemplified by how CSC dealt with the issues they created at P4W.

Accordingly, CAEFS sought and was granted full standing as public interest intervenors in the Inquiry. In support of our application, we chronicled the following range of our activities with and on behalf of federally sentenced women:

- regular direct contact with both the prisoners and staff at the Prison for Women;

- liaison, negotiation and advocacy efforts with and on behalf of federally sentenced women in relation to issues of individual and systemic discrimination;
- participation in and contributions to government consultations, reports, policies and procedures regarding federally sentenced women;
- preparation and submission of briefs to Parliamentary and Senate committees regarding legislative and policy matters impacting the justice system, particularly in relation to the needs and interests of women;
- public education efforts to counter negative stereotypes of women who come into conflict with the law, as well as to promote public support for social justice and law reform.

CAEFS played a key role in the forewarning, monitoring and exposure of procedural and policy problems highlighted and exemplified by the manner in which the Correctional Service of Canada chose to address problems which emanate from or have been visited upon P4W -- all of which became the subject of the Inquiry. In addition to wishing to assist in elucidating relevant facts specific to the events of April 1994 and beyond, CAEFS was also committed to ensuring that relevant policy issues were fully examined and addressed. Without funding, however, CAEFS could not have participated as effectively in the Inquiry process. While some resourcing for CAEFS, the women and the Citizen's Advisory Committee was provided by the Commission, it was striking to observe the extent to which the resources were more freely available to those funded directly from the public purse.

In the end, it was most disturbing to realize that every matter raised by Commission counsel in their final submissions to Justice Arbour had been raised prior to the national news program, *The Fifth Estate*, with the Commissioner of Corrections, and, in many instances, with the Minister as well. These matters were raised by the women themselves, via third level grievances as well as direct appeals to the Commissioner of Corrections, the Minister and some of his colleagues in Parliament. They were also raised by the Correctional Investigator. Issues were of course also raised by CAEFS, our membership, as well as our coalition partners in the women's, social and criminal justice sector.

In short, the Commissioner of Corrections had heard the same matters raised once, twice, three, or more times. This fact notwithstanding, he had chosen to believe the information he was receiving internally, even after such input had been clearly shown to be significantly flawed or absolutely wrong. Briefing notes disclosed in the final days of the Inquiry showed that even after such issues as the use of force, the involvement of men in the strip searching of the women and the women's lack of access to counsel had been established in evidence, the Commissioner was still being given erroneous information. Unfortunately, despite the existence of transcripts and media accounts to the contrary, the Commissioner chose to follow his briefing notes rather than question his own staff.

What emerged was the image of a very insular, insecure yet self-righteously arrogant governmental department, where prisoners and anyone who questions CSC's actions are similarly relegated to the margins and classified as unimportant and misinformed, regardless of the facts. All energies seemed to be focused upon efforts to obfuscate the issues, discredit any perceived detractors and continue on with business as usual.

CAEFS valued the opportunity that the Inquiry provided to examine the layers of decision-making and the basis upon which actions were taken by the Correctional Service of Canada in 1994 in relation to events at the Prison for Women. The relatively broad range of issues canvassed in the policy review portion of the Inquiry provided an opportunity for some constructive and timely discussion, which highlighted the need for the establishment of progressive and proactive policies and practices, both at P4W between now and the closure of the prison, as well as for the new regional prisons for women and the national Healing Lodge.

The Inquiry created our first opportunity since the work of the Task Force on Federally Sentenced Women for the women in prison, groups such as CAEFS, academics and correctional experts to meet in a forum that was not dominated and determined by CSC. Section 77 of the *Corrections and Conditional Release Act (CCRA)* notwithstanding, our experience has been that there is reluctance on the part of CSC to engage

participants in policy-development meetings with respect to federally sentenced women. Indeed, CSC staff have asserted that because there are sufficient numbers of women on staff, they have all the expertise they require and no longer need to consult outside the Service. Similarly, it has been maintained a similar attitude would exist with respect to consultation and advisory provisions of s. 82 of the CCRA if sufficient numbers of First Nations staff were within the ranks of the CSC.

Unfortunately, concerns that were generated prior to the Inquiry, were confirmed by the evidence presented in Phase I, and were exacerbated during Phase II, as the Correctional Service of Canada introduced their "latest" plans for the new prisons. These are the same plans that CAEFS has repeatedly challenged as mere reconfigurations of current correctional practices. We believe that CSC is reluctant to relinquish the vestiges of models designed to deal predominantly with the men in their prisons.

Moreover, as this Inquiry unfolded, women at the Regional Psychiatric Centre in Saskatoon were subjected to another non-emergency IERT intervention and strip search. Also, women in the segregation unit at the Prison for Women continued to be subject to long-term 24-hour camera surveillance. A young woman with increasing mental health concerns began to routinely ask to be physically restrained by being strapped to a board; when asked why, she indicated that the staff stayed with her and talked to her if she was on the board. Women transferred to the new regional prison in Edmonton were/are subjected to routine strip searches after every visit with someone from outside the prison, as well as after visits with fellow prisoners in their cottages.

These realities illustrate some of the reasons that we continue to have significant concerns regarding the future for federally sentenced women in Canada. We are apprehensive about the willingness and ability of the Correctional Service of Canada to institute the necessary reforms to address the needs and challenges of federally sentenced women. The projected image of a criminal justice system whose personnel promote the utmost respect for the law by modelling humane and just exercise of power is a stark contrast to the image that has emerged throughout both phases of this Commission of Inquiry.

Consequently, CAEFS continues to reiterate our consternation regarding the manner in which the federally sentenced women's initiative is unfolding, particularly in the Prairies and at the Edmonton Institution for Women (EIFW), where prisoners continue to be subjected to strip searches and excessive use of force which are clearly in violation of the provisions of the *Corrections and Conditional Release Act* and the *Charter of Rights and Freedoms*. For example, strip searches continue to be conducted in a routine manner and without any just, reasonable or even a suspicion that might create some semblance of "cause". In addition, some minimum security women who are being escorted into the community are being handcuffed and might even be shackled if they are also accompanied by a medium security woman. Other examples of inappropriate use and abuse of power at EIFW include the use of the "cage" to transport a minimum security woman from her private family visit at a men's prison -- this, despite the fact that she was transported to the same visit without restraints, by one officer, with whom she shared the front seat of a car.

Other issues related to the new federal prisons for women in Canada pertain to the lack of national leadership in the area of women's corrections. Although the Correctional Service of Canada has appointed a Deputy Commissioner for Women following Madam Justice Arbour's recommendation for same, they have unfortunately chosen to not implement the rest of the recommendations related to the position. Not only does this result in significant limitations to the authority of the position, but it also means that there continues to be a leadership vacuum, where the wardens of the new women's prisons and the Okimaw Ohci Healing Lodge report to regional Deputy Commissioners responsible for the men's prisons and community corrections in their respective regions. The Deputy Commissioner for Women currently has no seniority or separate authority over the manner in which the federally sentenced women's prison and community programs are implemented.

This has resulted in the sort of inconsistent and misguided application of the "new philosophy" articulated in the 1990 Report of the Task Force on Federally Sentenced Women that has allowed problems such as those that have unfolded at the new prisons in Edmonton, Alberta and Truro, Nova Scotia to mushroom and

explode, as well as the regression of women's imprisonment occasioned by the September 1996 move of women classified as maximum security prisoners to isolated units in men's prisons. Given the existing stress and anxiety experienced by the women who are in the midst of the uncertainty both in the new prisons or as they await transfer to same, the myriad transitional issues require CSC to ensure that clear policy direction, experienced and prepared staff and supportive programming are provided for the women prisoners.

