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**Women's Imprisonment in Canada:
A Shifting Paradigm?**

By Marnie MacDonald, B.A Hons

**A thesis submitted to
The Faculty of Graduate Studies and Research
In partial fulfillment of
The requirements for the degree of**

Master of Arts

Department of Law

**Carleton University
Ottawa, Ontario
August 11, 1999**

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A Shifting Paradigm**

submitted by **Marnie MacDonald, B.A.Hons.**
in partial fulfilment of the requirements for

the degree of Master of Arts

Thesis Supervisor

Chair, Department of Law

Carleton University
August 12, 1999

Abstract

This thesis will explore the major policy shift that has occurred in the area of federal women's incarceration - women who have been sentenced to prison terms of over two years. The Task Force on Federally Sentenced Women was assembled in 1989 and submitted their report *Creating Choices* in 1990. Since that time, the Correctional Service of Canada has attempted to shift the paradigm of women's incarceration from a traditional punitive model to a woman centered model of corrections. This model includes the creation of five new regional prisons and the (eventual) closure of the Prison for Women in Kingston, Ontario. These regionalized prisons are seen by some as an advancement in women's corrections because of their holistic, healing philosophy. Others view the construction of more prisons, even though they reduce the pains of imprisonment, as a fundamental mistake that will result in the incarceration of more women. Even though there are some problems with the model, I argue that they do not negate its premise. The model has been realized.

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you guys didn't think I would ever be done! I have no doubt you are at least as happy as I am, if not more, that I am finished! I owe much to the people who, in many ways, went through this with me. Thank you John, Rose, Mary-Lee, Heather (Dah-ling), and Sally.

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Introduction: A Personal Tension

In this thesis, I will examine the report *Creating Choices*, written by the Task Force on Federally Sentenced Women.¹ I wanted to write about this report because its recommendations to close the Prison for Women and replace it with five regionalized prisons were accepted by the federal Government and consequently, the landscape of women's corrections² was going to be drastically changed. I wanted to investigate what that meant. When I started this project, I was not only clear as to where I stood, but comfortable in that position. I knew what I believed in and the direction I would take. I firmly believed that building more prisons was a mistake. I submitted a request to the Correctional Service of Canada³ to visit a prison, to observe its daily operation. I received approval and ended up traveling to the new women's prison in Edmonton. I requested that location because of its proximity to the Healing Lodge.⁴ In that way, I was able to visit two prisons on the one trip. I expected to see smaller replicas of the Prison for Women. I was also expecting to see the same despair in the women

¹ The Task Force on Federally Sentenced Women, *Creating Choices* (Ottawa, Ministry of the Solicitor General, 1990)

² I use the word corrections with reservation because of its underlying implications that it is individual behaviour that needs to be corrected. This term does not take the broader social context of an unequal society into account.

³ The Correctional Service of Canada is the government department responsible for all inmates serving federal sentences (2 years plus). Their mission statement is as follows: The Correctional Service of Canada, as part of the criminal justice system and respecting the rule of law, contributes to the protection of society by actively encouraging and assisting offenders to become law abiding citizens, while exercising safe, secure and humane control.

⁴ The Okimaw Ohci Healing Lodge is the regional facility built for Aboriginal inmates, based on Aboriginal traditions and cultures.

that I had seen at the Prison for Women when I visited there years earlier. I saw neither and thus began the contradictions and challenges that have underpinned this entire project and my sense of comfort in my beliefs.

Long before I started this thesis, I had been interested in the area of women's imprisonment. It began in my second year of University when I saw a documentary on the lives of women who were serving sentences in the Prison for Women. From then on, I wanted to learn more. That year, I also read *Rock-A-Bye-Baby*, the biography of Marlene Moore, a young woman who ultimately committed suicide inside the Prison for Women.⁵ Her story had a profound impact on me. Finally, that same year, I visited the Prison for Women and saw first hand what a devastating place it is. I believed that there had to be a better way to manage federally sentenced women. I did not know what that better way would look like or how it would work, but there was one thing I believed: nothing good could come from building more prisons. I wanted women to travel in the other direction - away from prisons and into their communities. When the new regional prisons for women were built, I was dismayed at the idea that there were going to be more prisons for women. At the same time, I was intrigued by the notion that they were to be based on a philosophy of healing and founded on a woman centred model of corrections. What did this mean? Would they be a better environment for federally sentenced women than the Prison for Women

was? I held the Prison for Women and its destructive environment to blame for furthering these women's pain. But, if these new prisons were indeed better, what exactly would being better mean?

One of the main reasons I did not like the idea of more prisons was that I was worried that more prisons would result in more women incarcerated. I believed the women inside the Prison for Women were mostly victims of life's circumstances. That is to say, there is such a high level of victimization and trauma in the life histories of these women, that I believed that if these factors were removed, these women would not be in prison. I tended to have a victimizing and disempowering picture of federally sentenced women, believing that they had little to no agency or control in determining their life path. I don't want to adopt that position because I don't believe or want to suggest that women only commit crimes because they are feeling helpless or trapped. I think it is important to understand that some women are capable of violence and aggression without provocation and that there are some women who have made an affirmative choice to commit crimes. And, ultimately there are a very small number of women who need to be in prison, for a period, because of the danger they represent to society. I have not always believed that and I am not sure exactly when that changed, but I believe it now. So I find myself in the position of not wanting to disempower women inmates and at the same time I don't want

⁵ Anne Kershaw and Mary Lasovich, *Rock-A-Bye-Baby: A Death Behind Bars* (Toronto:

to deny the social context of many of their actions.⁶ I have a strong sense of empathy for most women inmates because of their past traumas and present pains of incarceration. But, I also struggle with the question of women who have been victimized but have not resorted to criminal actions. It is a dilemma I cannot resolve for myself in practical or theoretical terms.

I was hoping that through writing this thesis, I would have a better idea of why women commit crimes but I don't. I have a deeper understanding of some of the reasons why some women commit crimes. On one hand I wish there was an "Answer" to explain why women commit crimes because there would then be a "Solution". This could advance the day when prisons will be closed instead of built. But, there cannot be one Answer because it would end up excluding and delegitimizing some women's experiences. Yet, I do believe that the search for more knowledge about women's "criminality" is important because more knowledge about why they commit crimes means more opportunities to react in

McClelland & Stewart, 1991)

⁶I have thought about what word to use to refer to women who have been convicted of a crime and are serving a prison sentence. The federal legislation, the *Corrections and Conditional Release Act*, and CSC refers to those who break the law as "offenders" but I am not comfortable with that term. That term belies the fact that the offence is something she has done, it is not who she is. The word "offender" also implies that these women have offended against society when the state, and the society in which we live need to accept their share of responsibility for criminal behaviour. I also use the "woman" or "women" instead of "female" because using "female" refers to someone solely as a biological entity and as women, we are all constructed by the society in which we live. I tend to refer to this group as "women inmates" or "women lawbreakers" because I feel these terms are the least laden with negative meanings and less usurping of woman's identity. I also use the term "criminalized women" because these are women who have been criminalized by society.

the most effective way and get women out of prison. Ideally, more knowledge means better reactions.

In searching for knowledge of why women commit crime, it is very easy to produce an essentialist theory because of the common threads in the lives of most federally sentenced women. For example, a large majority of federally sentenced women have been physically and/or sexually abused and have a substance abuse problem. Do these common elements stereotype federally sentenced women as a certain type of person? Such an approach is exclusionary but how do you address and establish programs for federally sentenced “Women” in a correctional environment if you do not group them together to some extent? It is a constant challenge to be respectful of the specificity of women’s lives and yet be aware of the factors that bind them together. The unequal power balance in society is relevant and unique to the lives of women, but does not address the different experiences in society faced by Aboriginal women or women of colour. There are so many layers that have to be uncovered that it is hard for me to respond to women inmates as if they are one unitary group but I also recognize that to an extent it is necessary to do so. Trying to balance this has been a challenge.

When I began writing this thesis, I had thought it an absolute contradiction to talk about healing inside a prison. Prisons have traditionally not been places where people could begin to heal. But, I have come to understand

healing in a prison context to mean women being supported and respected without judgment in such a way that the environment promotes a place where they can start to face their personal issues and work them through in a positive manner. In the course of writing this thesis, I found myself listening to women inmates telling me that they were getting their lives on track because of the prison. Many women told me that they were able to turn their lives around in these prisons because of the respect and caring shown to them by staff. I was not prepared for the emotional stories of women who felt they had found someone who cared about them, often for the first time in their lives. With the support and respect of staff, they told me how they were able to believe in themselves and learn to face their personal issues and get on a healing path. I was deeply affected by some of these stories and they have stayed with me.

These women's voices were a major turning point for me. I did not feel that I could dismiss what I was seeing and hearing. Yet, prisons that were more home-like, that were modern and without bars also meant more spaces in which to incarcerate more women. Judges seem less hesitant to sentence women to healing institutions than to punitive institutions such as the Prison for Women. I have great difficulty with the idea that more prisons can be a good idea. This is a constant tension for me. It is a tension that only grew when I saw the Okimaw Ohci Healing Lodge where Aboriginal women were incarcerated. If I thought the Edmonton prison was a surprise, the Healing Lodge was a shock. Unless told that

it is a prison, there would be no way of knowing. There are no security fences, and no barbed wire. It sits on a reserve surrounded by beautiful scenery. It even has a resident yellow Labrador Retriever. The Healing Lodge is turning around the lives of women who I don't believe could find healing in another facility. Most of these women have been in the system for a while and had not been able to begin their healing journey. It is truly astonishing to hear powerful stories from these women who have changed their lives completely with the guidance of staff, elders and their spirituality. I was nervous about going to the Healing Lodge because I was very conscious of my white skin privilege. In fact not many of the women came to talk to me, unlike my experience in Edmonton. But the women I did talk to, had also been in the Prison for Women and had only positive things to say about the Healing Lodge and the staff there.

When I returned home, I was confronted with some uncomfortable feelings. The prisoners and the staff I spoke with left no doubt in my mind that this new system of imprisonment was different from the Prison for Women. But, more prisons? How could I support such a notion? If I am writing a thesis that suggests these prisons are a good thing then implicitly I am suggesting that building more prisons to incarcerate more women is a good thing and I can't do that. So I face a constant internal struggle. Has "saving" the women inside the Prison for Women at one moment in time sacrificed many more women to come?

The numbers of women being sentenced to federal terms are increasing.⁷ There are undoubtedly many factors related to this trend, but surely one of them has to be that judges are now perhaps more comfortable in sentencing women to federal terms of incarceration. There was a major stigma in sending women to P4W because it was well known as a devastating environment, especially for Aboriginal women - many of whom ended their lives inside those walls. Now, judges can sentence women to aesthetically pleasing, “woman centred” prisons where they can receive programming focused on their needs. While increasing numbers is a real danger, for the women who have to face being locked up on a daily basis, their quality of life is significantly improved in these new facilities.

I started this project firmly opposed to the construction of more prisons. However, over the course of my studies, travels and meetings, I have seen and heard what these prisons can do. I feel as if I am faced with the dilemma of supporting the lesser of two evils: more - but better prisons - and risking entrapping even greater numbers of women, *or*, a continuation of the devastating, life threatening incarceration of women inside the Prison for Women. There are many people who are deeply concerned about these issues who would not agree with the idea of building more prisons. There are many different standpoints on this issue and I don’t believe that there is one “right” answer. I do recognize the consequences and challenges, many of them personal, in writing that prisons can

⁷ See Appendix G

“do good”. My argument is not that more and better prisons are the solution but that these five specific prisons are an improvement over the Prison for Women. This argument comes with a cost - a wider and larger net.

I struggled with the question of how to judge whether these new prisons are successful. What does being “successful” mean? Is *Creating Choices*’ vision of sending women to heal in nicer prisons a success? Is closing the Prison for Women a success? Is the prison successful if women can heal inside it? And what does it mean that as a society are we sending women to prison to heal? These women are not just being sent to prison to heal, they are also being punished by society for the wrongs they have committed. Regardless of the focus of the prison, being incarcerated will always be punishment. New, regionalized prisons do aim to heal but they are faced with incorporating that philosophy in a penal environment. I don’t think success can solely be measured in terms of recidivism statistics. In some ways, I think success has to be measured by the impact it has on each and every woman’s life. Ultimately the women inside the prisons will decide if the prisons are successful. This could be a useful research project for CSC to embark upon. Researchers could ask women how they think “success” should be measured.

When I returned from the trip to Edmonton and the Healing Lodge in the Fall of 1997, I started to work for the Correctional Service of Canada (CSC) in the “Women Offender Sector”. In a very short period of time, I had gone from

being very sure of what I believed to being very unsure of how I felt. I had my own theories about what women's imprisonment was about and suddenly they were being seriously challenged. I quickly found out that, in practice, things were much more complicated and very different from the simplistic notions I had. Being on the 'inside', I learned a tremendous amount about the complexities of issues I had not before understood. It seemed as if the more I learned, the less sure I was of where I stood.

There is little doubt that being a CSC employee has affected the lens through which I have examined these issues. It has meant that I have felt torn from the beginning between what I believed (building more prisons is a mistake) and what I was beginning to understand (the new facilities reduce the pains of imprisonment, some women can heal in prison, some women need to be in prison, treating women as victims is not helpful). As I tried to locate my beliefs, I felt alone, caught between an unspoken "us" (CSC) and "them" (CSC critics) mentality. This is an over simplification but my perception was that people seemed to be in one of two camps, either they believe the new facilities are an advancement in women's corrections or they believe that the Task Force, which had recommended their creation was a group of well intentioned women gone astray. For many people, CSC seems to represent the major problem with women's imprisonment and as such has long been criticized for the way it handles the issue of incarcerated women. I feel as if I was once on one side, on

the outside criticizing and now as an employee, I am on the other side.

Theoretically I feel one way but practically I have different ideas. I cannot reconcile my personal theory practice gap.

If I were not a CSC employee I would certainly have written differently about many issues. Being involved in a correctional environment every day is both an advantage in terms of the opportunity to learn but it also has a profound impact on how I view issues. One of the most glaring examples concerns the issue of the removal of women classified as maximum security from the regional facilities into male penitentiaries. In the past, I would have denounced such a move. Now, because of what I have learned about the population and what happened when they were at the regional facilities, I find myself supporting the removal and struggling with the destination. I deplore the idea of women inside men's prisons but now I wonder if this was perhaps the only option. I have become open to saying "this is distasteful but necessary". So, in some ways, the point is not what I believe about this issue, but that I have become open to supporting the move into men's prisons. I never would have been open to such a possibility prior to my employment at CSC. I seem to be compromising all of my strongly held beliefs on women's issues on the basis of practicalities. More knowledge and an emphasis on making practical choices has cost me theoretical integrity.

There is also the tension of working with good people, who work hard to find solutions to the many problems inside women's prisons. I have a tendency to equate CSC with the handful of good people I work for and with. I do realize that CSC is a major government organization that is able to commit state sanctioned harm but being part of that machinery, I don't tend to see it in that light. I need to remain aware of its power and its history. In the end, I continue to struggle with the question of how one keeps theoretical integrity in the face of practical challenges.

Methodology

My original methodology was to be simple, research the topic and then interview some key people in the *Creating Choices* project and if possible, visit a regional facility. In the Spring and Summer of 1997, I conducted interviews with Task Force members. In October of 1997, I spent 3 days at the Edmonton Institution for Women, and 2 days at the Okimaw Ohci Healing Lodge. A month later I began working for the Correctional Service of Canada. Subsequently, work brought me briefly to the Joliette Institution for Women (Quebec) in April of 1998. Three months later in July, I traveled to the Nova Institution for Women in Nova Scotia and spent a week there. In the Fall of 1998, I flew to Vancouver to spend a week at the Burnaby Correctional Centre for Women. Although not a regional facility, it is a provincial jail where women serving federal sentences

from that province are incarcerated. The only regional facility I have not yet visited is the Grand Valley Institution for Women in Kitchener Ontario.

At the start of this process, with the help of my supervisor, I made a conscious decision to not formally interview women inmates. I knew that it would be very difficult to attain ethics permission as well as permission from CSC. It was one thing to visit a regional facility and quite another to interview inmates. Such an enterprise could be a thesis of its own. I decided to maintain my focus on *Creating Choices*.

The trips to the regional facilities I made as an employee were obviously quite different because I was now part of the CSC team. That clearly had an impact on the types of knowledge I had access to and my interactions with staff and inmates. I also was not approaching these facilities for the first time. I knew what to expect and was able to move beyond those initial issues. Of course, as an employee, the women treated me differently; they were not interested in telling me their stories because I was now part of CSC. Nonetheless, I did speak with some women informally, outside of the specific work I was doing. I learned a great deal about so many of the issues I had only previously thought about in the abstract. In the end, I was not prepared for the interest many women had in not only wanting to talk with me but in telling their stories. Knowing this, I might have thought further about whether to make plans to conduct formal interviews with inmates.

While I had no intention of formally interviewing inmates at Edmonton or the Healing Lodge, I did have the opportunity to talk to staff. It was a very enlightening experience to hear their commitment to the principles of *Creating Choices* and of the challenges they faced in implementing those ideals on a daily basis. I had not expected that some women inmates would seek me out to talk. I found myself with women wanting to tell their stories and being in a position where I would be unable to relay those stories in my thesis. Yet, even though their voices are not in this thesis, talking with these women has shaped much of what I believe about the facilities. I am grateful to them for sharing their stories and opinions.

The five people I formally interviewed for this thesis were Jane Miller Ashton, the (CSC) co-chair of the Working Group of the Task Force, and Bonnie Diamond, the (CAEFS) co-chair of the Steering Committee who was also the executive director of CAEFS at that time. I also interviewed Kim Pate, the current Executive Director of CAEFS for her views on the new regional facilities and two other CSC members of the Task Force, Hilda Vanneste and Sandra Lyth. I completed all of these interviews, except for Ms. Diamond in 1997, before I was a CSC employee. It is interesting that I believe the best interview I conducted was the one I did after going to work for CSC. I felt that because my knowledge on these issues was far greater than before my employment, I was able to go beyond some of the primary issues.

Thesis Outline

Creating Choices led to a shift in focus, from punishment to healing, in the way federally sentenced women would be managed. It has led CSC to take a prison environment that has been traditionally about punishment and try to reframe it into one that emphasizes healing. I am not sure what this means in the broader picture - that the state now sends women to prison to “heal”. Prison will always be underpinned by punishment. It is an uneasy partnership. I have attempted to address this tension in this thesis. In the course of doing so I will examine the impact this report has had on the way federally sentenced women experience their imprisonment and how the CSC manages this population.

Chapter One sets out a theoretical framework through which I view the changes that have taken place in women’s corrections. I have examined some theories of why women commit crimes but I have not found any that can address all the elements that I think have to be taken into account. Perhaps naively, I was hoping to find the Answer and I never did. In earlier drafts I tried to explain some of the theories of men’s criminality in order to situate women as somehow different but was never comfortable with this approach. I felt like I was essentializing, excluding and going down a path that reinforced men as the standard. Metaphorically speaking, women do not live in the same society as men and these inequalities are where much criminality can be located. But this argument can turn into an essentialist standpoint that asserts that women commit

crimes for reasons that are central to their womanhood. This leads us down a slippery slope toward biological theories.

I do not compare women and men inmates but I have charted some of the longstanding theories of women's criminality that traditional (male) criminology has provided to understand men's crimes. These theories tend to locate women's criminality as a result of their biology and/or psychological make-up. However, once criminology was infused with feminist thought in the 1960s and 1970s, and women became the focus of inquiry, stereotypes of women's criminality were attacked and replaced with other stereotypes. Feminists have made many advancements in criminology, by critiquing sexist theories and the invisibility of women. In so doing, they have also, consciously or not, replaced the notion of women lawbreakers as being physiologically unsound, with images of women lawbreakers as victims of society. I think what is more helpful is for feminist writers in this area to focus on a holistic (encompassing all areas of women's lives) approach to understanding the reasons women commit crimes. Women are agents acting within their limited, and often horrific social and personal circumstances. Both victimhood and agency need to be incorporated into the analysis in order to build and refine the theoretical approach. Women's stories as well as "objective" tools and assessments are needed in order to obtain a fuller picture.

The second chapter examines the development of the Task Force on Federally Sentenced Women and its report *Creating Choices*. I analyse the report in terms of its background, contents and philosophies of incarceration including its emphasis on the possibilities of a woman centred model of corrections. I also examine the process engaged in by the Task Force. The Task Force was a group of (mostly) women, with conflicting ideologies who in the end put together a report based on consensus. While the second chapter focuses on the report, the third chapter focuses on the implementation of the report.

In chapter three, I will discuss the controversy surrounding the implementation process. This is the process by which the actual building of the five facilities took place using the principles of *Creating Choices* as a guide. Contrary to the recommendation in *Creating Choices*, CSC chose not to allow external groups, most specifically the Canadian Association of Elizabeth Fry Societies⁸, to participate on the implementation committee. This is the committee that made all the major decisions about the facilities. I am torn on this issue. On one hand there are some convincing arguments, such as differing accountabilities, why the committee had to be “internal” - only CSC employees. Yet, it is difficult

⁸ The Canadian Association of Elizabeth Fry Society's (CAEFS) Mission is as follows: “The Canadian Association of Elizabeth Fry Societies is a federation of autonomous Societies which works with, and on behalf of women involved with the justice system, particularly women in conflict with the law. Its members are Elizabeth Fry Societies - community based agencies dedicated to offering services and programs to women in need, advocating for reforms, and offering fora within which the public may be informed about and participate in, all aspects of the justice system as it affects women.” The Mission Statement is contained in all of CAEFS Annual Reports. CAEFS works on a national level and does much of its work by lobbying the

to argue against community representation on the implementation committee when the one facility that is generally accepted as the most successful and the closest to the *Creating Choices* model, is the Healing Lodge. There was a separate implementation committee for that facility and it was composed of “external” members; there were more community representatives than “internal” CSC people. This was because the Healing Lodge was built based on Aboriginal cultures and values and CSC recognized it did not have the expertise to go alone. Accountability was an issue in that CSC is accountable in many ways that community groups are not. One of CSC’s accountabilities is to the public.⁹ Maybe that means community groups should have been included in the aim of building the best prisons possible and to emphasize their connection to the community. In this way, women could have a better chance at reintegrating safely into their communities and CSC could meet its public accountability by increasing public safety. Because of its exclusion, CAEFS withdrew from the consultative role it was given by CSC. This was a loss. Given the valuable work CAEFS had done on the Task Force, there was likely to have been a better way to handle the implementation process.

federal government. With respect to women’s corrections, this group is CSC’s most powerful critic.

⁹ As a government department, CSC is accountable to many parties including the Solicitor General who is then accountable to Parliament and the Prime Minister who are ultimately accountable to the public. Also in this case, CSC has the responsibility of putting the safety of the public as its main concern. This is not CAEFS’ main concern. Women inmates are their first priority.

In the fourth chapter, I explore the Okimaw Ohci Healing Lodge, the most unique and innovative development stemming from *Creating Choices*. In the history of incarcerating women, there has never been anything like this facility. It is unparalleled for a number of reasons, including its status as the first federal penitentiary built specifically for Aboriginal women in Canada. Non Aboriginal women can transfer to this facility so long as they respect and participate in the Aboriginal way of healing. The Healing Lodge is a tangible attempt to remedy so many mistakes of the past. Federally sentenced Aboriginal women faced a dual disadvantage in the Prison for Women. They had to face systemic racism and correctional practices that excluded their cultures. For example they could not pray with Sweet Grass because it was long considered as contraband (something that is not permitted inside a penitentiary). Several Aboriginal women committed suicide inside the Prison for Women. It was a devastating place for all women, but perhaps, even more so for Aboriginal women. The Healing Lodge aims to recognize this dual disadvantage and attempts to create a setting conducive to healing based on traditional Aboriginal spirituality.

In some ways, this was the easiest chapter to write because it is about a facility that least resembles a prison and has changed the lives of many women who had not been able to face their issues prior to going to the Healing Lodge. I was amazed by it when I first saw it and I continue to be amazed by its accomplishments. In some ways, I think it is the best facility of them all but it is

also the only facility that requires an application to be transferred there and this makes for a different dynamic and different population than at the other regional facilities. Women must be prepared to deal with their issues and be on a healing journey. If they are not ready or willing to heal, they cannot go to the Healing Lodge. I have discussed the Healing Lodge in a separate chapter because I believe the specificities of many Aboriginal women's lives demand a separate analysis and because the Healing Lodge is a different facility.

The final chapter of this thesis deals with the women who *Creating Choices* did not identify and for whom the healing model has so far not worked. The Task Force on Federally Sentenced Women erred by treating women lawbreakers as a homogenous group and by not recognizing the different and serious problems of the maximum security population. The major error committed by the Task Force was relying so heavily, almost to the exclusion of all else, on interviews with women inmates. This approach resulted in their inability to identify the severity of problems faced by some of these women because there was no other method used to gain information. One method can only portray one aspect of a problem. The Task Force and ultimately CSC did not have a clear understanding of the population they were dealing with. So, when all the women were transferred to the regional facilities, CSC was caught off guard by the frequency and severity of incidents involving maximum security women, that were occurring in these facilities. They were also surprised by the

level of need and problems presented by women with mental health difficulties. They should not have been. Much more research into the population should have been done at the time of the Task Force. While women's stories were an integral part of the process, they should have been viewed as only one piece of the puzzle. Much of this problem can be located in the prevailing notion at that time, that the environment inside the Prison for Women was responsible for the negative behaviours demonstrated by some of the women. The Task Force was confident that once these women were in a new, woman centred environment, their behaviour would be different: changing the environment would change the behaviour. The new facilities were not ready for the problems and behaviours the maximum security women brought with them. The facilities were not equipped or prepared to respond to these women's security or programming needs. Correctional officials have since come to understand much more about this population and are devising a long term strategy for these women. It will include removing them from men's penitentiaries but what else it will include is not yet known.

In this fifth chapter, I explore some difficult issues that ultimately ask one question - should maximum security women be separated from the rest of the population? I have struggled with this question. There is a very small number of women who are classified as maximum security. Being at CSC has enabled me to become more familiar with this population on an individual basis. That is, I have

general knowledge of these women and understand why it is necessary for them to be separated. I also realize that separation makes it more difficult for these women to reintegrate into the community and that their small numbers spread across the country can be a problem. So theoretically I would argue against separation but practically, knowing the types of incidents that go on and the changing dynamics when these women are in the facilities, I think there is a need for some type of separation until each woman makes a commitment to change her behaviour inside the prison. It is hard to balance the intense needs of the women who are maximum security with the needs of the other 90% of the population who have been negatively affected by this small group of women when they have been in their midst. It remains a contentious issue and a personal struggle.

Reflecting on my Journey

In the earlier drafts of this thesis I unconsciously removed myself from the story. With the encouragement of my supervisors, I have tried to think about why I have done that and remedy the situation in this introduction. I think that part of the reason I did not own my work was because I could not face my own argument that more prisons could be a good thing. It goes against everything I have always believed. I have very contradictory feelings on this entire subject. I can't get away from the fact that I believe the regional prisons have reduced the pains of imprisonment for federally sentenced women and that many women told me these new facilities have been the catalyst for making the decision to change their lives.

I also can't get away from the fact that more prisons mean more women will end up imprisoned. I cannot resolve these positions. I was also quite worried about writing a thesis, for a respected mentor who is a prison abolitionist, that suggests the regional facilities are a good thing. This thesis has been such a journey that while I used to consider myself a prison abolitionist, I do not anymore.

CHAPTER ONE: THEORETICAL TENSIONS

Introduction

I looked to feminist criminological theory to find answers about why women committed crimes. I searched for theories that would recognize an unequal society as the broader context of women's crimes, but at the same time would not deny individual women's responsibility. I also wanted to find theories that would be sensitive to women inmate's specificity while recognizing that in some way, women must be bound together by the context in which they commit their crimes. I believed that such theoretical answers could have significant practical possibilities for improving the lives of incarcerated women by leading to the development of more effective correctional policies and programs. This in turn could reduce pains of imprisonment, impact release rates and improve women's chances to be safely and successfully reintegrated into society. However, looking to criminological theory for these answers is an exercise fraught with theoretical and practical dangers.

Traditional criminology and its emphasis on the causation of crime focuses on the individual and pathologizes that one person without analyzing the state's role in that criminalization. On the broad level, the state is ultimately the central concern. It is the state that makes the decision whom to punish in that it targets the least powerful people in society, while allowing the dominant group to

maintain their more powerful status. Crime is a symptom of social inequality and to focus on the individual ignores that element. If women's criminality is located in the individual, she is pathologized. On the other hand, if women's criminality is not located in the individual but in the context of an unequal and unjust society, her personal agency is denied. A social context analysis provides no answer to the question of why women from similar backgrounds do not engage in criminal activity. In addition, individual information is important in order to gain the knowledge necessary to meet the needs of women in prison.

I looked to theory to help me understand why women committed crimes. I was looking for theory that responded to the individual and the social context and the complex interrelationship between the two. While I found feminist criminology useful in raising important issues and questions, I did not find what I was searching for. Perhaps there is no such answer. Throughout this thesis, I feel a strong tension between the pathologizing focus on the individual and its practical necessity and the importance of focusing on the broader context of an unequal society even though it has the potential to deny women personal responsibility.

I found theory more useful before I gained some practical experience. When I revisited feminist theory after working in the area, going to prisons, meeting and talking with inmates, I found gaps and inadequacies. For me, it did not explain how to assist those women in prison on a daily basis. I went to the

feminist literature to get answers to practical questions. I found important questions but no specific answers. I would have found feminist theory more useful if it addressed not only the broader contextual issues but if it grappled with the questions of practicalities. How can one maintain a theoretical focus on an unjust social system while at the same time focusing on the criminality of individual women in prison?

There are four sections to this chapter. First, I will briefly examine the aims of mainstream criminology and its failures for women. The response to those failures is the emergence of feminist criminology. I will discuss the beginnings of feminist criminology and the progress it has made in repudiating some of the early biologically based theories of women's criminality. I will also examine the criticisms directed towards feminist criminology. Thirdly, I will explore some issues surrounding the nature of women's criminality and discuss the powerful stereotypes about women inmates that have blurred the line between women inmates as victims of circumstances and women inmates as moral agents. The problem with a blurred line becomes the practical question of how to deal with individual women inmates.