I must also point out here that although we have repeatedly requested, directly from CSC as well as via our access to information legislative provisions, copies of the investigative reports pertaining to the incidents that arose in the new prisons, particularly the Edmonton Institution for Women (EIFW), and the report regarding the suicide in February of 1996 at the Prison for Women in Kingston (P4W), we have yet to receive any such reports. We are, however, repeatedly advised that we will receive them at some point. This situation is uncannily reminiscent of our experiences with CSC in 1994, when we were trying to obtain copies of the reports regarding the incidents that had occurred in April 1994 at the Prison for Women in Kingston.

On the pre-release and community integration side of the sentence, this situation has resulted in Canada not yet having an articulated national strategy for the provision of community release or supervision options for federally sentenced women. With the exception of a halfway house in the Greater Vancouver area, there are no other halfway houses for women west of central Ontario. There are four in Ontario and one in Quebec and none in Eastern Canada. CAEFS continues to urge CSC to develop a clear national community integration strategy and standards for the FSW initiative. While we are pleased that some regions are apparently starting to develop regional action plans, we are extremely concerned about the ad hoc nature of these developments, seemingly absent a national strategy. Given that whatever happens in the first regions to actually start doing something could potentially impact other regions, we have encouraged the Solicitor General to ensure that the Deputy Commissioner and her staff immediately develop some national guidelines. During meetings with CSC on March 5-7, 1996, CAEFS provided an outline of our proposed national strategy, but there has not yet been any apparent interest on the part of CSC in its implementation.

Accordingly, in addition to continuing to seek strategies for protecting the equality interests of women prisoners, we are once again calling upon women's, social and criminal justice groups who we work with in coalition. We are asking such partners to assist our efforts by writing to the Solicitor General, Herb Gray, to express opposition to the following points and call upon him to ensure that all of the women may be accommodated in the new regional women's prisons and encourage him to honour and implement all of the Arbour Commission recommendations.

We currently have grave concerns regarding:

- the manner in which the Solicitor General, Herb Gray, and in turn, the Correctional Service of Canada (CSC), has chosen to respond to the recommendations of Madam Justice Arbour following the Commission of Inquiry into Certain Events at the Prison for Women at Kingston;
- the increasing reluctance of the CSC to breathe life into the 1990 recommendations of the Task Force on Federally Sentenced Women -- CAEFS is very concerned that the principles and approaches envisioned by the Task Force on Federally Sentenced Women are in serious danger of never being implemented;
- the recent decision of the Commissioner of Corrections, Ole Ingstrup, to install heightened security in the new regional prisons for women while at the same time ordering the removal from the new prisons of women with mental health concerns, as well as those classified as maximum security prisoners;

- the recent decision of the Commissioner of Corrections, Ole Ingstrup, to move the women classified as maximum security, as well as those identified as having mental health issues, into maximum security units in men's prisons;
- the sanctioning of the foregoing by Minister Gray, resulting in an overall situation of taking women's corrections in this country back to the turn of the century.

The experiences of women prisoners has tended to involve too many profoundly disturbing examples of oppression and abuse of power, as well as arbitrary decision making. In our view, the Correctional Service of Canada has repeatedly exhibited callous indifference to prisoners, flagrant disregard for its own policies, and disrespect for the very legislation pursuant to which it operates.

It remains a concern of CAEFS that, seemingly as result of the lack of acknowledgement by the Correctional Service of Canada of its responsibility in the April 1994 and subsequent events at the Prison for Women, far too much energy is being devoted to reinforcing a notion of imprisoned women as difficult to manage prisoners and security risks. CAEFS would rather see them developing clear plans to meet the needs of women currently imprisoned at the Prison for Women, as well as of those who are being moved to the new regional prisons and the national Healing Lodge. Much more emphasis is needed on the transitional process and the development of community supports for women prisoners.

b) Self Injury, Suicide and Despair Increased by Oppressive Drug Strategy

In the aftermath of the suicide of a woman at the Prison for Women in February 1996, members of the prisoners' Peer Support Team, CAEFS and CSC worked closely to assist other women during their ensuing crises. In the moment of extreme need, the partnership seemed to work. For this we are grateful and CAEFS has thanked all CSC staff involved.

While it is unclear as to what precisely prompted Brenda Donovan to suicide, we understand from both staff and prisoners that she had been caught tampering with a urine sample she had been requested to provide the day before she died. The women at P4W advise that Brenda was upset the day she died and stated that she had been told that she would not be able to have open visits with her children as a result of the tampering with the urinalysis process. We were also advised that another woman was denied a Private Family Visit with her dying father because one of her 10 samples was positive.

Women in prison and staff alike requested that CAEFS reiterate our opposition to the CSC drug strategy and that we propose a methadone or some comparable program for prisoners who are addicts. During Phase II of the Commission of Inquiry, CAEFS expressed concerns about the potentially very negative impact of the "crack down" approach on addicts. Our concerns were and remain precisely in keeping with the reservations we expressed at the inception of the drug strategy. CAEFS is very concerned about the manner in which the strategy might place those with serious and long term addictions at increased risk of harm. As we suggested and then unfortunately saw last year, the first major impact of the drug strategy was the influx of "harder drugs" which are seen as likely to pass through the body faster than some of the softer and less dangerous, but more long lasting and therefore most likely to be detected, substances.

We continue to fear the impact of the punitive and reactive nature of the drug strategy. Rather than reducing the harm caused by drug use, we believe that current policies and practices aimed at detecting, apprehending and punishing prisoners who use drugs are increasing the harm to those prisoners in particular and all prisoners more generally. We are encouraging CSC to follow their own research findings and focus upon more progressive and proactive approaches in order to address concerns about drugs in P4W.

We have encouraged CSC to utilize more supportive and constructive interventions aimed at encouraging those with addiction issues to self identify and seek assistance, rather than a continuation of what seem to be current punitive practices of immediately removing all privileges and entitlements if and when drug use

is suspected and/or detected. In addition to regarding this practice as potentially in contravention of prisoners' Charter rights, we are particularly concerned that visits with family members, especially children, are being impacted despite the fact that there is no concern that such visitors are in any way involved with the introduction of contraband into the prison.

While prohibitions may assist or encourage the cessation of the prohibited behaviour among those individuals for or to whom the prohibited behaviour is somewhat inconsequential, it is well recognized that rather than deterring prohibited activities, increasingly punitive responses generally only serve to encourage greater efforts and risk taking in attempts to avoid detection. If we look at drug use for example, we know that the greater the potential punishment, the greater the lengths to which those with significant addictions, for whom cessation seems impossible, will go to address their addictions in ways that avoid detection. We do not want to see further increases of punitive responses, as we only see this as leading to ever more women facing failure and hopelessness in this area. The consequences of this have been and would continue to be tragic.

CAEFS has suggested that CSC focus upon drug use prevention as well as relapse prevention work. Some of the work of such authorities as Dr. Diane Riley has also been suggested. Dr. Riley has recommended harm reduction approaches to managing drug problems in prison.

c) Advocacy in the New Prisons

CAEFS is currently in the process of regionalizing its advocacy functions. Although some members of CSC expressed concern during the P4W Inquiry about the impact of our advocacy efforts with and on behalf of women, these have generally been concerns arising out of our monitoring functions.

Historically, the Executive Director of CAEFS has had the responsibility of visiting P4W on a regular basis as part of the manner in which CAEFS monitors and assesses the operational implementation of policies. Such visits have generally been coordinated with the Executive Director of the EFS of Kingston, whose society is also contracted with the CSC to provide services to/for federally sentenced women (FSW) in P4W and the community.