Mainstream Criminology

Traditional criminological theory has sought to answer questions about criminality by locating criminal actions at the level of the individual. That is to say, "criminality is seen as an individual activity, rather than as a condition built

into existing structures...as the result of *individual* characteristics that are only peripherally affected by economic, social and political forces.”¹⁰ This is the core problem with criminology.

Criminology is a relatively young discipline, emerging just over a century ago.¹¹ Social scientists (predominantly male) began studying a captive male population in prison, searching for the causes of crime.¹² Prisons provided an arena for researchers to study “the criminal” in such a way as had not been previously possible. Researchers studied individuals in search of what made them “different” from “normal” law abiding citizens. David Garland expands on the role of the prison in identifying criminal behaviour:

...the prison aimed to individualize offenders, to find out what kind of people they were and to determine the relationship between their character and their criminality. In this sense the prison led to the discovery of “the delinquent” – of the criminal type whose biography, character, and environment mark him or her as different from the non-delinquent. And from this point one can trace the rise of a science of criminology which takes up the task of investigating the criminal entity and describing it in all its aspects.¹³

Once this knowledge was gained, the aim was to rehabilitate “criminals” and reshape them as “normal”. This way, they could be reformed and crime as a social problem could be eliminated.

¹⁰ Dorie Klein, “The Etiology Of Female Crime: A Review Of The Literature”, (1973) Fall *Crime and Social Justice* at 31

¹¹ Naffine explains that the term criminology was adopted in the 1890s, Ngaire Naffine *Feminism and Criminology*, (Philadelphia: Temple University Press, 1996) at 19

¹² Jocelyn Pollock, *Criminal Women* (Cincinnati: Anderson Publishing, 1999) at 129

As the decades passed, numerous theories were developed on the causes of crime.¹⁴ Mainstream criminologists viewed themselves as objectively gathering and analyzing data. Criminology is a social behavioural science but what makes it different from other disciplines such as sociology or psychology is its focus on causality and not on outside mechanisms of social control.¹⁵ Criminology aims to seek out the “unknowns” of crime and explain them: “the criminological project is one of discovery and conquest over an unknown world which could, through sustained effort, be known thoroughly.”¹⁶ There is no one way to define what criminology is but one of the prevailing definitions came from Edward Sutherland (one of the founding scholars of American criminology) in 1934:

Criminology is the body of knowledge regarding crime as a social phenomenon. It includes within its scope the process of making laws, of breaking laws and of reacting toward the breaking of laws...the objective of criminology is the development of a body of general and verified principles and of other types of knowledge regarding this process of law, crime and treatment or prevention.¹⁷

Mainstream criminology did not challenge any social, political or ideological structures.¹⁸ Assumptions about the objectivity and purity of

¹³David Garland, *Punishment and Modern Society: A Study in Social Theory* (Chicago: University of Chicago Press, 1990) at 148

¹⁴Carol Smart, “Feminist approaches to criminology or postmodern woman meets atavistic man” in eds. Lorraine Gelsthorpe and Allison Morris, *Feminist perspectives in criminology* (Philadelphia: Open University Press, 1990) at 71

¹⁵ *Id.*

¹⁶Ngairé Naffine, ed., *Gender, Crime and Feminism* (Vermont: Dartmouth Publishing, 1995) at xi introduction

¹⁷ *Id.*

¹⁸For further discussion, see Ronald Akers, *Criminological Theory: Introduction and Evaluation* (Los Angeles, 1997)

“Knowledge” restricted its boundaries from the beginning. There was no discussion of constituting subjects or knowledge, only a belief that “facts” were reported and used as the basis for theory. Criminology is flawed because its defining characteristic is its focus on “the central question of the *causes* of crime and the ultimate focus on the “offender” rather than on mechanisms of discipline and regulation which go beyond the limits of the field of crime.”¹⁹ These limitations have created problems for mainstream criminology and have led to different types of critical criminology, including feminist criminology. A major criticism of traditional criminology is that it left women out of the picture. It was not that women did not break the law: they were just not deemed worthy of attention. Because women committed crimes in such small numbers they were dismissed as anomalies who would eventually be treated leniently in court. As Carol Smart notes, women offenders were not seen as a pressing social problem because they did not threaten the social order.²⁰ They were not seen as important enough to merit attention.

It is difficult to pinpoint the emergence of a feminist criminology but feminists began writing on the issue of women in crime extensively in the late 1960s and 1970s. Arguably, Carol Smart's *Women, Crime and Criminality*, published in 1976, was a defining point in the beginnings of feminist writing in

¹⁹ Smart, *Supra* note 14 at 71

²⁰ Carol Smart, *Women Crime and Criminality: A Feminist Critique*, (London: Routledge 1976)

this area.²¹ Feminist criminology developed as a response to mainstream criminology's sexist and biologically driven theories of women's criminality. It has succeeded in bringing women into the criminological landscape but not without some negative consequences. According to numerous feminist writers including Meda Chesney-Lind and Frances Heidensohn²², mainstream criminology is inadequate in furthering an understanding of women's involvement in crime because it is focused on the experiences of men: "...existing criminological theory is seriously flawed by the "masculinist" perspective. Both the questions asked and the answers given in criminology are the product of white, economically privileged men's experiences."²³ As feminist criminology developed, male criminologists were criticized for the stereotypes and sexism they developed in their analysis of women's crime or for their failure to address women at all.²⁴ Criminology "accounted for men and explained their behaviour in a rigorous and scientific way, but it did not account for women, though it purported to do both. When it came to analysis of women's behaviour, prejudice,

²¹ Ibid., at 2

²² Meda Chesney-Lind, 'Women and Crime: The Female Offender' (1986) 12 (1) *Signs: Journal of Women in Culture and Society* and Frances Heidensohn, "'Women and Crime: Questions for Criminology'" in eds. Pat Carlen and Anne Worrall, *Gender, Crime and Justice* (Philadelphia: Open University, 1987)

cite

²³ Akers: *Supra* note 18, at 189

²⁴ Shelley Gavigan, "Women's Crime: New Perspectives and Old Theories" in eds. Ellen Adelburg and Claudia Currie, *In Conflict with the Law* (Vancouver: Press Gang, 1993) at 216

ignorance and misinformation were the rule.”²⁵ The response was feminists conducting their own research and bringing women into the agenda.

Gender is not the only area that criminology has ignored. According to Kathleen Daly and Lisa Maher, “criminology lags well behind law and socio-legal analyses in taking seriously the idea of multiple inequalities or intersectionalities...as a discipline [it] continues to think of race in ungended terms.”²⁶ It is crucial to examine the phenomena of crime in a way that involves a race, gender, class analysis.²⁷ Daly and Maher argue that race is not adequately represented in the literature because “of racism in both the discipline and the wider society, a lack of theoretical grounding in what racial-ethnic relations and identities are, and too few scholars of color in criminology who are in a position to take on white criminology.”²⁸ When feminist criminology emerged, it perpetuated “white criminology”. Initially, the feminist focus was on women as if “women” is a homogenous category. This undifferentiated focus changed as feminism developed.

Feminist Criminology

Feminist criminology developed as a response to inadequate theories of women’s criminality. When feminists first entered the criminological scene in

²⁵ Naffine, *Supra* note 16 at xiii introduction

²⁶ Kathleen Daly and Lisa Maher, “Crossroads and Intersections: Building from Feminist Critique” in eds. K. Daly and L. Maher, *Criminology at the Crossroads: Feminist Readings in Crime and Justice* (New York: Oxford University Press, 1998) at 5

²⁷ This is not an exhaustive list.

the early 1960s, the priority was on women's inclusion into criminological literature. Pat Carlen explains that early feminist writings focused on the context of women's crimes, "[They] were preeminently the crimes of the powerless...to demonstrate how essentialized and sexualized typifications of womanhood, gender and femininity has fashioned not only criminological explanations of women's lawbreaking, but also the treatment of deviant women by the welfare, criminal justice and penal systems."²⁹ The goal of feminists at that time was to "draw upon women's ways of knowing...and produce a distinctly feminist approach to crime and criminal justice."³⁰ But this did not mean there was one group of feminists all doing the same thing. There were parallel courses of action taking place:

...some feminists have worked to reform criminology to enlarge its explanatory prowess. Most typically this has involved attempts to construct a criminology of women: sex specific theories of women's criminality. Others have diagnosed the failure of criminology to theorize adequately the relationship between women and criminality as symptomatic of a terminal masculinism at the heart of the criminological project.³¹

While feminists were not all engaged in the project of including women in criminology in the same way, the overall goal was still to change mainstream criminology's lens and to think about women's crime in a new and useful way.

²⁸ Daly and Maher, *Supra* note 26 at 5

²⁹ Pat Carlen, "Women, Crime, Feminism and Realism" in *Gender Crime and Feminism*, *Supra* note 16 at 430

³⁰ Kathleen Daly and Meda Chesney-Lind in Akers, *Supra* note 18 at 89

One of the first steps in including women on the criminological landscape was to shatter the myths surrounding criminalized women, the origins of which can be found in the biologically determinist works of Lombroso and Ferraro and Thomas.³² A century ago, Lombroso and Ferraro argued that women's criminality could be located in their physiological and psychological make-up. In their view, women who committed crimes were "pseudo-males with an overabundance of male mental and physical characteristics." Lombroso and his colleague Ferraro reported about women: "...that their moral sense is deficient, that they are revengeful, jealous and inclined to vengeance of refined cruelty."³¹ In their theory, the context of women's lives was irrelevant; women who were criminals were born that way. These theories suggested there was something inherent in "Woman" that led her to commit crime.³³ These biologically based theories lingered in the literature for decades, and set the tone for subsequent research.

In 1951, Otto Pollack's book *The Criminality of Woman* was published. This was an important event because it refreshed the biological debates that Lombroso et al began some 50 years earlier. Pollack argued that women have an inherent ability to deceive and that their reproduction cycle was where their criminality could be located. He suggested that these cycles "were accompanied

³¹ Judith Allen, "Men, Crime and Criminology: Recasting the Questions", (1989) 17 *International Journal of the Sociology of Law* at 19

³² See Helen Boritch, *Fallen Women: Female Crime and Criminal Justice in Canada*, (Toronto: ITP Nelson, 1997) at 50

³³ Biological factors were used to explain much of men's criminal behaviour but their criminality was still somehow seen as rational rather than emotional and neurotic.

by psychological and crime promoting disturbances such as irritation, anxiety and emotional upheaval."³⁴ Pollack also argued that once women were caught for their crimes (which could be difficult given their cunning nature), they were treated leniently in court.³⁵ This stimulated much research in this area as many feminists believed that women were in fact treated more harshly in court because their behaviour had contravened the acceptable boundaries of womanhood.³⁶

Biologically based theories may appear to be an obsolete phenomenon but the power of these theories is evidenced by the fact that there are still biologically based theories which posit biological conditions such as pre menstrual syndrome (PMS) or high testosterone levels as the real causes of women's crime.³⁷ The next prevailing theory after biological theories was that the women's movement was the explanation for rising rates of women's crimes.³⁸ This created a different set of problems. Smart argues that the attempt to hold the women's movement as the cause of changes in crime rates for women represents another way to explain women's criminality in monocausal terms.³⁹ Further, she argues that "while studies of male criminality are becoming more complex and comprehensive, the phenomenon of female criminality still tends to be reduced to a single, simple

³⁴ Otto Pollack, *The Criminality of Women* (Philadelphia: University of Philadelphia Press, 1950)

³⁵ Boritch, *Supra* note 32 at 59

³⁶ See Pollock, *Supra* note 12, at 197

³⁷ James M. Dabbs Jr. Ph.D. and Marion Hargrove, MS. "Age, Testosterone and Behaviour Among Female Prison Inmates" in (1997) 59 *Psychosomatic Medicine* at 477

³⁸ Freda Adler, *Sisters In Crime: The Rise of the New Female Criminal* (New York: McGraw-Hill, 1975)

³⁹ Smart, *Supra* note 14 at 75

cause.”⁴⁰ The women’s movement argument was that by narrowing the inequality gap with men, by entering the paid work force, women had more opportunity to commit crimes. Further research on this issue has generally proved the claims invalid.⁴¹

In the late 1970s and 80s, feminist work in the field of criminology shifted alongside the changes occurring in feminist theory in general. Evolving ideas and critiques made a natural progression into feminist theories of criminology⁴². Critiques of feminist theory were advanced by marginalized and excluded women who argued that feminist criminology was largely directed by privileged women. Feminist theory’s essentialism was criticized as untenable.⁴³ Further as Daly and Maher suggest, postmodern theory was beginning to become a major force.⁴⁴ A different focus emerged in this second phase. Feminist work in criminology endeavored to “problematize the term ‘women’ as a unified category; to

⁴⁰ *Id.*

⁴¹ Boritch, *Supra* note 32

⁴² An in-depth discussion of feminist theory is beyond the scope of this paper except in direct relevance to feminist criminology.

⁴³ Essentialism can be understood as referring to a position that assumes a unitary, ‘essential’ women’s experience can be isolated and described independent of race, class and sexual orientation, and other realities of experience, Harris in Kerry Carrington, “Postmodern and Feminist Criminologies: Disconnecting Discourses?” (1994) 22 *International Journal of the Sociology of Law* at 264

⁴⁴ Daly and Maher define postmodernism (poststructuralism) as “a rejection of Enlightenment theories of knowledge, decentred subjects or multiple subject positions and non causal relations, an interest to deconstruct the hierarchical binary oppositions in language and to analyze the role of discourse in shaping sensitivity, social attitudes and politics.” *Supra* note 26 at 3. However, I have found Carol Smart’s definition more useful: postmodernism refers to a mode of thinking which threatens to overturn the basic premises of modernism within which sociology has been nurtured...modernity is seen as synonymous with racism, sexism, Euro-centredness and the attempt to reduce cultural and sexual differences to one dominant set of values and knowledge. Smart, *Supra* note 14 at 74

acknowledge that women's experiences are, in part, constructed by legal and criminological discourses, to revisit the relationship between sex and gender and to reflect on the strengths and limits of constructing feminist 'truths' and knowledge."⁴⁵

Critiques of Feminist Criminology

I will explore two main critiques of feminist criminology. First, some feminists have expressed concerns about the ability to even retain a "feminist criminology". Feminist criminology has been critiqued for its "implicit perpetuation of 'criminality' as a condition which can be identified and measured, thereby leading to repressive social control rather than examinations of the social contexts of criminalization processes".⁴⁶ Feminist criminology's seeming inability to incorporate social barriers into its analysis is a major problem. As Meda Chesney-Lind argues, "anyone seriously interested in examining women's crime or the subjugation of women, then, must carefully consider the role of the contemporary criminal justice system in the maintenance of modern patriarchy."⁴⁷ Arguably then, the major problem is that a feminist criminology implicitly accepts the foundations of criminology as a discipline, even though challenging its notions. Some feminists have charged that feminist criminology has been "too reactive to mainstream

⁴⁵ Daly and Maher, *Supra* note 26 at 3

⁴⁶ *Id.*

⁴⁷ Chesney-Lind, *Supra* note 22 at 78

criminology, rather than setting its own agenda.”⁴⁸ Feminist theory in the realm of criminology has to not only critique but produce new ideas and perspectives.