The purpose of these visits to the prison has been both to keep abreast of issues arising for federally sentenced women with a view to informing our broader advocacy and law reform efforts, as well as to assist our membership in their efforts to advocate with and for women in prison. Unfortunately, subtle and overt threats to their supervision and service delivery contracts have left some of our local societies feeling somewhat reluctant to voice opposition to correctional policy and procedure. As a result much of this advocacy work has generally been performed by the national office.

With the advent of the new prisons and the national Healing Lodge, the advocacy efforts of CAEFS are being regionalized. Local societies closest to the new prisons will visit and provide services to women in the institutions on a weekly or daily basis, depending upon resources. CAEFS has been asked to assist regions and continue to perform advocacy function, visiting the new prisons 1-3 times per year, with regional CAEFS representatives being responsible for monthly visits to the new prisons. Such visits would include meetings with the organized prisoners' groups, such as the Inmate Committee(s), the Sisterhood, Black Women's Group(s), Francophone Women's Group(s), Lifers' Group(s), et cetera, as well as meetings with the prison administration.

The regional representatives will keep both the Elizabeth Fry societies in their region and CAEFS advised of issues, needs, concerns, et cetera arising in the regions. The Executive Director of CAEFS will coordinate national advocacy and policy reform efforts, with a view to assisting local and regional representatives as required.

The foregoing regionalization plans as well as existing roles of the respective local and national Elizabeth Fry representatives have been the subject of several formal meetings and numerous informal discussions

with the wardens of P4W and the new prisons, staff of the Federally Sentenced Women Program and the Commissioner of Corrections. Indeed, prior to the April 1994 incidents, the Correctional Service of Canada provided CAEFS with a one-time grant to help resource our regionalization planning meetings.

CAEFS has also offered and is in the process of pursuing opportunities to provide informational sessions concerning our mandate, function and objectives for all staff at P4W and in the new regional prisons and the Healing Lodge. In fact, at the warden's invitation, we have conducted such orientations for managers at P4W and have reiterated offers to provide same for front-line staff. We are also in the process of organizing similar assemblies with and for each of the new wardens and their staff.

It is instructive to note that rather than exhibit any interest in addressing the matters raised by CAEFS, CSC is increasingly reacting to CAEFS' advocacy efforts by challenging CAEFS interventions as inappropriate attempts to interfere with CSC operations. Issues which the CSC identifies as operational matters with which CAEFS has concerned itself are in fact situations which CAEFS has identified as involving issues of serious current and future policy implementation significance.

For example, during the P4W Inquiry, the question of the transfer of the women from P4W to the Kingston Penitentiary was identified as an operational matter by CSC. CAEFS does not dispute the operational nature of any particular transfer decision by the CSC; however, given the unprecedented nature of the transfer, combined with the reality that CAEFS was not receiving answers to its questions regarding CSC's future plans with respect to involuntary transfers, the implications of that particular transfer for the future treatment of women in the new prisons was of extreme precedential importance to CAEFS.

CAEFS has obligations to federally sentenced women who look to us to advocate on their behalf. Accordingly, CAEFS has felt it was imperative to insinuate itself into some operational decisions, particularly where others have no jurisdiction or resourcing to assist the women. Many of the issues which the Inquiry examined could be characterized as "operational concerns". The intervention of the IERT on April 26-27, 1994, the denial of women's rights and entitlements, as well as the extended retention of women in segregation, currently as well as in the past, are but a few such examples.

Where and whenever possible, CAEFS encourages women in prison to utilize the internal complaint and grievance procedures, as well as encouraging them to seek the assistance of the Office of the Correctional Investigator and legal counsel. We also tend to coordinate efforts in order to ensure the most effective means of intervening are utilized and to avoid unnecessary duplicitous action. The perennial issue of limited resources, as well as access thereto, combined with a high need for support of the women has also meant that at times CAEFS has assisted women with issues when they are unable to obtain counsel or other(s) to assist them. Humanitarian passes and national parole board matters are prime examples of these.

Following the release of Creating Choices, the Task Force Steering Committee and Working Groups were disbanded. They were then replaced by a National Implementation Committee (NIC), which, despite the recommendations of the Task Force, was devoid of federally sentenced women, CAEFS or other community representation. Moreover, even since the promulgation of the **Corrections and Conditional Release Act**, with its s. 77 provision of a duty to consult with groups such as ours, the Commissioner of Corrections, as well as members of his staff at national and regional headquarters and the Federally Sentenced Women's Program have resisted involving CAEFS directly in policy development work for FSW. In the new regional prisons, CAEFS and its membership will continue to discharge a monitoring function in order to ensure that women's rights and entitlements are being provided and that CSC is adhering to the law governing its activities. CAEFS' preference is to not be involved in purely "operational" matters at P4W or the new prisons. Consequently, in recommendations made during the policy examination phase of the P4W Inquiry, CAEFS asserted the need for regional governance bodies for the new prisons and a national advisory body for the area of federally sentenced women's corrections as a whole. Unless truly effective and representative independent mandatory advisory bodies are constituted, CAEFS will undoubtedly continue to be expected to intervene on behalf of the women.

d) Lack of Transitional Planning and Problems Associated with the Movement of Women to the New Prisons

CAEFS continues to focus on issues related to the implementation of the recommendations of the Task Force on Federally Sentenced Women. Our aim is to assist and support women during the transition between the closure of the Prison for Women (P4W) in Kingston [now delayed until possibly the autumn or winter of 1997, with no specific date being identified] and the opening of the new prisons and the National Healing Lodge. To this end, CAEFS continues to make a minimum of one visit to the prison per month. CAEFS was also able to visit women imprisoned in the new Prairie prison, the Edmonton Institution for Women (EIFW), the national Okimaw Ohci Healing Lodge for First Nations women, located in Maple Creek, Saskatchewan on the Nekaneet Reserve, the Atlantic region's Nova Institution for Women and the Burnaby Correctional Centre for Women, which is designated as the prison for federally sentenced women in the Pacific region.

Via visits, as well as telephone calls and correspondence, we keep in regular contact with federally sentenced women across the country. Unfortunately, the women are having difficulty accessing CAEFS and some local Elizabeth Fry offices since the new telephone systems commenced. In Edmonton, for instance, six months after opening and four months after the initial official request was made, the women's prison has not yet entered the CAEFS' telephone number into the institutional telephone system, thereby denying the women with access to one of their community supports.

Status updates on each of the new prisons are also regularly shared amongst CAEFS members. Despite the objections and interventions of CAEFS and other national women's groups, the Correctional Services of Canada has now adopted a new security classification scheme for women. In addition, in reaction to the April "incidents", at which time the high risk mythologizing of federally sentenced women took on outrageous proportions, far too many women are being classified as high security risks.

Additional concerns exist regarding the need for placement integration of women into the new multi-level women's prisons, which were supposed to operate as minimum security prisons for women. Before the regional prisons in Ontario and Québec have even opened, the security level of all of the prisons have been significantly elevated because of the inability of the Correctional Service to address the very real needs and issues of the women who were moved to the Edmonton prison over the past year.

As CAEFS observed last year, when the capacity of the enhanced security units was doubled in each of the new prisons, rather than seek the input and expertise of the women themselves and those of us who are invested in the Creating Choices vision, principles and model for women's corrections, the Correctional Service continues to repeat its history of resorting to static inhuman security mechanisms in the face of its own inability to implement innovative dynamic new correctional philosophy and approaches.

Although all but two of the regional prisons are now open, CSC has yet to develop transitional planning committees comprised of community representatives and women in prison headed for each of the new regional prisons or the national Healing Lodge. The national steering committee, the membership of which federally sentenced women had requested include CAEFS, has never been struck. This reality notwithstanding, the Elizabeth Fry societies in the regions are working to build the links for women into their respective communities in order to facilitate planning for community-based services for the women once they are in the regions.

The last two of the new prisons, the Grand Valley Institution in Kitchener, Ontario, and the Joliette, Quebec prison, are due to open in January of 1997. The Solicitor General is understandably cautious about authorizing the opening of both of these prisons, given the debacles at Edmonton and Truro so far. In the months leading up to our next federal election, Minister Gray finds himself in the unenviable position of potentially being seen as the Solicitor General who took women's corrections in Canada back to the turn of the century. The irony is that he has probably been one of our most enlightened Solicitor Generals, but between his own willingness to accept the versions of events communicated to him by the past and current

Commissioners of Corrections, John Edwards and Ole Ingstrup, he has acted upon erroneous advice and information. Consequently, we see women living in increasingly isolated units in disparate locations, including segregated units in men's maximum security settings.

Finally, CAEFS continues to work to ensure the involvement of federally sentenced women themselves in transitional planning, enhanced communication strategies and protocols between regions, in preparation for the closure of Prison for Women and the consequent movement of federally sentenced women to the new prisons.

e) Segregation Review Task Force

Following some especially pointed and scathing criticism by Justice Arbour of the use and abuse of segregation by the Correctional Service of Canada, the interim Commissioner of Corrections, John Tait (brought in to replace John Edwards who resigned in the wake of the report), established a task force to audit and improve the manner in which CSC-run segregation units operated.

CAEFS was initially invited to participate on the Task Force; however, the invitation was subsequently rescinded and CAEFS was instead invited, near the end of the work of the Task Force, to consult with the group and assist them in addressing any issues that might be specific to federally sentenced women. It was somewhat ironic and incredibly frustrating to discover that a task force that was established as a result of situations surrounding the illegal segregation of women, contained no specific reference to women in prison.

CAEFS does not support the use of segregation. Until it is abolished, however, we would like to see stringent limitations on its use, as well as the implementation of external oversight and review mechanisms.

Madam Justice Arbour found that none of the secure units for women that she viewed were adequate for long term placement of prisoners. She also encouraged CSC to make women's corrections their flagship -- the place in corrections for innovation and leadership. CAEFS' also argues that s. 15 of the *Canadian Charter of Rights and Freedoms* requires CSC to pursue a substantive equality versus a formal (same as men) equality analysis of the segregation and other issues impacting women prisoners.

The legislation (*Corrections and Conditional Release Act*) is clear that anything which is not general population is by default segregation. As such, it is the minority of federally sentenced women who are actually in a general population setting -- basically, the women at the Okimaw Ohci Healing Lodge, and those living at the Isabel MacNeill House across from the Prison for Women and those who live in the wing at P4W. All other living areas at P4W (eg. ISU [segregation proper], SNU [Special Needs Unit -- the old segregation unit], the Quiet Side [Protective Custody "side" of the old segregation unit], B-Range, and increasingly A-Range too) provide deprivations of liberty that limit the ability of the women "living" on those units to freely associate with other prisoners.

This is also the case at the new regional prisons for women in Edmonton, Alberta and Truro, Nova Scotia. In the new prisons, in addition to the limited movement available to women "placed" in the enhanced units, even the few women defined as minimum security prisoners enjoy extremely controlled access to the prison and other prisoners.

It undoubtedly goes without saying that the women in the maximum security units in the men's prisons -- Saskatchewan Penitentiary in Prince Albert, Saskatchewan, and Springhill Institution in Nova Scotia, as well as the so-called "mental health" unit at the Regional Psychiatric Centre in Saskatoon, Saskatchewan -- have extremely limited access to anybody or anywhere outside of the unit, except under extremely limited, rigidly structured and controlled conditions.

Not only does CSC generally not acknowledge the foregoing situations exist for women prisoners, their response to the reality that all of their segregation units operate outside the governing provisions of the CCRA, has thus far been to propose legislative changes to accommodate "special populations" who are not part of the general population of prisons, but whom they do not define as legally segregated (eg. prisoners in protective custody or special needs units in particular).

CAEFS and others are proposing that CSC implement an expectation that all prisoners are/should be living in general population and that the institutions must adjust in order to accommodate specific needs of particular prisoners, be they women, First Nations/Aboriginal prisoners, prisoners with significant personal safety, mental health or other concerns.

Thus far, CSC has been primarily focused upon bringing the units they call "segregation" into compliance with the law. Not only have these audits shown across the board failure or lack of compliance on CSC's part, they do not adequately focus prison management and staff upon the objectives of using every alternate option to keep a prisoner in the general population, and getting prisoners who are not successfully prevented from entering segregation out of segregation as quickly as possible.

In addition to not regarding FSW issues as particularly relevant to the segregation issue until December of 1996, the Task Force has seemingly ignored the importance of peer or communal support as well as the differential impact of isolation on FSW and Aboriginal prisoners and the fact that the Prisoners' Committee at P4W, as well as FSW elsewhere expressed opposition to the notion of segregating any of their sister prisoners [First Nations elders also recently expressed absolute opposition to the use of segregation].

When the Task Force reviewed the number of prisoners who have been segregated for 60+ days, no FSW appeared on the list, despite the fact that I can name at least 10+ women who have been segregated for well over 60 days. CSC has since acknowledged that this information was misleading or flawed, as it only identified those prisoners that CSC had labelled as segregated (ie. for FSW, that meant those women who were then in the P4W ISU). As part of CAEFS' challenge to the Task Force to re-examine this data, I provided them with a list of 20 FSW and requested that they track the placements and examine the extent of the deprivations of liberty of same for each of the women over the last 2.5 years.

Fortunately, the Task Force did enlist the assistance of two external experts, Trish Monture and Michael Jackson. Todd Sloan, a lawyer and representative from the Office of the Correctional Investigator is also a member of the Task Force. All three of these individuals have been extremely helpful and are working hard to get the Task Force on the right track. They also hope to ensure that they are kept involved by CSC and that they continue to have a role providing external input into the segregation review process beyond the life of the Task Force.

CAEFS is extremely supportive of the continued involvement of Trish Monture and Michael Jackson in policy and procedural development, especially since the Segregation Review Task Force and the Vision Circle at the Okimaw Ohci Healing Lodge are the only remaining CSC bodies with at least some direct external involvement and ownership.

2. Self Defence Review Launched for Battered Women Who Defend Themselves

After approximately four years of intensive and extensive work in this area, CAEFS celebrated the appointment by Ministers Gray and Rock of Judge Lynn Ratushny to undertake a review of the cases of women currently serving federal sentences of up to life imprisonment for having defended themselves and/or their children against abusive partners. CAEFS and other national women's groups applauded the announcement and look forward to participating in discussions regarding longer term law reform and systemic changes required to address the systemic barriers typified by the inability of women to avail themselves of legal protection when they are experiencing, responding to and defending against abuse.

Judge Ratushny received 98 Self Defence Review applicants. Given the manner in which Judge Ratushny had to disseminate information regarding her work; namely, to all women convicted of homicide who are still serving sentences, as well as the extremely high rate of physical and sexual abuse histories amongst women in prison (90% of First Nations and 82% of all federally sentenced women), it is not surprising that so many women applied for the review. Unfortunately, the limited resources provided to Judge Ratushny to conduct the review have only allowed her to hire a small albeit energetic and committed staff to assist her efforts.