Second, in their quest to include women as part of the criminological enterprise, feminists have created a different set of stereotypes about women’s crimes. By criticizing the stereotypes that had been perpetuated by mainstream criminology, feminists tended to create their own image of who the “female criminal” was. Staying within the confines of the discipline of criminology appeared to focus feminists’ efforts on repudiating what was said about women in a confined space instead of being able to step out of that boundary and go in other directions in their search for a better understanding of women’s involvement in crimes. The result has been to create feminized stereotypes of women who break the law.

Carol Smart argues against a specific “feminist criminology.” She asserts that the “core enterprise of criminology is problematic, feminist attempts to transform criminology have only succeeded in revitalizing a problematic enterprise....”. She is referring to the pathologizing focus of criminology. In many ways, feminist criminology supports an examination of crime based on the individual instead of focusing on the social context in which crime is committed. I do not think it is necessary to reject the entire enterprise of feminist criminology, only that it is necessary to be aware of the limitations within which it operates. Carlen would not

⁴⁸ Naffine, *Supra* note 16 at xviii introduction

consider this satisfactory. She argues that “*any* explanation of a taken for granted ‘female criminality’ -whether those explanations be styled feminist, radical, Marxist or whatever, - *must*, by the nature of the project, be as reductionist and essentializing as the much maligned biological ones.”⁴⁹ The dangers of essentialism and reductionism are very real and continue to haunt the discipline of criminology. Nonetheless, the discipline does provide useful knowledge and analysis. The discipline and its theories may develop over time, adopting a fluidity and encompassing tools that can explore women’s roles in crime and in wider society. To abandon the discipline negates the advancements that feminism has made in criminology.

There is a need for feminist theory to go beyond the macro level and substantially explain the different reasons for women’s criminality. Pat Carlen questions why a special theory is needed to explain women's criminality and cautions that “one of the major problems in writing specifically about women as lawbreakers is that such gender specification can imply that woman as a biological grouping have essentially different reasons than do men for committing crimes.”⁵⁰ This slippery slope has the potential for a return to biological explanations or at the very least essentialize women into a unidimensional category.

⁴⁹ Cousins in Pat Carlen, *Supra* note 29 at 109

⁵⁰ Carlen, *Supra* note 16 at 432

Feminist criminology has been rightfully criticized for essentializing women and creating new stereotypes. Yet, research into the causes of women's crime is necessary, because it may lead to greater knowledge that can be translated into programs and policies that will assist the plight of incarcerated women. It is difficult to be sensitive to the specificities of women who commit crime when their actions are bound by a society that disadvantages women. Women as a group are tremendously diverse and complex and this is also true for criminalized women. Yet, by dealing with women's actions in an unequal society, feminist criminology has a tendency to view this group as one set of victimized women. Feminists have "challenged the unflattering stereotypes of women advanced by mainstream criminologists and this was clearly a good thing, but often they replaced these negative stereotypes with others which, though admittedly (in intention at least) are more sympathetic to women's condition, still were stereotypes."⁵¹ This has led to the current myth that all federally sentenced women are victims, and this is not helpful to women inmates.

Feminist criminologists must not only identify the failures of mainstream criminology but also advance the project forward. Caution must be exercised in the search for causality because the development of women's criminality may simply reproduce grand theory that does not reflect the complexity of women's criminality. Feminist criminology has been accused and criticized by some

⁵¹ Naffine, *Supra* note 16 at xviii introduction

feminists for trying to develop theories which can "...propagate sexism, biological reductionism, essentialism and humanism, as well as preserving the existence of the bankrupt discipline criminology and its problematic object of study, criminality."⁵² Some feminists, such as Joan Allen, argue that the focus should not be on individual causes of crime but on the impact of a politicized criminal justice system.⁵³ The problem with this position is that it denies women individual decision making capacity and implies that women are in prison, or in conflict with the law solely because they have been targeted by the system.

While it is critical to recognize that there are populations who are more vulnerable to being caught in the criminal justice system, there is still a practical need to understand the triggers that lead to criminal behaviour, in order to assist individually imprisoned women. Carlen's point that "the quest for a feminist jurisprudence would merely replace one closed and global system of "Truth" with another" is well taken. Global theories are a major pitfall in a feminist criminological theory or explanations of women's criminality.⁵⁴ I am not sure how to mediate the limitations of both the individual approach and the social context approach. Maureen Cain makes an interesting argument when she calls for feminists to transgress criminology. She argues that, "only by starting from the outside, with the social construction of gender, or with women's experiences of their total lives, or with the structure of the domestic space, can we begin to

⁵² Allen, *Supra* note 31 at 20

make sense of what is going on.”⁵⁵ Within the criminological boundaries, there are no tools to study women’s lives in their entirety and in this way Cain argues that feminists must move beyond the discourse’s limits. This is the challenge for feminist criminologists and the path is unclear.

Criminalized Women

Explanations for women's crime have evolved considerably since feminism entered the field of criminology. But as there are so few women lawbreakers, there is little documentation of their lives in or outside of prison. Because of small numbers and the commonalities in many women inmates' life circumstances and characteristics, they are often stereotyped as a certain type of woman, but there is no one typical criminal woman "in theory or practice."⁵⁶ The reasons women commit crimes are varied and theories have to reflect this fact. There is a struggle between honouring the complexities of the roots of women’s crimes and arguing for substantives changes in an unjust society which ties these women’s actions together. Personal stories are important. Empirical data is important. But focusing on these elements and how they should be balanced in the creation of the “perfect” theory of women’s criminality does not leave much theoretical room to strive for social change. It appears that there are no tools, as yet, to

⁵³ *Id.*

⁵⁴ Carlen, *Supra* note 29 at 431

⁵⁵ Maureen Cain, “Towards Transgression: New Directions in Feminist Criminology” (1990) 18 *International Journal of the Sociology of Law* at 10

⁵⁶ Akers, *Supra* note 18 at 10

encompass these areas. This seems to mean that, so far, feminists have to choose which avenue to focus on. The result has been a tendency to analyze the social context of women's actions and lay much of the blame there.

Overall, feminists tend to characterize the difference in criminality in terms of women's subordinate position in society. Pat Carlen writes that, "the economic, ideological and political conditions in which women break the law are different to those in which men commit crimes."⁵⁷ These differences are located in the power imbalances of a society that is focused on men. Comparing theories of women's crimes to those of men's does not explain women's criminality or why some feminists seem so preoccupied with the question. Nonetheless many criminologists attempt to locate women's criminality as compared to men's. In some respects, the profiles of the majority of incarcerated women's backgrounds tend to be quite similar to men's in terms of such factors as poverty, abuse and addiction. But there are some differences highlighted by researchers. Their status as unequal members of society makes women vulnerable to circumstances that can lead to criminal behaviour.

While there is merit in the social context argument, the danger is that women tend to be victimized. There is little doubt that many women in prison have come from poverty, abusive situations and have been drug addicted, but some women do not share that history. There is much literature saying that

women's crimes have a direct relationship to their "generally inferior socio economic circumstances which often include poverty, racism and violence – most are poor and lacking in computer skills, often dependent on welfare, alcohol and men; substance abuse: research indicates that women are likely to have a different range and type of problems related to their use of substances than do male offenders."⁵⁸ Shaw explains that in her opinion, women lawbreakers have "fewer economic resources, poorer prospects of earning a living on release and much greater child care responsibilities than men. They are also more vulnerable to the effects of alcohol and drugs, tend to have more physical health problems, and are more likely to have experienced both physical and sexual abuse."⁵⁹

The complexities of women's criminality need to be fleshed out.

Consider the following exclusionary portrait. In Chesney Lind's opinion, most women lawbreakers, have been "brutalized by life, their experiences illustrate how women's crime is inextricably linked to women's status. Many begin as youthful victims of family abuse or neglect and, once on the streets, are forced to turn to crime in order to survive. Society's lack of concern for their victimization - undoubtedly a product partially of their triple or quadruple invisibility (young,

⁵⁷ Pat Carlen, *Sledgehammer: Women's Imprisonment at the Millennium* (London: Macmillan Press, 1998) at 152

⁵⁸ Stephanie Covington, "Creating Gender Specific Treatment For Substance- Abusing Women and Girls In Community Correctional Settings" (unpublished paper, speech, ICCA Arlington Conference for copies of the paper contact ICCA Arlington Conference P.O Box 1987 Lacrosse, WI, 54602) at 6

⁵⁹ Margaret Shaw et al, *Survey of Federally Sentenced Women*, prepared on contract for the Corrections Branch, Ministry of the Solicitor General of Canada, 1991 at v

female, poor and nonwhite [sic]) - is not lost on them."⁶⁰ If a women inmate does not fit into these molds that feminists are creating, what does that mean? The powerful image of women in prison depicts them as poverty stricken, abused and committing property crimes or if they have committed a violent crime it is a women defending herself from an abuser. The narrowness of this image is a problem. This type of victimization ideology has taken on a life of its own. While this characterization reflects some women, it excludes others. Such prevailing stereotypes are not useful in advancing the project of feminist criminology or for women in prison reclaiming their lives. Women in prison, for the most part, have been victimized and disempowered in their lives. However, to send the message that they are victims can reinforce a sense of hopelessness and helplessness. For feminist criminology and for these women whom the discourse is discussing, affirmative, responsibility oriented action is necessary but in a context of an understanding of social inequities.

Carol Smart makes an insightful connection between stereotypes concerning women's criminality and explanations that women inmates themselves provide to criminal justice actors. There is a deeply ingrained myth in society that women are irrational and wholly emotional beings, the impact of which is reflected in the field of criminology and in theories about women and crime.⁶¹ Smart convincingly argues that the effect of these pervasive myths is evidenced in some women's own explanations

⁶⁰ Chesney-Lind, *Supra* note 22 at 87

of why they have broken the law, “or the types of accounts she may offer as an explanation of her behaviour that reinforces the a priori assumption about the nature of female criminality.”⁶² Therefore, women lawbreakers as well as criminologists and researchers are faced with the daunting task of not only discovering the complexity and numerous reasons why women engage in criminal activity but also of breaking the stereotypes of women as “irrational, compulsive and slightly neurotic”⁶³ human beings. The “common sense” idea that women are inherently weak and irrational could perpetuate criminological theories of women’s criminality which reflect this stereotype which in turn could lead to some women lawbreakers explaining their crimes in this way, thereby reinforcing the myth. It is an interesting possibility that future research could examine.

Blurred Lines

One of the most persistently troubling issues with respect to incarcerated women is the victimization – criminalization continuum. Notions of agency and responsibility underscore this debate. At what point should women, who have experienced trauma and victimization in their lives, be held responsible for their actions? Kathleen Daly puts the dilemma this way: “[w]here does the victimization end and responsibility for acts that harm others begin? How do we

⁶¹ Smart, *Supra* note 14 at 111

⁶² *Id.*

⁶³ *Id.*

characterize women when they do things that are wrong?"⁶⁴ The problem has a very real connection to feminist descriptions of women's crime. Daly notes that, "initial feminist efforts to describe women lawbreakers discussed these women's acts in the context of their economic survival and their history of physical or sexual victimization."⁶⁵ The emergence of the victim pattern began with the women's movement and the first phase of feminist criminology when abuses against women started to be seriously documented and written about. This important process legitimated women's experiences as victims at the hands of men and of an unequal society. However, "the focus of the literature on the effects of male violence on women and children had the sum effect of reifying the female as lacking human agency. Women were no longer so thoroughly objectified as male property but they were re-objectified as "Victim"⁶⁶. Somehow then, victimization became in the eyes of many, the reason why women committed crime. Interestingly, Kathleen Daly points out that victimization arguments for men who have had abusive histories have also been discussed but rejected by society who cried "abuse excuse."⁶⁷ Implicitly, it appears that women behave as a result of elements beyond their control (their victimization), while men act in ways that are rational.

⁶⁴ Daly and Maher, *Supra* note 26 at 9

⁶⁵ Kathleen Daly, "Women's Pathways to Felony Court: Feminist Theories of Lawbreaking and Problems of Representation" in eds. K. Daly and L. Maher, *Supra* note 26 at 149

⁶⁶ *Id.*

⁶⁷ Daly and Maher *Supra* note 26 at 8

In an oversimplified example, if men and women are both physically or sexually abused and this leads them into criminal behaviour, what does it mean for society to accept one as victim and not the other? What messages are being sent? The stories of women's life histories somehow tend to evoke more emotion and empathy. In this way Daly envisions a "seamless web of victimization and criminalization [that] tends to produce accounts which focus on victimization and leave little agency, responsibility, or meaning to women's lawbreaking."⁶⁸ Yet, the problem with victimizing women in prison is the vast numbers of women who have been victims in their own lives who have never turned to criminal activity. Karlene Faith concurs, "although women who get into trouble with the law have higher rates of victimization than women at large, they constitute a very small percentage of the totals of women who have been physically, sexually and psychologically abused."⁶⁹

While powerful emotionally, the current trend of seeing women inmates as only victims, exploited by society, physically and / or sexually abused, runs the risk of oversimplification. This view also denies any element of choice on the part of the individual women. Margaret Shaw notes that "some women have chosen at some time in their lives to use violence to pursue a criminal career."⁷⁰ However, the argument that power relations are to blame for most women's crime

⁶⁸ *Id.*

⁶⁹ Karlene Faith: *Unruly Women: The Politics of Confinement and Resistance* (Press Gang Vancouver, 1993) at 107

persists because this a crucial part of the equation. But, if much of women's criminality is understood as a consequence of impoverished, abusive and traumatized life histories, how do we account for the women who have come from these backgrounds but do not engage in criminal activity? Although different feminist theorists focus on the different sources of women's oppression, one of the consequences of a power and patriarchal focus on criminological theory has been for feminists to explain women's crimes in the context of their powerlessness relative to men and to society at large. Understanding women as victims may raise awareness of the context of their actions but it cannot be left alone as the answer. Feminist criminology needs to peel back even more layers in an attempt to understand the nuances of women's criminality. Incorporating the life experiences of women's actions in such a way as to demonstrate they have been victimized can be an important piece of the puzzle but to focus solely on victimization is not useful theoretically or in practice.

Conclusion

Feminists have made significant advancements in the criminological agenda on a number of fronts. They have responded to the initial most pressing problem of criminology's tendency to either ignore or pathologize women as biological deviants. They have criticized theories, conducted their own research

⁷⁰ M. Shaw, "Issues of Power and Control: Women in Prison and their Defenders" (1992) 32 (autumn) *British Journal of Criminology* at 449

and made women visible. Feminists have made substantive changes in the way women lawbreakers are theorized, but these achievements have not been without costs. Even though criminology can no longer relegate women to the footnotes of research and literature, the inclusion of women into the criminological arena has been problematic. Feminist criminology has advanced knowledge about women lawbreakers, but, has attempted to do so within a discipline that is focused on the individual. Men remain as the standard against which behaviour, including criminality, is judged. It is important to group women together to a certain extent because they have all committed crimes within the same socially unjust society. However, essentializing women lawbreakers does not adequately explain why certain women in that position end up committing crimes and going to prison when others facing the same barriers do not commit crimes. Respecting women's diversity is still an issue. There may never be any theory or theories that can effectively explain why women commit crime in a such a way as to incorporate the complexities of social context.