CAEFS and its member societies assisted Judge Ratushny in gathering preliminary information with and for women who wished to apply for the self defence review. Pursuant to the direction provided to her by the Minister of Justice, Judge Ratushny commenced her review by examining the cases of women who are still imprisoned. Of the approximately 60 women who fit into this category, it is our understanding that Judge Ratushny will recommend relief for 7 of the women. If the Minister of Justice and Solicitor General agree with her recommendations, the relief could involve a reduction in sentence and an earlier parole eligibility period or a conditional or unconditional pardon and release from prison. Whether the women experience a gradual or an immediate release from prison, all of the seven women have apparently requested significant personal support as they integrate into the community.

Regrettably, my recent conversations with Judge Ratushny's counsel for the Self Defence Review have renewed concerns about the possibility of bureaucratic interference with Judge Ratushny's recommendations when she tables same. The same bureaucrats who blocked our efforts and had great scepticism about the veracity of the review in the first place, are now unwilling or unable to consider the sorts of remedial options being proposed by Judge Ratushny. As I have discussed with both the Minister and the Deputy Minister of Justice, CAEFS is firmly of the view that the process utilized by Judge Ratushny must be respected. While we obviously proposed an alternate approach, and while their Justice Department staff lawyers proposed a s. 690 analysis alone, Judge Ratushny recruited distinguished legal counsel and developed sound investigative and analytical legal methods, based upon excellent legal research and advice. Her findings must be considered within the context of her process, not in accordance with ordinary s. 690 applications or procedures.

CAEFS is firmly of the view that Judge Ratushny's recommendations should be immediately implemented by Ministers Rock and Gray. For the Ministers to do otherwise would undoubtedly result in a discrediting of them and their commitment to the very review they commissioned. Moreover, given that Judge Ratushny's process has involved full disclosure to the applicant women throughout the process of the review, the very few women for whom remedial action will be recommended will be well aware of those recommendations and we must all be very cognizant of the potential devastation that might be caused by any cynical trivializing of the process or the resultant recommendations.

Given the reluctance of the Solicitor General to implement the recommendations of Madam Justice Arbour, we unfortunately have some ongoing concerns about the speed and nature of the responses that Judge Ratushny's recommendations will elicit from both Minister Rock and Minister Gray. Accordingly, we have once again launched a call for action to colleagues with national women's and social justice groups, asking them to join us in urging the speedy implementation of Judge Ratushny's recommendations by the Ministers when they are tabled in mid-January 1997.

3. Countering Push for Regressive Law and Order Types of Responses - Working Against the Backlash

As is regrettably the situation around the globe, social, economic and criminal justice reform tends to be growing increasingly more regressive and punitive in nature in Canada. In efforts to counter this trend, CAEFS continues to facilitate, participate in and develop, coalitions with other women's, social and criminal justice groups, with a view to strengthening our perspectives and voice with and on behalf of women who come into conflict with the law.

a) National Groups Outraged by Ontario Government Cuts

In October of 1995, CAEFS organized a coalition of 23 national First Nations, Inuit, social and criminal justice, anti-poverty, labour and women's groups and issued a joint press response, expressing our outrage following the cuts to halfway houses, second stage shelters for women who have been victims of violence and many other intervention programmes established to prevent violence against women and their children. The funding cuts made by the provincial government were completely antithetical to the fundamental principles of justice and the interests of community safety.

In the 1970's, we finally saw the funding of innovative and progressive residential support programmes and services for women leaving abusive relationships. These cuts, along with those to legal aid eligibility, particularly for women leaving abusive situations, result in a serious attack upon the safety of Ontario women and children. This reality was only exacerbated by the cuts to halfway house beds for men and women released from provincial prisons. These draconian measures chisel away at the very foundation of our community corrections systems and take us back nearly a half a century.

Canadians need to recognize how much these sorts of regressive moves will cost in both human and economic terms. Despite overall reductions in crime, we are witnessing a tendency to more quickly criminalize the behaviour of the most vulnerable and marginalized members of our communities. It is clear that we will all suffer as a result of this amputation of adequate support services for women and children who are abused, as well as for those who are entering our communities after completing their terms of incarceration. These sorts of provincial cutbacks, combined with the impact of the federal budget cuts to transfer payments, are simplistic and diminish the ability of both governmental and non-governmental bodies to contribute to community safety by creating more proactive and preventative means of addressing complex issues and concerns.

Such cost-cutting is likely to ensure that the justice system remains the catch-all for other systemic inadequacies. Given the increasingly limited access to legal aid in this province, the chances are great that more marginalized people will end up in prison, at a cost far greater than that of any acquittal or community supervision, access to both of which will be far more limited to unrepresented accused persons. By instituting these so-called economic decisions, the government is effectively increasing the long-term costs to Ontario taxpayers. Pilot projects in Ontario have shown electronic monitoring to be a redundant form of early release and in other jurisdictions to be an ineffective alternative to dynamic human support, supervision and intervention. In addition, halfway house and second stage shelter accommodation is significantly less expensive than prison or hospital beds respectively.

We continue to encourage the public to recognize that the needs and concerns about community safety would be far better met by enhancing existing constructive and proactive responses, rather than by the sorts of decisions that are currently being made by provinces in our country to abandon the community. Reliance upon imprisonment is the least efficient and most expensive means of addressing crime and leaves the public, especially women and children, more vulnerable.

b) Dangerous Offender Designation for Women

Last year, in coalition with three other national women's groups, the Women's Legal Education and Action Fund (LEAF), the Native Women's Association of Canada (NWAC) and the DisAbled Women's Network of Canada (DAWN), we filed our application for intervenor status in the case of Lisa Neve. Lisa was the second woman to be declared a dangerous offender in Canada. She was 21 years of age when she was declared a dangerous offender and sentenced to an indeterminate sentence in November of 1994.

Unfortunately, the Alberta Court of Appeal refused the application of our coalition, so the case will proceed without our legal intervention. We will continue to support Lisa in her efforts, however, and should there be a further appeal to the Supreme Court of Canada, our coalition will re-apply for intervenor status at that time.

We hope to see both the designation of Lisa as a dangerous offender, as well as the indeterminate sentence overturned. In addition, the intervening coalition hopes to limit the application of these provisions to more women. Unfortunately, since Lisa's case, yet another woman was designated as a dangerous offender following her conviction for arson. That woman received a long but determinate sentence.

The first woman who was declared a dangerous offender killed herself in prison shortly thereafter. She had a long and horrendous history of physical and sexual abuse within her family, child welfare homes and juvenile detention centres. Her suicide confirmed what most had long believed -- she was a significant threat to herself not to others. Women with similar histories of abuse to hers continue to be threatened with the application of this most draconian provision.

c) Judicial Review

In coalition with other justice groups, including the Canadian Bar Association, CAEFS repeatedly urged the Honourable Allan Rock, Minister of Justice, to not amend or repeal the judicial review provisions of s. 745 of the **Criminal Code of Canada**. We are concerned that these amendments are a proposed solution to no apparent problem with s. 745.

While we recognize and acknowledge the very real fears and concerns of families of victims, we believe it is fallacious to present these amendments under the pretext that they will address same. One rationale for the amendments was that the public was asking for these amendments -- this was not our experience, however. Indeed, throughout the political life of the amendments, we were continuously astounded by the pervasiveness of the misinformation being perpetrated by some of its advocates, politicians as well as police-based lobbyists.

Fed predominantly by the lobbyists of the Canadian Police Association and some of the self-proclaimed "victims' groups" they have helped to form, calls for the repeal of s. 745 began in earnest early last year. These groups have clearly articulated this move as the first in a series aimed at moving Canada back to a position of utilizing capital punishment.