It is important to search for answers to women's criminality even though there are dangers in proceeding with such an examination because answers about women's lawbreaking can have a real impact as a basis of penal policy. What feminism has done is replace one set of stereotypes of women lawbreakers with another. What would be helpful is to treat these women with respect, to be

empathetic and supportive and if they want it, to assist them on their healing journey.

Feminist criminological theory had an impact on *Creating Choices*. The Task Force has leaned heavily on feminist scholarship which has argued women in prison have more in common with other women in society than with male prisoners. By relying on this position, Task Force members chose a path that emphasized all women's similarities. They also relied upon feminist theory which argued that certain factors are linked to women's criminality such as poverty, abuse and racism. From this position, Task Force members developed a holistically driven, women centered approach which is the foundation in all the regional facilities. Feminist criminological theory also had an impact on the development of programs and policies by stressing the unequal position of women in society. The vision of the Task Force was that this model of women centered corrections, founded upon feminist theory and research would provide support to women inmates on their healing journey. The women had to take responsibility for their actions, albeit actions that were committed in a society that devalued them. Practically, this is a major challenge to implement because the potential for victimization is ever-present. In the end, I am still left with the question of how to maintain a theoretical focus on an unjust society and the mechanisms and

power and inequality while at the same time focusing on the criminality of individual women in prison. I am not sure if this gap can ever be completely bridged.

CHAPTER TWO: *CREATING CHOICES* CREATES A VISION

Introduction

The Task Force on Federally Sentenced Women issued the report *Creating Choices* in 1990.⁷¹ It revolutionized the way women's corrections are approached in Canada. This report develops a woman centered model of corrections that is the foundation of five new regional prisons. The Task Force was a partnership between the Canadian Association of Elizabeth Fry Societies (CAEFS) and the Correctional Service of Canada (CSC). This was a first.⁷² Aboriginal women also played a significant role on the Task Force. They were the unofficial third party in the partnership. The emphasis of the report is closing the Prison for Women and creating women centred prisons based on respect, support and healing. What should not be lost in the discussion of this vision is that punishment remains the context for this entire enterprise.⁷³ Prisons are

⁷¹ One of the elements that underpinned this report is feminist knowledge. The Task Force worked within a women centered approach. The Task Force members explained this approach in the following manner: it encouraged the empowerment of women through its work, and gained much insight because it valued the experiences of women. Accordingly most Task Force members were women. All of the researchers were women. The Task Force on Federally Sentenced Women, *Supra* note 1

⁷² By partnership I mean that the Task Force was a joint initiative between CAEFS and CSC. Each organization had one member as co-chair on the two groups that comprised the Task Force (The Working Group and the Steering Committee). This was unique because CSC Task Forces are internally driven and may have external representation but solely in a consultative capacity.

⁷³ An in depth discussion of punishment and its rationales are beyond the scope of this thesis but see Michel Foucault *Discipline and Punish: The Birth of the Prison*, (New York: Random House, 1977); David Garland, *Supra* note 13; Gertrude Ezorsky ed., *Philosophical Perspectives on Punishment*, (New York, State University of New York Press, 1972). For a discussion on the

inherently punitive and this should not be obscured. However, the Task Force tried to move away from the notion of prisons as punishment to places where women can heal. They argue this can be accomplished because the prisons they envisioned would be holistic and woman centred. One of the most fundamental flaws of this report is that it assumes or expects the Correctional Service of Canada to be able to successfully balance two very different principles: safety of the public and reintegration of inmates through a focus on healing.⁷⁴ The protection of the public has generally meant emphasizing the security aspects of incarceration and to incorporate a healing approach would reject traditional notions. The Task Force was terribly conflicted about the prospect of building more prisons but nonetheless this was their recommendation.

In this chapter I will discuss the background of the Task Force's assembly and its work. I will analyse the report in terms of the Task Force's creation, as well as its composition, partnerships and philosophies. I will explore the concept of women centred corrections and its limitations which include essentializing women prisoners and by focusing on healing, obscuring the punitive nature of prisons. Intertwined will be highlights from interviews I conducted with some key members of the Task Force. Their voices will illuminate and comment on some of the challenges and accomplishments within the whole process. Overall I

rationales of punishment in the context of the current criminal justice system, See Jocelyn M. Pollock, *Supra* note 12

⁷⁴ Kelly Hannah Moffat, "Feminine Fortresses: Woman Centered Prisons?" (June 1995) *Prison Journal* at 136

argue that, even though it is flawed, *Creating Choices* has had a positive impact on the way federally sentenced women experience their imprisonment.

The Context of Change

In the almost sixty years from the opening of the Prison for Women in 1934 to the release of *Creating Choices* in 1990, there were 13 Royal Commissions and Task Forces that addressed the area of federal women's corrections and the conditions at the Prison for Women [P4W].⁷⁵ The same set of problems engulfing the women incarcerated inside P4W were cited repeatedly. They include "...sexism, the absence of institutional and community programming, geographic dislocation, overclassification and cultural insensitivity."⁷⁶ The first recommendation for closure came only four years after

⁷⁵ *Report of the Royal Commission to Inquire and then Report upon the Conduct, Economy, Discipline and Management of the Provincial Penitentiary* (Brown Commission 1849); *Annual Report of the Directors of Penitentiaries*, (Ottawa: King's Printer, 1868); *Report of the Royal Commission on Penitentiaries* (MacDonnell Report), (Ottawa, King's Printer, 1914); *Report on the State and Management of the Female Prison at Kingston Penitentiary*; (Ottawa: King's Printer, 1921); *Report of the Committee Appointed by the Right Honourable JC Doherty, Minister of Justice to Advise Upon the Revision of the Penitentiary Regulations and the Penitentiary Act* (Bigger, Nickle and Draper report) (Ottawa: Department of Justice, 1921); *Report of the Royal Commission to Investigate the Penal System in Canada* (Archambault Report) (Ottawa: King's Printer, 1938); *Report of the General RB Gibson Regarding the Penitentiary System in Canada* (Ottawa: King's Printer, 1947); *Committee Appointed to Inquire into the Principles and Procedures Followed in the Remission Service of the Department of Justice* (Fauteaux Report) (Ottawa: King's Printer, 1956); *Report of the National Advisory Committee on the Female Offender* (Clarke Report) (Ottawa: Queen's Printer, 1956); *Report of the Canadian Committee on Corrections* (Ouimet Report) (Ottawa: Queen's Printer, 1969); *Report of the Subcommittee on the Penitentiary System in Canada* (MacGuigan Report) (Ottawa: Supply and Services, 1977); *Report of the Joint Committee to Study the Alternatives for the Housing of the Federal Female Offender* (Chinnery Report) Ottawa: Ministry of the Solicitor General of Canada, 1978) *Report of the National Planning Committee on the Female Offender* (Needham Report) Ottawa: Ministry of the Solicitor General of Canada, 1978)

⁷⁶ Hannah Moffat, *Supra* note 74 at 137

the prison opened. Despite these numerous reports calling for the closure of the Prison, no action was taken. While there was general agreement on the major problems at P4W, there were no alternatives put forward and a lack of political will to make any significant changes when the group of women was so small. In 1989, when the Task Force on Federally Sentenced Women was created, the climate was ripe for change and this group put together a strategy that was politically viable. As one member of the Task Force explained, it was a “coming together of the right people at the right time.”⁷⁷

Arguably, having the “right people” in place began in 1988 with the appointment of Ole Ingstrup as the new Commissioner of the Correctional Service of Canada.⁷⁸ He was seen by many as a progressive leader. Jane Miller Ashton, then the Director of the Federally Sentenced Women's Initiative and co-chair of the Working Group on the Task Force explains that shortly after his appointment, Mr. Ingstrup made it clear that there were two important things he wanted to do as Commissioner: make a real difference with the way the Correctional Service treated women and address the over-representation of Aboriginal inmates.⁷⁹ This was good news to the Canadian Association of Elizabeth Fry Societies (CAEFS) who had long been fighting for changes in

⁷⁷ Interview with Jane Miller Ashton who was the (CSC) co-chair of the Working Group of the Task Force on Federally Sentenced Women, Summer 1997

⁷⁸ The Commissioner of the Correctional Service of Canada is the head of the department and as part of the department of the Solicitor General reports to the Minister - the Solicitor General.

⁷⁹ Miller Ashton, *Supra* note 77

women's corrections and saw his appointment as a major opportunity for change.

Bonnie Diamond, then the Executive Director of CAEFS explains that:

We had been, for a long time, extremely unsatisfied with the facility of Prison for Women as well as the condition of programming and had really wanted a Royal Commission. We felt that the government was really selling women's corrections short and it wasn't time to just go in and introduce a few programs here and there, it was time for a really comprehensive look at what was happening to women in corrections.⁸⁰

When it became apparent that CAEFS was going to be unsuccessful in their quest for a Royal Commission, they decided to try to sell the idea of a Task Force because they knew the new Commissioner liked the format, "...that was the style of Ole Ingstrup. When he had problems he liked to have Task Forces in order to solve them, so we thought we would run that by him to see whether or not it would be useful in getting a comprehensive and integrated policy or policies on federal women prisoners."⁸¹ It was a smart move: the Task Force was created.

The Creation of a Task Force

With the appointment of Commissioner Ingstrup in the late 1980s, both CAEFS and CSC wanted to make changes in women's corrections. However,

⁸⁰ Interview with Bonnie Diamond, who was the (CAEFS) co chair of the Steering Committee of the Task Force on Federally Sentenced Women, March 15, 1999

they did not necessarily envision going about the process in the same way.

CAEFS wanted to enter into a partnership with CSC in a Task Force. Even though the Commissioner was supportive of assembling a Task Force, it became evident that he had a different vision of how the Task Force would be composed. Diamond explains that the Commissioner instructed one of his Deputy Commissioners, Jim Phelps (later to be the co-chair of the Steering Committee with Diamond) to negotiate an agreement with CAEFS on the membership and mandate of a Task Force on federally sentenced women. The Deputy Commissioner worked on that agreement with Diamond. However, according to Diamond, the Commissioner did not like the agreement.

Mr. Ingstrup was not convinced that a partnership with CAEFS, which was the key component to the agreement, would work. Diamond explains that the Commissioner was very reluctant to give CAEFS partner status nor did he see the need for the broad community representation that CAEFS wanted. The third major issue of contention was language. CAEFS wanted to use the term “federally sentenced women” instead of the “federal female offender.” Diamond explained that language was very important because “we believe that as people are cast in language, they are perceived and we don’t use that terminology, nor do we want it incorporated into our work so basically the deal fell apart.”⁸² In the end, CSC did not accept the proposal and the process ended badly. There were so

⁸¹ *Id.*

many bad feelings over the matter that CAEFS decided not only to withdraw their offer to work on that Task Force but they decided to not be involved with any ensuing task force. After the proposal fell through, Diamond explains that the CAEFS Board decided to write a letter to the Solicitor General informing him of these events and sent a copy to the Commissioner of Corrections. In a meeting the following day, an agreement was reached and CSC accepted CAEFS' offer to be partners and the Task Force was assembled.

There were many external factors that created the climate for a Task Force to be put together on this issue. In a broader context, the women's movement and social changes that were occurring in the 1970s and 1980s raised society's consciousness about women's oppression.⁸³ The assembly of the Task Force has been characterized as a result of "immense social and political pressure on the government by reformers, feminists, Aboriginal organizations and the media over concerns about P4W."⁸⁴ There was pressure on the Government from many sides. CAEFS was not the only external agency to apply pressure for substantive change. The Women's Legal Education and Action Fund (LEAF) had informed CSC they were working on a legal challenge using the Aboriginal and equality sections of the *Charter of Rights and Freedoms*.⁸⁵ Further, an Aboriginal

⁸² *Id.*

⁸³ Hannah Moffat, *Supra* note 74 at 137

⁸⁴ *Id.*

⁸⁵ LEAF was established in 1984 with the aim of dealing with equality litigation under the *Charter of Rights and Freedoms*. LEAF's potential case against the Correctional Service of Canada had to do with the conditions at the Prison for Women. The case that was to be prepared

women's caucus, assembled after the Task Force on Aboriginal Peoples in Federal Corrections, petitioned the Minister to act on the findings of the report and to focus on Aboriginal women serving federal sentences. External pressure, specifically the work done by CAEFS, a new Commissioner, a public climate open for change and continuing problems at P4W culminated in the assembly of the Task Force.

The Task Force on Federally Sentenced Women

Once assembled, the Task Force had two components: a Working Group and a Steering Committee. Each group was jointly co-chaired by one CSC and one CAEFS representative. The Working Group co chairs were Jane Miller Ashton (director of the Federally sentenced Women's Initiative, CSC) and Felicity Hawthorn (lawyer, CAEFS). The Working Group was the part of the Task Force that conducted the daily work. The Steering Committee co-chairs were the two people who had negotiated the initial agreement, Bonnie Diamond (then the executive director of CAEFS) and Jim Phelps (Assistant Commissioner CSC). The Steering Committee provided overall direction to the Working Group. Ninety percent of the Task Force was composed of women and included two

on then grounds that CSC's treatment of women inmates violated their section 15 rights under the Charter on the grounds of sexual discrimination (ie. programs and the hardships of one centralized prison). LEAF began to prepare this case in 1987 but it was shelved pending the outcome of the Task Force on Federally Sentenced Women. As the Task Force's recommendation to close the Prison for Women, the challenge no longer became necessary. Kelly Hannah Moffat, *From Christian Maternalism To Risk Technologies: Penal Powers And*

Aboriginal women who had served time at Prison for Women. Of the thirty-one members appointed to the Steering Committee, just over half (seventeen) were from voluntary organizations and women's groups outside government. The working group similarly included more community representatives than government representatives.⁸⁶ Also, this was the first time that women who had served sentences at the Prison for Women were involved. It was a remarkable achievement.⁸⁷ The composition of the Task Force was unlike anything that preceded it and signalled major changes were coming.

The Task Force was mandated to "examine the correctional management of federally sentenced women from the commencement of sentence to the date of warrant expiry and to develop a policy and a plan which would guide and direct this process in a manner that is responsive to the unique and special needs of this group."⁸⁸ There was some criticism from the Aboriginal women that the mandate was too restrictive and a contextual analysis of federally sentenced women's lives was key.⁸⁹ Even though a contextual analysis was not part of the official mandate, Task Force members explored this aspect of women inmate's lives and

Women's Knowledges In The Governance Of Female Prisons, (Doctoral Thesis, Centre of Criminology of University of Toronto, 1997) at 167

⁸⁶ Margaret Shaw, at "Reforming Federal Women's Imprisonment" in eds. Ellen Adelburg & Claudia Currie, *Supra* note 24 at 53

⁸⁷ This was at the insistence of the Native Women's Association of Canada.

⁸⁸ Task Force on Federally Sentenced Women, *Supra* note 1 at 72

⁸⁹ Patricia Monture made clear the frustrations Aboriginal women felt about the restrictive mandate the Task Force had to work within: "the mandate of this Task Force was too narrow to suit our needs and reflect our concerns...future meaningful negotiations must commence with Aboriginal governments who are now willing and competent to take over full or limited jurisdiction in the area of criminal justice." *Supra* note 1 at 18

suggested that women must take responsibility for their actions but this must be done in a broader context.