We believe that abolishing the opportunity for prisoners serving life sentences of fifteen years or more to apply for a judicial review of their parole eligibility will likely only serve to increase both the human and economic costs of the criminal justice system and increase public fear and misperceptions about crime amongst the Canadian public.

While we believe that the needs and concerns of victims of crime must be addressed, as you know, the concerns raised by some of the most vocal proponents of the abolition of s. 745 will not be met by such a move. The record is clear that of the fifty-five men and the one woman who have thus had their parole eligibility reviewed and reduced from twenty-five years, only one has been reconvicted of any criminal offences. Contrary to the public misconceptions, none have murdered following their return to the community.

Rather than succumb to this pressure and thereby perpetuate the misinformation already being disseminated to the public with respect to section 745, CAEFS urged the government to demonstrate leadership in this area by refusing to further limit the access of prisoners to just and fair procedures. We also urged Justice to launch a concerted public education campaign to promote the need for more responsible and humane criminal justice approaches to enhance the safety of all Canadians.

We strongly encouraged Minister Rock and his department to disseminate the following information to all Canadians:

- that s. 745 is not a "loophole";

- that s. 745 does not provide automatic release for prisoners;
- that the actual review is conducted by a jury made up of members of the community (usually from the community in which the offence originally occurred);
- that a "successful" review by a jury of Canadian citizens does not result in release, but merely allows the prisoner to then **apply** for parole to the National Parole Board;
- that the National Parole Board then further evaluates the risk of each person to the community and the appropriateness of granting parole;
- that if there are concerns that the individual under review poses a risk of committing violence in the community, that person is not released;
- that the longer someone is imprisoned and the less support and supervision they are provided upon release, the greater the likelihood that the level of risk posed by that person to others in the community will increase;
- that even if someone is then granted parole, the individual is only released into the community under the close supervision of correctional authorities and other criminal justice professionals.

We also indicated that CAEFS and other organizations would be pleased to assist with any such public education efforts. We believe that the resources which will be spent on further incarceration as a result of these amendments and even more so should s. 745 be repealed, would be much better spent on responding to the very real needs of victims of crime. For example, we encouraged the Minister and his political colleagues to devote additional resources to victim compensation, women's centres, particularly rape crisis and women's shelters, as well as other crime prevention efforts in Canada. In fact, CAEFS has initiated and participated in public debate via the media as well as private and public meetings involving other criminal justice and victims' groups.

As we have travelled across the country, it was clear that the limited information available to the public had definitely resulted in a limited understanding of this and other issues. Section 745 provides prisoners serving life sentences with no parole eligibility for 15 years or more to apply to the court for a review. The s. 745 review is conducted by a jury made up of members of the community (usually from the community in which the original offence originally occurred). A "successful" review merely allows the prisoner to then **apply** for parole to the National Parole Board.

Because of the already very stringent application process, approximately 60% of those prisoners who have served 15 years in prison and are therefore eligible for s. 745 do not even apply for a judicial review. Of those who have applied, 20% were unsuccessful, while 79.4% were granted some reduction of their 25 year parole ineligibility periods.

Those prisoners who receive the rarely granted reduction to 15 years, the earliest that most are able to enter the community on parole is the 18 or 19 year mark. For example, the only woman who has thus far had her parole ineligibility period reduced pursuant to s. 745, served another three years before being released into the community on full parole.

She had been convicted of constructive murder, a provision which was declared unconstitutional following the inception of the *Canadian Charter of Rights and Freedoms*. The circumstances of her conviction were that she failed to warn a police officer that her partner had a gun, prior to the officer breaking into the hotel room where her abusive husband held her captive. She was consequently convicted of first degree murder and because she had exhausted all avenues of appeal once the constructive murder provision was struck down, her case was not reviewed until she had served more than fifteen years in prison.

Of the relatively small number of men and the aforementioned one woman who have been released, one has re-offended. The man who did so, committed the armed robbery more than 3 years ago. None has committed a subsequent lethal offence. This reality notwithstanding, the anti-s.745, pro-death penalty lobby continues to argue that the repeal of s. 745 would result in reductions in homicides in Canada. In reality, Canada's crime rates are showing a decline, whereas our incarceration rates and prisoner mistreatment figures are spiralling upwards.

Most countries set parole ineligibility periods at between 10 and 15 years for those serving prison terms for murder. Even without the most recent amendments, Canada already has a parole ineligibility period for life sentences that exceeds even most American States, with the exception of those who kill or never release prisoners. Consequently, the amendments to s. 745 help to place Canada amongst the most oppressive regimes internationally.

Tragically, we were unable to convince Minister Rock, the Parliamentary Standing Committee on Justice and Legal Affairs or the Standing Senate Committee on Legal and Constitutional Matters to preserve and protect the judicial review provisions without any amendments.

d) Young Offenders Act (YOA)

On April 30, 1996, CAEFS appeared before the Standing Committee on Justice and Legal Affairs for the Phase II Review of the YOA. We spoke to the impact of the Act upon juvenile justice for young women. CAEFS continues to have grave concerns with respect to the increasing numbers of younger women in the provincial and federal prison systems.

We are now almost thirteen years into the implementation of the Young Offenders Act. Proclaimed on April 2, 1984, and originally paraded internationally as one of the most innovative and progressive legislative responses to juvenile justice, the Act has suffered serious chiselling and atrophy of its most progressive elements since its inception. Indeed, even before 1984, some of the more proactive elements of the Act were already being threatened. The YOA was enacted in 1982, but sat awaiting proclamation while the federal government negotiated with the provinces regarding implementation thereof.

A major reason for the delay in proclamation related to the cost-sharing agreements, specifically the manner in which some of the monies could be utilized. Despite the commitment of the federal government to providing more resources for the development of community-based programming and services for young people, the provinces negotiated long and hard for monies to build new prisons for young people. We live with the unfortunate results of those negotiations.

Perhaps it should come as no surprise then that the attacks on the YOA commenced almost immediately following its inception. The first set of amendments to the Act occurred in 1986, when the provisions requiring the destruction of Youth Court records were amended so as to allow for the detention of records. The 1986 amendments also resulted in the further enhancement of judicial discretionary powers by empowering judges to lift publication bans as well as the authority to exceed the three year limit on dispositions when imposing consecutive dispositions.

Further reactionary amendments introduced in 1989, led to the passage of more regressive changes to the YOA in 1992. The amendments introduced a transfer test that hinges on the availability of resources within young offender systems. Despite the laudable intentions and hopes that these changes would result in the enhancement of existing services and programs within the juvenile justice system, as well as fewer transfers of young people to ordinary courts for trials as adults, just the opposite has occurred by and large. Indeed, although the overall number of transfers may have declined over the past year, neither the reasons for this statistic, nor an appreciation of its significance (ie. whether it is a coincidental blip or an indication of a new trend) are yet discernible. Moreover, services for young people in the juvenile justice system have not enjoyed any meaningful enhancement since the passage of the new amendments.

In addition to the transfer provisions, that set of amendments changed the penalty provisions of the YOA. Custodial dispositions have now been extended to a maximum of five years less a day for youth convicted of first or second degree murder. Further, for youths who are transferred to the ordinary court and sentenced as adults, parole eligibility guidelines have been established at five and ten years respectively.

Throughout the three-year period that the amendments were in the consultation process, concerns were raised about the potential for the provisions to be further extended to offences other than murder. The government repeatedly assured groups and individuals who expressed these kinds of concerns that such a result was not likely. Moreover, Justice assured us that more progressive, community-based, youth-positive changes would be undertaken, just as soon as the Bill C-12 -- as they then were -- amendments were passed.