It may appear curious that an organization fighting on behalf of women in prison and lobbying for women to serve their sentences in the community would want to be involved with a government department whose job it was to manage the sentences of imprisoned women. CAEFS did not want to see women in prison and was torn about their involvement on the Task Force. Specifically, Diamond explains that:

We [CAEFS] were terribly conflicted. It was one of the most difficult decisions we ever took because we don't believe incarceration is useful and yet we knew we had to create something new that would be a first step toward our ultimate goal, but it still had to be within the law of the land in Canada. We knew [given the law and order climate] at the time that if we were going to create something better for women, it was as much as we were going to get. It was not a time to open up laws and look for softer sentences [because] that was just absolutely out of step with where the Canadian public was. So within those constraints, we decided to participate even though we knew that in the end result we were going to end up recommending more prisons.⁹⁰

CAEFS officially became an abolitionist group in 1993, but this was their unofficial position at the time of the Task Force. They struggled with the idea of building more prisons. Despite their intention to be partners and work on this initiative, CAEFS had many reservations including a deep seated fear that they would indirectly be responsible for more women sentenced to federal prison

⁹⁰ Diamond, *Supra* note 80

terms. Even though Diamond and CAEFS members did not want women to be incarcerated they were realistic:

We knew that women were going to be incarcerated in Canada for as far as we could see over the next several decades. We knew the pain that women were suffering in Prison for Women, we knew the reasons for that pain and we knew the physical limitations of the building. And so what we said is that we'll try to create an alternative that is a better prison and hopefully find a way to do it that we will not increase the prison spaces in Canada.⁹¹

The Aboriginal women who participated on the Task Force also did so with great reservation. As Patricia Monture notes, in *Creating Choices*, "the Aboriginal women on the Task Force all made political choices to participate in the Task Force process. This was *not* always the easiest choice to make. It was with great hesitation that the Aboriginal women accepted their positions on the Task Force. But, it was very important to us that the Aboriginal women's truth be told."⁹² The Aboriginal representatives only decided to participate after consulting with elders. Patricia Monture Okanee explains their initial concerns and why they ultimately made the decision to be involved: "our participation should be viewed only as a deep felt concern for the lives of many citizens of our many Nations who suffer daily at the hands of the criminal justice system [and] must never be viewed as a recognition that the jurisdiction of the federal government of Canada in the affairs of our Nations is valid."⁹³ Aboriginal women decided to provide their voices to the process but only if it was in large enough numbers so they

⁹¹ *Id.*

could make a difference by ensuring the needs of Aboriginal women inmates were met. Miller Ashton comments that “no one had any idea at that point the kind of impact the Aboriginal women would have. In the end, all of the representatives outside CSC had reservations about the meaning of their participation but all joined the Task Force because of a shared commitment to improving the lives of federally sentenced women. After that first meeting, representation was increased and at the Native Women's Association of Canada's [NWAC] suggestion, two Aboriginal women who were former inmates at P4W also joined the Task Force.

It was not only CAEFS and Aboriginal women who had reservations about participating, various community groups who advocate for the development of community justice became involved despite fears of being co-opted and “...concerns about having to work within the existing legislative and penal structure when they believed that a community-based correctional approach was more appropriate.”⁹⁴ The irony is that these women came together to work on this project so committed to change but so hesitant about the process. These women's commitment to making significant change in the daily lives of imprisoned women overcame their serious reservations about the manner in which they would go about achieving that goal.

⁹² The Task Force on Federally Sentenced Women, *Supra* note 1 at 14

⁹³ *Ibid.*, at 17

⁹⁴ *Id.*

The co-chairs recommended a space for an Aboriginal woman on the Task Force working group. As to who would occupy that space, Diamond and Miller Ashton believed that it should be “someone that was very political and knowledgeable, that it not just be someone high profile in the Aboriginal women’s community.”⁹⁵ The question of who it would be very quickly changed to the issue of numbers. Diamond remembers that a number of unhappy Aboriginal women came to the first meeting and said that “one space is ridiculous”, and that the Task Force needed to expand the role of the NWAC given the over representation of Aboriginal women in prison. Miller Ashton comments, “we were unknowledgeable and naïve in not considering the extent to which Aboriginal women’s groups should be involved, and it was made very clear [to us] that due to the over representation of Aboriginal women in prison, how could we even think of having a Task Force without more significant Aboriginal representation?” Diamond’s perspective is that “at that time, in the early 1990s, we had come to the point in our white women’s privilege to understand that there had to be a component that dealt with Aboriginal women...we all learned a lot about racism and being a white woman of privilege. It [the meeting] was very unpleasant and difficult and they [Aboriginal women] just basically said this is bullshit.”⁹⁶

⁹⁵ Diamond, *Supra* note 80

⁹⁶ *Id.*

In the end, there was a total of 6 Aboriginal women on the Task Force which had a total of 41 members. There were 4 Aboriginal women on the Steering Committee, which had a total of 31 members. There were 2 Aboriginal women on the Working Group, which comprised 10 women. Two of the four Aboriginal women on the Steering Committee were former prisoners at the Prison for Women and conducted interviews with federally sentenced Aboriginal women in the community.

The participation of Aboriginal women was crucial to the acceptance, success and legitimacy of this report, "no previous Task Force nor royal commission on corrections whether it was focused on Aboriginal Peoples, women, or prisoners generally, had ever recognized the position of Aboriginal women."⁹⁷ In order to address issues of systemic racism and to identify the unique needs of Aboriginal women serving federal sentences, their voices, stories and proposals for change needed to be clearly heard.⁹⁸ Miller Ashton explains the significance of the Aboriginal women on the Task Force: "They pushed us.

⁹⁷ *Ibid.*, at 20. It is interesting to note that *Creating Choices* is widely acknowledged for recognizing the position of Aboriginal women and for the role they played in the Task Force. However, there is no discussion of the possibility of a Task Force for federally sentenced Aboriginal women. As Sheinbein points out, non Aboriginal task force members admitted their own failures, to consult with Aboriginal communities because of time constraints and lack of cultural understanding. This, a task force devoted to Aboriginal women could have avoided this problem and provided a more useful analysis. Lee Anne Schienbein "The Aboriginal Healing Lodge: A First Step" (1992) 56 *Saskatchewan Law Review* at 428

⁹⁸ There was a time when the plight of Native women in prison was not a priority for Native groups. Adelburg and Currie explain that "seven years ago, we were told by NWAC members that they did not view the plight of Aboriginal women in prison as a priority, in view of the massive problems Aboriginal women were facing outside of prison. Their thinking has changed -

Everything we were doing was tested against what was good for Aboriginal women. And if it was good for them, being in the most disenfranchised state, then it was good for the other group.” She also noted the difficulty that some members had with “the proponderance of focus on Native women.” In the end, Miller Ashton explains that the Aboriginal women “really informed us because Native women’s situation was the worst and if we backed everything up to that and moved forward, things fell into place.”

There is a history of well intentioned Task Forces that created reports that were not implemented. Miller Ashton remembers feeling overwhelmed at such a daunting task.⁹⁹ It was such a monumental assignment because no one had been able to succeed in changing women’s corrections and closing the Prison for Women. Hilda Vanneste, part of the Federally Sentenced Women’s Initiative at CSC and a member of the Working Group suggests that the “major flaw with previous Task Forces was not the people on them but rather that they couldn’t determine one solid plan that could be implemented. *This* one had to end up with one plan based on a solid reality.”¹⁰⁰ This Task Force had to come up with recommendations that would improve incarcerated women’s lives while simultaneously being politically viable.

advocacy on behalf of Aboriginal women in conflict with the law is an important activity for the organization.” *Supra* note 24 at 21.

⁹⁹ Miller Ashton, *Supra* note 77

¹⁰⁰ Interview with Hilda Vanneste, CSC member of the Working Group, Summer 1997

That dual task was made all the more difficult by the differing philosophies among the group. Miller Ashton explains that there was a point when the working group could have ended up fighting ideologically for months and that was a real danger. In discussing these diverging viewpoints at the table, Hilda Vanneste made a valuable comment by suggesting that “ideological debates are almost a middle class concern – an elitist exercise, but in the meantime we have to confront the reality of the women serving time in Prison for Women.”¹⁰¹ It was this type of pragmatism that pushed the group into dealing with the options they faced. Part of the work done by the Working Group involved evaluating each penal option. Miller Ashton explains that this “forced us to examine the pros and cons and rate every option.”¹⁰² One of the considerations in rating the options was what could be politically viable, yet the report had to be different enough to make a real change for federally sentenced women.¹⁰³ It was critical to establish a plan that was realistically workable. The exercise of rating options was beneficial in focusing participants to the task at hand instead of constantly veering off into debate.

Miller Ashton remembers the discussions as “very painful at times and so tough to reconcile some of the views.” Vanneste remembers that it was an “emotionally charged group.” Diamond points out that the broad community representation was important during this time because there were several women

¹⁰¹ Id.

who were not as close to the issue of putting the Task Force together and she points out that:

You had people who were a little more distant and less emotionally invested in us feeling good about ourselves and to add some reason to the conversation and say sit back and listen and to say that yes what we have proposed here is unfair and not representative at all with the population of women who were incarcerated and we will not understand deeply enough the needs of Aboriginal women if participation is not enhanced.¹⁰⁴

Research for the Task Force

The Task Force wanted to give every federally sentenced woman in the country an opportunity to provide her opinion through an interview process.¹⁰⁵

The resulting data constitutes a major contribution in the knowledge about the lives of federally sentenced women. Miller Ashton notes that this research “put federally sentenced women’s views at the centre – those interviews provided a wealth of information.” This approach resulted in a report which resonates with the voices of federally sentenced women. Adelburg and Currie agree that

¹⁰² Miller Ashton, *Supra* note 77

¹⁰³ *Id*

¹⁰⁴ Diamond, *Supra* note 80

¹⁰⁵ Never before have the voices of incarcerated women been so sought out, and emphasized. This Task Force traveled across Canada and talked to 84% of all federally sentenced women, including those held in provinces under exchange of services agreements. For more on this, see Margaret Shaw, *Supra* note 58. The accompanying volumes include Sugar and Fox, *Survey of Federally Sentenced Aboriginal Women in the Community*, prepared on behalf of the Native Women’s Association of Canada for submission to the Task Force on Federally Sentenced Women January 1990; Margaret Shaw et al, *Survey of Federally Sentenced Women* prepared under contract for the Ministry of the Solicitor General; Margaret Shaw, *The Federal Female Offender - report on a Preliminary Study*, Ottawa, 1989; Lee Axon, *Model and Exemplary Programs for Female Inmates - An International Review*, Prepared under contract for the Ministry of the Solicitor General Ottawa, 1989; Maureen Evans, *A Survey Of Institutional Programs Available to Federally Sentenced Women*, prepared for the Task Force on Federally Sentenced Women, Ottawa, 1989

"whatever the fate of its recommendations, the Task Force's research reports have made an immense contribution to understanding who federally sentenced women are, their types of criminal behaviour generally, and their needs within the system."¹⁰⁶ While extremely important, the consequences of prioritizing federally sentenced women's voices meant that more empirically based research, such as risk and / or psychological assessment were not done.¹⁰⁷ The conscious decision to have women's voices form the foundation of the report made it markedly different from anything that had proceeded it. The majority of previous Task Forces or Royal Commissions had recognized the same set of problems within the Prison for Women (ie. geographic dislocation, lack of programming, the plight of Aboriginal women), but with *Creating Choices* there was a palpable sense of urgency that came through in the report.¹⁰⁸ In essence, everything about *Creating*

¹⁰⁶ Adelburg and Currie, *Supra* note 24 at 15. They also note that a benefit of this information of this kind helps to break down stereotypes about women lawbreakers.

¹⁰⁷ A psychological assessment generally involved file reviews, an assessment interview and psychometric testing using instruments validated and "formed" on community samples of women (rather than men). Areas typically assessed by these instruments include those generally relevant to women's offences: interpersonal and relationship issues, aggression, assertiveness skills, depression, alcohol and substance abuse, post traumatic and dissociative problems, and symptoms of sexual abuse or assault." Karen Scarth and Heather McLean "The psychological assessment of women in prison" (1994) 6 (1) *Forum on Corrections Research* at 32. I do not want to suggest that there are no problems with these types of assessments. As the authors note one of the problems with this type of assessment is that it is traditional in approach and this causes problems because the instruments (ie. scales, questionnaires) focus primarily on identifying problem areas and place the psychologist or professional in the role of expert on the life experiences of another individual. As a result, the process is often viewed as negative by the women it is supposed to help. In addition, this approach contradicts a basic tenet of feminist therapy - equalizing power between the assessor or therapist and the client." *Id.*

¹⁰⁸ "The time for ACTION is NOW! has been the unifying cry of the Task Force on Federally Sentenced Women. The conviction that fundamental change in our treatment of federally sentenced women is needed now...many [members] are impatient with the time, expense, energy that has been devoted to looking for solutions in the past with little movement toward

Choices makes it different: its philosophy, composition¹⁰⁹, its reception that resulted in a marked shift in policy and thinking about the way to approach federally sentenced women.

At the time of the Task Force's creation in 1989, there were 203 federally sentenced women: 125 at P4W, (25 of whom were Aboriginal), and a further 78 serving federal sentences in provincial prisons under ESAs.¹¹⁰ Task Force researcher Margaret Shaw et al observed that at P4W, almost half the population, 42%, were serving a sentence for either first or second degree murder, or manslaughter, 27% were serving time for "robbery and other more minor violent offences."¹¹¹ The other third of inmates were serving sentences for nonviolent offences. What is quite significant is the number of women who had never previously been convicted for any offence. Shaw determined that more than a third of women were serving their first sentence, while 87% had never served

change... We must not fail federally sentenced women **AGAIN!**" (emphasis in original). The Task Force on Federally Sentenced Women, *Supra* note 1 at 132-133

¹⁰⁹ This does not just refer to the fact that most members (75%) were women but that most held a feminist perspective. Margaret Shaw notes that: many of the women appointed to the Task Force had considerable experience as front-line workers involved with women in prison or coming before the courts over a number of years. Many would regard themselves as feminists, and certainly some as abolitionists. This is reflected in *Creating Choices* which puts the experiences and voices of women at the centre of the entire enterprise. Shaw, *Supra* note 70 at 445

¹¹⁰ Exchange of Service Agreements are contracts entered into by the Federal and Provincial governments to provide beds for a certain number of inmates in exchange for a fee. They can work both ways. One such example is the Government of Canada's ESA with the Government of British Columbia. The federal Government pays the province a certain amount of money to provide accommodations and programming to a specified number of women serving federal sentences.