In spite of the best intentions and concerns of many at the Department of Justice, calls for toughening and opening up of the Young Offenders Act continued -- indeed, still show no signs of dissipating. Accordingly, while it is no less disappointing, it was not surprising to see the parameters of the most recent discussion document, *Towards Safer Communities: Violent and Repeat Offending by Young People*, as well as the types of regressive approaches outlined in **The Red Book**.

1995 saw further regressive amendments to the Act. It is our view that much more consideration needs to be devoted to the manner in which the Young Offenders Act is being translated into policy and realized in practice, before additional legislative amendments are introduced. We are also particularly concerned with the relative lack of attention paid to the needs of young women within the juvenile justice system.

We believe that Justice must encourage a much more thorough examination of the myriad issues related to the manner in which we address youth crime in Canada. Accordingly, we have requested that Allan Rock, the Minister of Justice, focus on the development of more proactive leadership by the Department of Justice in relation to this as well as other criminal justice matters within his jurisdiction.

We are also urging Justice to adjust its examination of the YOA to more directly address such interconnected areas as the need for further development of youth crime prevention initiatives, in addition to strategies for public and professional legal education with respect to the inability of communities to achieve safety via legislation alone. We also recommended the continuation of efforts both within and external to the Department of Justice, as well as at the provincial level, in order to encourage adequate resourcing of community-based alternatives for young people.

Research initiatives to support the aforementioned juvenile justice issues must also be a priority. Accordingly, we are also appealing to the Department of Justice to consult widely with voluntary criminal and social justice, especially youth serving and advocacy organizations. Of special interest for us is the intersection of the YOA with provincial youth/child-related legislation, as well as the inter-relationships of child welfare, education and mental health to early as well as tertiary crime prevention and youth imprisonment issues. We are hopeful that the Justice Minister's referral of the Act to the Parliamentary Committee will in fact not only achieve a full-scale and comprehensive review, but that it will result in a refocusing upon that which is fundamental to not only the Act, but also our youth and therefore our communities, particularly our schools.

Statistics reveal that there has been an overall reduction of youth crime rates generally as well as a relatively low incidence of violent and repeat youth crime more specifically. These realities notwithstanding, there is increased police, media and general community focus on the YOA, as well as a tendency to more quickly criminalize the behaviour of young people and then jettison them into the ever wider, deeper and stickier nets of the juvenile justices system.

It is clear that all young people suffer as a result of the lack of adequate support services and other systems-based deficiencies. Many of you will be all too familiar with the erosion of resources and support for our education systems. The overall juvenile justice situation is all the more acute for young women. For instance, young women are disproportionately disadvantaged as a result of a lack of gender-focused community and institutional programming and services, extremely limited access to open custody settings and consequent systems-dictated secure custody re-sentencing, over-representation of young women in custody for administrative breaches and child welfare types of concerns. Systemic bias and discriminatory practices undergo a multiplier effect where gender, race, class, ethnicity and/or sexual orientation

converge. Accordingly, immediate action to develop more comprehensive understanding and concerted efforts to address issues of bias within the youth justice system.

Like many other youth-serving and social justice groups, CAEFS is opposed to any lowering of either the minimum or the maximum ages. In addition, CAEFS does not support the transfer of young people to ordinary courts, automatic or otherwise. Further, CAEFS does not support the publishing of identities of young people, regardless of the offence(s) for which they are convicted. CAEFS is, however, very much in favour of limiting the use of custody for youth. Finally, CAEFS supports the enhancement and development of community-based treatment options.

It seems unconscionable to consider addressing concerns regarding youth by merely off-loading them into the ordinary court and the criminal justice system. Indeed, it is distressing to observe continued attempts to erode and chisel the fundamental tenants and guiding principles of the YOA.

The YOA calls for the least restrictive interventions possible for young people. In fact, it calls for an examination of all other systems prior to invoking its provisions. Alternative or diversionary options are entrenched in the Act. Paradoxically, the past decade has seen just the opposite result. In most schools, for instance, matters that previously might have been dealt with by the school administration, are increasingly more likely to be referred externally, be it to the juvenile justice or child welfare systems.

Rather than resort to the "adult" criminal justice context at ever earlier ages, CAEFS supports the development and enhancement of youth-positive community-based dispositional options, as well as the development of improved educational and psycho-social programs and services both in community and institutional settings. CAEFS is particularly concerned about the paucity of community-based and therapeutic alternatives for young people in general and young women in particular. We believe that Justice might better address some of these issues via altering cost-sharing agreements with the provinces, rather than proposing legislative amendments. Such moves also unfortunately have the tendency to be simplistic and diminish the pressure to create more proactive and preventative means of addressing complex issues and concerns.

It should be noted that federally sentenced women have expressed concern with respect to the transfer of young people into the "adult" system. Federally sentenced women and men alike, have voiced opposition to the rendering of young people subject to federal penitentiary sentences. Lifers in particular, some of whom entered prison during their teens, have expressed concern that other young people not face a similar fate.

Young people are best served by supportive and proactive interventions, as opposed to the punitive and reactive types of approaches characterized by and endemic to criminal justice responses. Indeed, CAEFS supports the broadest interpretations of crime prevention within the context of socio-economic and cultural realities. There is sufficient evidence that preventative approaches to addressing crime are far more cost-effective than current criminal justice approaches. Accordingly, CAEFS supports the enhancement and development of high quality supportive services and assistance for children, youth and adults alike -- from universal and enriched health, child care and educational opportunities to effective gender, anti-poverty and anti-racism and conflict resolution programs.

For young women in particular, women-centred and self-directed approaches are required. Because of their relatively low numbers in comparison to those of young men in the youth justice system, their specific needs are often ignored or at best subsumed by those of young men. While there is greater gender parity in terms of childhood experiences of abuse, this situation changes drastically around puberty and certainly into adolescence. Unfortunately, the youth justice system is rarely equipped with adequate understanding, much less skills or services to address, the differing gender-based manifestations of abusive histories.

Much is already known about effective and empowering ways of meeting the needs of young women. This information, combined with more adequate resourcing of existing support services and network, as well as

increased funding to enable and improve the exploration, documentation, and implementation of additional approaches, would undoubtedly result in ever more effective interventions, increased prevention and decreased recidivism rates.

In order to ensure significant short as well as long term change, proactive education and training programs are required for judges, lawyers, probation officers, police officers and all other youth justice personnel. The reorientation of those who work with or are otherwise involved with young people is a prerequisite component to the development of positive and effective change within the youth justice and all other youth-serving systems. In addition to more traditional training approaches, CAEFS encourages the involvement of young people themselves, as well as front line workers in the development of professional and practical training programs as well as in the development of the services and programs, and therefore the "systems" designed to address the needs of youth.

CAEFS also recommends that professional training regarding developmental, educational, as well as psycho-social attributes of young people be prerequisite to practice for those employed with and in relation to the youth justice system. An adequate understanding of adolescent development must form just as integral a component of preparation for employment as does other professional training.

CAEFS recommends that, rather than continue to focus time, energy and resources on the substantive provisions of the YOA, the Department of Justice would better serve the needs of Canadians, particularly young people, if the implementation of the preventative elements were made a government priority. Such a strategy would certainly be in keeping with the government's commitment to crime prevention.