¹¹¹ *Id.*

federal time.¹¹² Shaw also noted that there was a higher proportion of women serving time for murder who are incarcerated in Kingston at P4W, which she concludes as reflecting "the tendency for women serving longer sentences to be transferred to P4W."¹¹³ There were 46 women at the Prison for Women who were serving sentences of over 10 years.¹¹⁴

In addition to the interviews conducted with federally sentenced women, Fran Sugar and Lana Fox, Aboriginal women and former prisoners, conducted research for the Task Force on Aboriginal women.¹¹⁵ Part of the reason *Creating Choices* was able to document the plight of Aboriginal women in prison is directly related to their work.¹¹⁶ They interviewed 39 Aboriginal women who were serving the remainder of their sentences in the community. In terms of life histories, their findings were similar in many respects to those of non-Aboriginal women but they indicated a much higher proportion of women who had experienced physical and/or sexual abuse and overall victimization. This included higher percentages of women who had experiences of childhood

¹¹² *Ibid.*, at 6

¹¹³ *Id.*

¹¹⁴ *Id.*

¹¹⁵ I will discuss these findings in Chapter 4. Fox and Sugar explain their feelings about being part of the Task Force: We have been participants in the Task Force only because we feel a deep responsibility to our sisters still inside the walls, "Nistum Peyako Seht'wawin Iskwewak: Breaking Chains" (1989-90) 3 *Canadian Journal of Women and the Law* at 465

¹¹⁶ In the beginning of the Task Force, there was no plan to conduct this research. But Sugar and Fox explain that by September of 1989, the Task Force members were not satisfied with the research because federally sentenced women in the community were overlooked and First Nations women strongly believed that their communities had not been effectively consulted. On this basis, Sugar and Fox undertook their research project which saw them interview 39 federally

violence including rape and beatings. Many had watched their mother being beaten, some had witnessed murder as children.¹¹⁷ Sugar and Fox explain that these women also had to deal with racism, “they spoke of overt experiences of racism...being called ‘dirty Indians’ in school, in foster homes and by police and guards. They described being treated differently and knowing that this was no accident.”¹¹⁸

Recommendations

There were many options that the Task Force could have recommended. The options included building a new central prison, sending women to provincial jails, or building regional prisons. They chose to go with the model of four regional facilities and a Healing Lodge. Miller Ashton explained that in the exercise of rating the options, the concept of a single central facility failed quickly. Sending federal women to serve their sentences in their home provinces in provincial jails initially rated higher than the regional facility option because each federally sentenced woman would be incarcerated in her home province. But this option was rejected in large part because provincial jails are geared toward short sentences and the needs of federally sentenced women are very different than those of women sentenced to serve provincial time. Miller Ashton further explains that the “Task Force also felt that the provinces were behind CSC

sentenced Aboriginal women in the community. (another research project was also initiated that addressed non Aboriginal women serving sentences in the community)

in terms of their ideas about women's corrections." Despite its problems, CSC was running some women centred programs and continuing to examine the fact that women's programming needs were different from men's. Tragedy at the Prison for Women served as a reminder of what the Task Force was trying to accomplish and kept the group from being sidetracked in ideologies.

There were two suicides that occurred during the time of the Task Force that profoundly affected the members. Diamond explains that 'the deaths kept the Task Force together in the face of what became quite conflictual sometimes and fairly brutal in terms of working together. I think we were able to say but look at the alternative and that was an extreme motivator.'¹¹⁹ The belief that there had to be a better way [than P4W] helped people ultimately put their personal issues aside. Miller Ashton concurs with Diamond, "what drove us was the deaths at P4W of Native women, and Marlene Moore [who also committed suicide in the P4W]. We were determined we would make a difference and those deaths reinforced us to find common ground and gave us the extra push to find consensus". After the suicides, the Task Force wrote the Minister and requested that no more transfers from provincial prisons be made to P4W. The Minister agreed and the transfers stopped. The dire situation in the P4W kept the Task Force focused on devising solutions to reduce the pains of imprisonment faced by this relatively small group of women.

¹¹⁷ The Task Force on Federally Sentenced Women, *Supra* note 1 at 53

Creating Choices: Woman Centred Corrections

The Task Force wanted to achieve an alternative penal system that would be able to provide all federally sentenced women with opportunities to be empowered to make real choices in their lives. This meant the construction of a new model of corrections, informed by feminist knowledge and vision: woman centred corrections. This model is defined in *Creating Choices* through the five principles that were set up to guide its implementation into the regional facilities. These principles "will create the choices needed to help move corrections in Canada closer to a community-based ideal."¹²⁰ The five principles that underscore a woman centered model of corrections are: empowerment, meaningful and responsible choices, respect and dignity, supportive environment and shared responsibility.¹²¹ Bonnie Diamond explains that to her, women centred corrections is "corrections that starts with the health of the woman, understanding her experience and trying to assist her in healing from experiences as a woman until she can function more wholly and more peacefully in society."¹²² Theoretically, a woman centred model of corrections would not solely address the direct circumstances of women's criminal actions, but would holistically meet all of her needs whatever they may be. In this model, women inmates are required to take responsibility for their actions and participate in their

¹¹⁸ *Id.*

¹¹⁹ *Id.*

¹²⁰ *Ibid.*, at 104

healing plans. The Task Force believed that women ultimately knew what their needs were and it was up to CSC to provide what was required in meeting those needs. This 'woman centered model of corrections' was envisioned by the Task Force to be a viable solution to many of the problems encompassing women's corrections, even though *Creating Choices* notes that "in articulating these principles, we recognize that we don't have the "answer."¹²³

Women Centred Corrections: Five Principles

"Empowerment" is the first principle of a women centred model of corrections. It is identified as a missing element in the lives of most federally sentenced women. While the Task Force did not clearly define their understanding of empowerment, they linked it to the opportunity to make productive life choices. For the Task Force members, empowerment is directly related to the ability to have control over the direction of their lives. This lack of control and disempowered state is held to be the linchpin to women's crimes. *Creating Choices* emphasizes the "...connection[s] between women's involvement in the criminal justice system and the inequities, hardships and suffering experienced by women in our society."¹²⁴ The report notes the fact that all

¹²¹ *Ibid.*, at 105

¹²² Diamond, *Supra* note 80

¹²³ Task Force on Federally Sentenced Women, *Supra* note 1 at 105

¹²⁴ By hardships, the Task Force refers to such issues as the high levels of sexism and racism in the country, women earning less than men on average, high levels of poverty for families headed by women, high levels of violence against women. The report notes that Aboriginal women

women experience barriers in an unequal society and groups federally sentenced women as those who experience these inequities most severely.¹²⁵ The Task Force argues for strategies to be put into place to combat these problems that are central in the lives of many federally sentenced women. Cruikshank suggests that the Task Force has "located the disempowerment of women in two sites: in the structural arrangements of society and in the woman herself, with an emphasis on the latter."¹²⁶ In this way, it is up to individual women to empower themselves.

Task Force members also stressed the connection between lack of empowerment and low self esteem. According to the information gathered during the interviews with federally sentenced women, low self esteem was an issue for many. The Task Force believed that this problem could have "consequences which can lead to an inability to cope, violence against others and self destructive behaviour."¹²⁷ Theoretically, empowerment strategies would increase imprisoned women's self esteem and in so doing promote an environment where they can "accept and express responsibility for actions taken and future choices."¹²⁸ According to the Task Force, "accepting and expressing responsibility for oneself promotes strength and good self esteem, creating a constructive cycle of

experience many of these factors more acutely. The Task Force on Federally Sentenced Women at 105

¹²⁵ *Id.*

¹²⁶ Cruikshank in Hannah Moffat, *Supra* note 74 at 176

¹²⁷ The Task Force on Federally Sentenced Women, *Supra* note 1 at 107

¹²⁸ *Id.*

empowerment."¹²⁹ The Task Force offers little in the way of tangible suggestions on how to empower federally sentenced women. They do suggest more programming in the area of self esteem and confidence training. They do not discuss what such training or programming package would entail. This is an important element because empowerment strategies can mean many different things.

One major problem with empowerment is there is no one clear, well accepted definition. Hannah Moffat writes that "for feminists, empowerment (ideologically, politically and economically) has been traditionally embraced as a way of transforming the lives of women by limiting gender oppression."¹³⁰ But for CSC, empowerment appears to be focused on women transforming their lives by taking responsibility for their actions. Hannah Moffat argues that "empowerment is linked to self esteem for CSC and not to a redistribution of power to fight women's oppression...accountability overrid[es] concerns about the wider context of her offending."¹³¹ This individual focus has certain practical importance for prison staff who are trying to reduce the chances that individual women will commit crimes upon release. Ultimately however, this individual focus is cause for concern because correctional officials do not focus their empowerment strategies on the wider social barriers such as sexism and racism. The theoretical tension between an individual analysis and a social context

¹²⁹ *Id.*

analysis plays itself out in this kind of practical question of where to focus corrections programs.

Women are expected to become empowered and take responsibility for their actions and continue to navigate within a society that discriminates against women on a number of levels. There is a tension between the levels of responsibility that women should take.¹³² Hannah Moffat acknowledges that, “feminists have fully acknowledged that the negation of personal accountability or responsibility often results in the disempowerment of women by rendering them harmless victims, thus stripping them of self determination.”¹³³ If women are seen as needing to be empowered, they are implicitly being told they are victims and this has ramifications. For example, Shaw wonders, “how far does it help women in prison to be told that they have low self esteem and need empowerment?”¹³⁴ Women are told to change their lives and behaviours, yet society and its contributions to women's criminal actions will remain unaffected. In some way, it may be argued that CSC is perpetuating women's status as unequal in society by empowering them to be law abiding citizens within a society that discriminates against them. CSC is not directing any of its efforts to

¹³⁰ Hannah Moffat, *Supra* note 74 at 155

¹³¹ *Id.*

¹³² Hannah Moffat argues that the emphasis on responsibility decontextualizes feminist constructions of women's resistance and it disregards feminist analysis of the social, economic and political barriers experienced by women - and, in particular, marginalized women. *Supra* note 74 at 159

¹³³ *Id.*

¹³⁴ Shaw, *Supra* note 70 at 452

the broader factors of women's disempowerment.¹³⁵ Women are expected to empower themselves and then return to a society that perpetuates women's disempowerment.¹³⁶

The Task Force asserts that "meaningful choices" is a direct companion to empowerment, because "flowing directly out of a need for empowerment is a need for increasing choices for federally sentenced women..."¹³⁷ This principle is based on the knowledge that the backgrounds of most incarcerated women are characterized by dependence. To have control over their lives, women must have a range of meaningful choices. The Task Force envisions women who not only have more choices while incarcerated but also upon release in the community, "more choices involving halfway houses, second stage housing, programs, services and support are essential if women are to succeed on release."¹³⁸ Again, women can only make meaningful choices in a society with an equal distribution of power. In the interim, meaningful choices will be limited to more choices.

Hannah Moffat questions the real recipients of these choices, "...for whom are these choices meaningful and responsible – the prisoner, social worker or parole board?"¹³⁹ The essence of her argument is connected to women's

¹³⁵ I am not sure how CSC would go about doing this or what their responsibility is in this case, but it is something that is worthy of further discussion.

¹³⁶ Young argues that programs for women often operate to adjust women to dominant gender, race and class structures while depoliticizing and individualizing their situations. Hannah Moffat, *Supra* note 74 at 155

¹³⁷ The Task Force on Federally Sentenced Women, *Supra* note 1 at 108

¹³⁸ *Id.*

¹³⁹ Hannah Moffat, *Supra* note 74 at 158

programming choices and the necessity to fulfill certain requirements for a better chance at gaining parole. Women may make the decision not to take any programming and possibly not leave the prison until their statutory release date, but they will be encouraged to take programming in an attempt to reduce their risk factors upon release. In order to promote the safe reintegration of inmates into the community, CSC has a responsibility to attempt to turn women into law abiding “good” citizens. If the prison system did not make attempts to help women heal and turn away from crime, their role would be solely to punish. The key for CSC is to be proactive and to be able to identify the areas within the system where women can be making their own choices and ensure that this is happening. Some of those areas include what the Task Force had envisioned, such as more choices about diet, health care and personal development. CSC expects women to make the “right” choices with the options that are presented to them. In this way, there will always be a moral foundation that approximates community norms as determined by CSC.

“Respect and dignity” is the third principle advanced by the Task Force to guide the model of woman centered corrections. This principle is an attempt to promote a change in attitude within the prison environment. The idea is straightforward: “mutuality of respect is needed among prisoners, among staff and between prisoners and staff if women are to gain the self respect and respect

for others necessary to take responsibility for their futures."¹⁴⁰ The Correctional Service of Canada has been justifiably criticized for their often paternalistic treatment of women imprisoned in P4W. This principle is an attempt to redress this, and other, ensuing problems such as women inmates' sense of hopelessness and lack of privacy and dignity.¹⁴¹ One of the tangible ways the CSC has attempted to sensitize staff to women's experiences and to culture, race and sexual orientation has been through the development of a woman centered training package for staff who work directly with women inmates on a daily basis.¹⁴²

The fourth principle promotes a "supportive environment" which the Task Force envisioned as a "constellation of many types of environments...political, physical, financial, emotional/psychological and spiritual, especially for Aboriginal women."¹⁴³ The Task Force stresses the importance of a positive environment in which women serve their sentences. All people, no matter who they are, or where they are will be happier and conduct more meaningful lives if they are in an environment that is supportive and not negative or punitive.¹⁴⁴ Environment affects physical and psychological health. It is especially important for individuals who are incarcerated and have no ability to leave or change their

¹⁴⁰ Task Force on Federally Sentenced Women, *Supra* note 1 at 109

¹⁴¹ *Id.*

¹⁴² I will explain this more fully in the following chapter

¹⁴³ The Task Force on Federally Sentenced Women, *Supra* note 1 at 110

environment that this be a real priority. A supportive environment means that all the elements are in place for women to be able to begin their healing journey.

The last principle that guides a woman centred model of corrections is “shared responsibility”. Task Force members assert that federally sentenced women need to take responsibility for their actions and their lives in general, but that also, governments, communities and societies also need to take responsibility for the society in which we live.¹⁴⁵ This type of shared responsibility will theoretically provide the groundwork for federally sentenced women to make “sound” choices.

The five principles have to be all working in harmony simultaneously for the system to work.¹⁴⁶ What does it mean for women centred corrections to be work? Part of the answer must be about how women experience their incarceration.¹⁴⁷ Ultimately, if this model is successful then criminalized women’s behaviour will be successfully modified, and she will be a law abiding citizen in an unequal society.

¹⁴⁴ I do not believe that a focus on support and healing inside a prison denies the very real punitive aspects that are omnipresent inside a prison. Regardless of focus, these are still prisons and the context of all these principles is punishment.

¹⁴⁵ The Task Force on Federally Sentenced Women, *Supra* note 1 at 111

¹⁴⁶ In *Creating Choices*, the five principles come together in the following manner: The Correctional Service of Canada with the support of communities, has the responsibility to create the environment that empowers federally sentenced women to make meaningful and responsible choices in order that they may live their lives with dignity and respect. (emphasis in original), The Task Force on Federally Sentenced Women, *Supra* note 1 at 112

¹⁴⁷ Shaw discovered in her surveys for the Task Force that what was important to women was how they experienced their incarceration in terms of how they are treated and the relationships they have with prison staff. Issues of power and control. This survey was taken in a moment in

Women centred corrections aims to respond to the unique needs presented by federally sentenced women. It focuses on women's specificity. It is a concept that optimally would allow staff to "meet the unique needs of female offenders; value the female perspective; celebrate and honour the female experience; respect and take into account female development; empowers women to reach their full potential; and work to change established attitudes that prevent or discourage (women) from recognizing their potential."¹⁴⁸ This is a tall order to accomplish in a prison. It is also a notion that has problems.