Many young people cannot and do not understand the youth, much less the "adult" system. Research, such as the recent study by Rona Abramovich, Karen Higgins-Biss and Stephen Biss, regarding young people's general lack of understanding of police cautions and waivers, raise very serious questions with respect to the ability of young people to exercise their rights, much less their responsibilities, pursuant to the YOA. Moreover, Canada is a signatory to international covenants, which speak against the imposition of criminal responsibility prior to the age when most other adult rights and responsibilities accrue. As such, the Canadian government has indicated a commitment to not lowering the maximum age.

If existing programs and services are inadequate to address the needs of young people or the protection of society, the first priority must be to address such service or programming deficits. Rather than resort to the "adult" criminal justice context at ever earlier ages, CAEFS supports the development and enhancement of youth-positive community-based dispositional options, as well as the development of improved educational and psycho-social programs and services both in community and institutional settings.

In order to be deterred by something one must first comprehend, not to mention apprehend, that thing or consequence, as well as the certainty of its occurrence. With all due respect to the views of the Supreme Court of Canada in J.J.M., rarely does an adult, much less a young person think that s/he will be apprehended; rarer still is the individual who knows what the result of an apprehension will be.

Rather than see young people transferred out of the youth justice system, we would prefer to see the enhancement of services for young people within the context of the youth justice system. By making transfers easier, it also arguably limits the pressures on the provinces to enhance and/or implement sufficient youth correctional, mental health and child welfare services for young people.

CAEFS does not support the publishing of identities of young people, regardless of the offence(s) for which they are convicted. Via paragraphs (1.1) through (1.4) of subsection 38(1) of the YOA, provision is already made for the lifting of the ban on publication in circumstances where it is deemed necessary in order to assist in the investigation and apprehension of a young person who is deemed dangerous to others.

In at least one circumstance of which CAEFS is aware, despite the contravention of these provisions by the media, no charges were ever laid pursuant to subsection 38(2), the penalty provisions regarding violation of

the stipulations against the publication of the identities of young people. We have little faith that any relaxing of these provisions will benefit individual youth. Rather, such a move would further erode the principles of the Young Offenders Act and therefore have significant likelihood of bringing the administration of justice for young people into disrepute.

In any circumstances where the sharing of information might be beneficial, the consent of a youth would allow such sharing to occur. Few young people would refuse to consent to such information sharing, given the option of allowing release of information in order to provide or facilitate access to community-based and youth-positive services or programs, as opposed to secure custody detention or other restrictive sanctions. Contrary to popular misconceptions, most young people are painfully well aware of the inability and inadequacy of the justice system to meet their needs and simultaneously address public protection concerns.

We encourage a revisiting of the original rationale for the YOA ban on publication. CAEFS is very concerned about the increasing interest in identifying offenders in general and young people in particular. CAEFS contends that rather than facilitate proactive and preventative work in communities, such moves are more likely to result in the labelling, as well as encourage scapegoating of youth. Furthermore, given the information that is known with respect to the number of offences and perpetrators that go undetected, CAEFS is extremely troubled by the potential of these sorts of provisions to result in the creation of false senses of security. Such moves also unfortunately have the tendency to be simplistic and diminish the pressure to create more proactive and preventative means of addressing complex issues and concerns.

The likelihood of short as well as the long term risks of harm increasing are far greater once such basic principles as this one are diminished. As we have witnessed in the case of the media violations, there is significant concern regarding the abuse of such provisions and the consequent deleterious impact upon the lives of young persons. There are bona fide concerns of educators and others who work with youth, with respect to the presence of perpetrators of violence amongst the youths in their care and/or with whom they work. Given the aforementioned reporting realities, and corresponding prospect of undetected as well as detected perpetrators, we would argue that the protection of all would be best served by proactive and preventative youth-positive approaches, rather than by reliance upon increased detection and apprehension.

CAEFS is very much in favour of limiting the use of custody for youth. Indeed, such an approach is in keeping with the basic principles of the YOA, particularly the s. 3(1)(f) focus on the least possible interference with freedom that is consistent with the protection of society. Excessive use of custodial dispositions for youth is compounded by the lack of community-based dispositional options.

This is particularly true for young women. For instance, young women are disproportionately disadvantaged in terms of access to open custody settings. The majority of young women who receive open custody dispositions must serve their sentences in secure custody and/or co-correctional facilities. Consequently, they tend to have more limited access to the community as well as institutional services and programs. In many of the young offender centres across the country, incidents of sexual assault and/or pregnancies have led to the further segregation of young women within co-correctional facilities.

More community-based dispositional options and fewer custodial beds should exist throughout the country for all youth, but the need is particularly acute for young women. CAEFS would support the cessation of federal transfer of resources to provinces for custody beds, provided there was a corresponding increase in the transfer of monies for community resource development for young people. Furthermore, provinces must be encouraged to develop more gender-specific and culturally appropriate services and programs for young people. Too frequently, services and programs which do exist are ill-equipped to deal with such intersecting issues as gender, race, class and sexual orientation.

e) Criminalizing those with Mental Health Concerns

The fine tuning of CAEFS organizational restructuring to accommodate regionalization will continue over the coming year, particularly as the new prisons continue to open in each of the regions. CAEFS' priority in this respect is to ensure that the Elizabeth Fry societies in the regions will be ready to work with and for the federally sentenced women who are moved into their communities. As was noted earlier, this move will see more regional involvement of the local societies in both individual assistance and systemic educational and advocacy efforts with and on behalf of women in prison.

New social action initiatives will focus upon an examination of the mental health needs of federally sentenced women, as well as the increasing tendency to criminalize women who have traditionally been pathologized and labelled with some psychological or psychiatric "illness". The need in this area was first felt most acutely in the Atlantic provinces.

Women have historically been over-represented in psychiatric settings, as opposed to their under-representation in the prison systems. With the closure of psychiatric hospital wards and termination of community-based services, however, Canada is witnessing a marked increase in the number of women who are being criminalized within a very short period of their release from or rejection by increasingly overtaxed and under-resourced mental health services.

National Elizabeth Fry Week - Challenging Stereotypes and Encouraging Proactive Action

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

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

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

By focusing on "Alternatives to Incarceration" this year, our 22 member societies hope to encourage the Canadian public to examine some productive and responsible means of encouraging community responses to addressing criminal justice matters from coast to coast. Our hope is that, particularly in this time of fiscal restraint, this sort of proactive focus will encourage the development of and support for community-based alternatives to costly incarceration, particularly for non-violent offenders. Our aim is to increase public awareness of the myriad issues facing women in prison and gradually break down the stereotypes of women in conflict with the law. In addition, CAEFS initiates and responds to media awareness and coverage of the myriad relevant issues on an ongoing basis.

This year, Judge Ratushny's review of the cases of women jailed for defending themselves against abusive partners, as well as the findings and recommendations of Madam Justice Arbour in her report on the Commission of Inquiry into the Prison for Women in Kingston, certainly created a renewed sense of hope for women in prison. Unfortunately, provincial cuts to women's groups and services, halfway houses and legal aid, in addition to the myriad problems already arising in the new Edmonton prison, cause significant concern.

In the interests of the women in prison, CAEFS challenges Canadians to reach behind the walls and bring women into the communities, so that they may take responsibility and account for their actions in ways that make sense to them and to us.

Kim Pate is the Executive Director of the Canadian Association of Elizabeth Fry Societies (CAEFS). CAEFS is a federation of 22 autonomous societies which work with, and on behalf of, women involved with the justice system, particularly women who come into conflict with the law. CAEFS has a vision of a Canada without prisons. CAEFS' members are community based agencies dedicated to offering services and programs to women in and from prison, advocating for equality-based legislative and administrative reform and offering a forum within which the public may be informed about, and participate in, aspects of the justice system which affect women.

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