The underlying tone of these five principles is one of self responsibility. The context of social barriers is acknowledged but it is in the individual women where the responsibility to modify behaviour is laid, while nothing changes in the environment in which their crimes were committed in the first place. These principles do require the removal of some of the more blatant pains of imprisonment such as bars, but all the vestiges of punishment are not removed because they operate within a environment of static security including fences with barbed wire and cameras.¹⁴⁹

time, almost 10 years ago before the regional prisons were built, so it is not clear what the women would have to say today. *Supra* note 59 at 447

¹⁴⁸ Stephanie Covington, *Supra* note 58 at 6

¹⁴⁹ This is the case currently, after there were several incidents including escapes, security features were enhanced, including building security fences.

To focus on aspects other than punishment does not remove it as a factor in women's prison experiences.¹⁵⁰ *Creating Choices* sets up a dichotomy between the more punitive aspect of prisons and the types of prisons it recommends - based on healing and support.¹⁵¹ In this section, I want to emphasize the inherent punitive nature of prison regardless of the vision that drives it. This is not to suggest that a different philosophy cannot lessen the pains of incarceration, only that punishment is inescapable and its effects should not be obscured by the language of women centered corrections. Healing and treatment can occur simultaneously with punishment but the key actors in this area - CSC and its critics - tend to talk exclusively in terms of one or the other.

Woman centred corrections has come under fire from critics who suggest that ultimately, it does not challenge incarceration, but only softens it and in the end masks the real pains of prison. Hannah Moffat suggests "the woman centred approach assumes that whereas male models of corrections are not suitable for women, prisons are suitable as long as they are based on a feminist vision of justice, punishment and care."¹⁵² The tendency to view a woman centered model of corrections as a model that eliminates the punitive aspects of prisons is

¹⁵⁰ For example, Michel Foucault has recognized the pains of imprisonment exist on a more metaphorical level. How can we as a society, talk that we do not punish anymore (this is implicit in the characterization of the regional prisons as healing environments). What does it mean to feel pain? Foucault would suggest that just because people are not being flogged for example, does not mean they are not being punished. Nicer prisons do not automatically translate into less painful environments. For more on this see Foucault, *Supra* note 73.

¹⁵¹ Can healing be understood as better treatment? Pollock defines treatment as anything used to induce behavioural change, *Supra* note 11 at 259

¹⁵² Hannah Moffat, *Supra* note 74 at 148

problematic. Prisons for men are viewed as punishment while for women, they are places of healing. This masking is dangerous on many levels. It diminishes what the women prisoners experience and has the potential for those involved to “forget” that these facilities are federal penitentiaries.¹⁵³ One such example of this type of thinking is in the language used to ascribe the facilities. The prisons that have been built are referred to as “cottages” by many. This language flows from the woman centered model and is highly problematic.

Creating Choices and the women centered model have also been criticized for not challenging the traditional use of imprisonment in society. The mandate of the Task Force did not allow for this type of approach. In accepting to be a part of the Task Force, members agreed to work in a context of prisons. But, *Creating Choices* reflects the Task Force’s disappointment with their narrow mandate and belief in a vision of community corrections.¹⁵⁴ They note that “the recommended plan contained in this Report must be seen within the context of a long-term goal where incarceration will not be the intervention of choice...”¹⁵⁵.

Since CSC is legally required to manage inmates with prison sentences over two

¹⁵³ Kelly Hannah Moffat agrees: reforming the content of a regime tends to obscure and to some extent silence or minimize the oppressive aspects of prisons and unequal relations of power that characterize this sanction. *Ibid* at 149

¹⁵⁴ The Task Force’s mandate was as follows: Examine the correctional management of federally sentenced women from the commencement of sentence to the date of warrant expiry and to develop a plan which will guide and direct this process in a manner that is responsive to the unique and special needs of this group. The Task Force on Federally Sentenced Women, *Supra* note 1 at 1 - It is important to note that this group of women was viewed as having “unique and special needs” because of gender. As one critic noted, “it is a dangerous and insensitive over-generalization to assume there exists an [sic] unique female experience not significantly affected by race. Schienbein, *Supra* note 97 at 428

years, the Task Force had to make its recommendations in this context. The members of the Task Force, especially the Aboriginal women, were upfront in the report about their frustrations with these limitations and their goal of having no women imprisoned:

At the present time, legislative restrictions and societal attitudes prevent us from achieving our ideal [non carceral solutions for women in conflict with the law]. The Task Force members understood that legislative change must occur to allow for a more flexible and humane correctional system and that there will have to be parallel legislative, political and attitudinal changes before the long term goal can become a reality.¹⁵⁶

Another serious problem with this model is the question of who the woman is that forms the basis for the model. Women are a heterogeneous group whether that be in terms of race, class, employment or education.¹⁵⁷ Yet, the model employed by the Task Force brought women together under one umbrella in order to situate them as different from men. Part of this was the result of the Task Force's position that women in prison had problems that were more similar to women in society than to men in prison. This is a dangerous argument in that it diminishes the effects of incarceration. Women in prison are much more than a microcosm of women in society.¹⁵⁸ The Task Force, in this model, was

¹⁵⁵ The Task Force on Federally Sentenced Women, *Supra* note 1 at 2

¹⁵⁶ *Ibid.*, at 105

¹⁵⁷ This list is not exhaustive. I have only suggested a few examples.

¹⁵⁸ Hannah Moffat, *Supra* note 74 at 144

effectively moving women away from a correctional system geared for men and aligning them within the context of women, and the issues they face, in society.¹⁵⁹

Task Force members wanted to develop a model that was the antithesis of the male model which had so clearly demonstrated its ineffectiveness with women.¹⁶⁰

By its very nature, this model also locates women's oppression in their sex, but treating women as a single group can also be oppressive, even if the people who are doing it have good intentions.¹⁶¹

Women centred corrections obscures other forms of oppression.¹⁶² By focusing on Womanhood as the main form of oppression, the Task Force has prioritized this issue over other forms of oppression. In some ways the model is such that Aboriginal women and women of colour have to decide whether they are more oppressed because they are women or because they are Aboriginal or racilized. Certainly Aboriginal women were represented on the Task Force but this was not the case for women of colour. There are multiple levels of oppression and while focusing on gender may be necessary on some levels, correctional officials need to remain aware that the layers of some women's experiences are excluded.

¹⁵⁹ For more on this see Shaw, *Supra* note 59 at 445

¹⁶⁰ I am certainly not suggesting that a traditional model of corrections has been successful in dealing with crimes committed by men, only that this was the springboard used by the Task Force to ensure their model would be different from what women inmates had experienced previously.

¹⁶¹ By referring to factors besides sex, I am mostly thinking about race. This does not only include Aboriginal women even though they are the most over represented group in prison. There are also significant numbers of women of colour, as well as Asian women, East Indian women and Hispanic women to name a few.

Despite the limitations of this model, it was apparent during my visits to the prisons, through conversations with staff and inmates that overall, it is working. By this I mean, that I have listened to many women tell me that they are responding to the respect shown to them by staff and feeling able to work through some of their personal issues. They have not always felt this way. During my visits, I also heard stories from both staff and inmates that the change was so shocking to the inmates that they did not know how to deal with the transformation; they were distrustful of the new system. These feelings seem to have faded. While a penal environment is inherently punitive, my experiences of talking with the inmates in the new facilities suggests that generally, women inmates have experienced their incarceration as somewhat less punitive than the environment of traditional prisons.

The Politics of Government Acceptance

Creating Choices was submitted in April 1990 and in September, it was accepted by the federal government. Bonnie Diamond provides unique insight on why the report's recommendations were accepted by the federal government. In terms of the context she explains that,

CAEFS is part of the Canadian women's movement and the understanding of the Canadian public on violence against women was at a very heightened point...the public was truly brought along in understanding women's lives differently because of sexual abuse and violence against women. Elizabeth Fry had worked very hard in

¹⁶² Hannah Moffat, *Supra* note 74 at 181

that aspect of the women's movement and there was some understanding amongst Canadians that the state of women in coming into conflict with the law was inextricably tied to the violence that had been enacted against them and some from birth forward.¹⁶³

That was not the only factor as Diamond saw it, the other element was politicians and the style of the report. Diamond explains, "political decisions are not based on intellect but on the ability to arouse politician's emotions. I think that the very carefully designed analysis of women in prison and the manner in which we chose to write the report that was a direct appeal from the women to the Canadian public, to the politicians and it worked."

Miller Ashton agrees, "we wrote the report in a such a way that the government couldn't say no...if the report wasn't different in its content and presentation then I really believe it would still be on the shelf."¹⁶⁴ Miller Ashton remembers feeling upon the completion of the report that "a group of women representing very divergent views had been able to rally around some common goals and principles and in the end the report was a significant event in criminal justice history."¹⁶⁵ The composition of the Task Force, its emphasis on federally sentenced women's voices, the participation of Aboriginal women and the style of the report set it apart from any previous Task Force or Royal Commission report in this area.

¹⁶³ Diamond, *Supra* note 80

¹⁶⁴ Miller Ashton, *Supra* note 77

¹⁶⁵ *Id.*

Diamond also explains that Elizabeth Fry had done their political homework. “[We] had taken politicians into the prisons for the first time ever, meeting prisoners and seeing what P4W looked like. For the first time you had a report that was truly being seen in context...”¹⁶⁶ These elements plus the fact that as Diamond says “we had the bureaucrats involved on the Task Force on board. In fact Diamond explains that “I don’t want to undermine that the people in corrections had been on a journey and they emerged out of that journey quite committed to the process.”¹⁶⁷ She also notes that even though she was co-chair of the Steering Committee, that didn’t stop her from continuing to criticize CSC, “it’s quite extraordinary. We never let up the heat for a minute and we didn’t feel that because we were partners we didn’t have the right to criticize corrections throughout that period.”¹⁶⁸ Diamond sums it up, “I think that when you have the politicians engaged, a semi accessible public, you have the woman’s movement behind it because we had worked very hard getting Status of Women and the Advisory Council - everybody we could possibly get behind it. When you add those kinds of realities and human faces to a problem then you get a lot more political will.”

¹⁶⁶ *Id.*

¹⁶⁷ *Id.*

¹⁶⁸ *Id.*

Conclusion

The foundation of a woman centered model of corrections has tended to focus discussion away from punishment which remains ever-present. The tone of the report is that if women have to be sent to prison, then the Task Force would create a system of prisons where they could heal seemingly ignoring that the healing would be done in the context of punishment. The model of women centered corrections also focuses on empowerment in such a way that women inmates are required to take responsibility for their actions, change their behaviour in ways that emulate “normal” behaviour. Yet, while *Creating Choices* recognizes the role of an inequitable society in women’s criminal actions, no energy is focused on this aspect within the prison. Women’s behaviours are modified in an attempt to have them exist peacefully in the same conditions from which they committed their criminal actions.

I am left wondering whether the Task Force should have embarked on this process at all. The *Creating Choices* report did not fill the void I feel exists on this subject in the theoretical literature. Its holistic approach is one that essentializes and to some extent, treats women inmates as victims. It perpetuates grand theory about women inmates, that they are all women oppressed by society and committing crimes in that context. I do realize that respecting women’s specificity has its own problems such as how it would be accomplished, and

issues of structure and the question of the slippery slope to individualism but it is an area that requires further development.

However, despite the continuing challenges facing women's corrections, there is much that has been accomplished.¹⁶⁹ There is much more knowledge about the lives of federally sentenced women and what they deem is important to them. Women inmates are now living in bedrooms in houses instead of in cells on ranges. The pains of imprisonment have been reduced. The fact that CSC, CAEFS and NWAC were able to come together despite their differing perspectives and ideologies but bound by a common concern for federally sentenced women, and submit a report based on consensus is an important milestone. There will be continuing debate about the effect of the changes this report has generated and whether a women centered model of corrections and its principles can be successful in assisting women's healing and promoting their safe return to their communities. Certainly *Creating Choices* is unique and has accomplished much in the field of women's corrections but it has led to the creation of more prisons. I would suggest that the fewer pains of imprisonment in the new regional facilities have come at some cost. I still have questions about whether building the prisons was the right thing to do and if not, what else the Task Force could have done. I also wonder what effect there would have been had the Task Force focused their energy on creating legislative change instead of

¹⁶⁹ I realize that not all people would view these results as accomplishments.

new prisons. That is, rather than focusing on how to improve a penal system within the current structures, what if this Task Force focused on the systemic issues women face in society that could limit the number of women being sent to prison?¹⁷⁰ Perhaps fewer women would be in prison today but that would mean that the Prison for Women was still the only prison in Canada for federally sentenced women. This, in of itself, has many consequences for the women that have to survive P4W, and the ones who cannot. So, this brings the discussion back to the beginning. It is a question that is lose-lose. In the end, I think it is about doing what one finds to be the least harmful option.

¹⁷⁰ I do not wish to diminish the feelings of frustration and pain that many of the people on the Task Force felt about this issue, but nonetheless they went ahead, knowing the potential consequences, in order to reduce the pains of imprisonment instead of truly challenging the system.

CHAPTER THREE: THE IMPLEMENTATION: FIVE NEW REGIONAL PRISONS FOR WOMEN

Introduction

While the preceding chapter examined the Task Force on Federally Sentenced Women and its report *Creating Choices*, this chapter will discuss the actual implementation of the report - five new regional facilities for women serving federal sentences. After the Task Force recommendations to build these facilities were accepted, a national implementation committee and an external advisory committee were assembled. The implementation committee comprised only internal CSC employees and community groups were relegated to a consulting role on an external committee. When I first started this thesis, I was convinced that not having community members on the implementation committee was a mistake. When I went to work for CSC and became more familiar with the workings of government policy making and the impact of different accountabilities, I thought that perhaps CSC did what was necessary. Now, I am not sure what the right approach should have been, but it should have involved more than external groups playing a purely external role considering their investment in the *Creating Choices* report. This is especially true given the success of the Healing Lodge in emulating the vision in *Creating Choices*. That institution was the only one implemented by an externally based committee, because of the Aboriginal expertise that was required.

I will discuss the role of both these committees in the development of the new facilities and the effects of the all-internal implementation approach taken in this process by the CSC. I will provide an overview of the four federal facilities with a focus on two key areas, staffing and programming. In essence, this chapter will examine the operationalization of a theoretical model of women centred corrections. The Healing Lodge will not be discussed in this chapter for it is based in Aboriginal spirituality and teachings and is not comparable to the four regional institutions. It will be examined in the next chapter.

The Politics of Implementing A Vision

The federal government's acceptance of the Task Force recommendation to regionalize federal women's corrections signaled the beginning of the daunting task to turn the vision of *Creating Choices* into reality. In their report, the Task Force had clearly articulated how this should be accomplished, "the Commissioner [should] establish an externally based implementation committee which would report directly to him on this major initiative...it should be comprised of a federally sentenced woman as well as representatives from the Canadian Association of Elizabeth Fry Societies, an Aboriginal Women's Caucus and Status of Women Canada."¹⁷¹ The Task Force strongly encouraged the continuation of a central role for members outside the Correctional Service of Canada: CAEFS wanted to have the same type of primary role as they had with

the Task Force. This way they would be assured of significant and substantial input into how the facilities would be created. However, the CSC did not follow the Task Force recommendation for external community members as part of the implementation committee and instead assembled an implementation committee composed only of CSC staff from both National Headquarters and the regions. This committee had the job of implementing *Creating Choices*, thereby making all the critical decisions about the regional facilities. External groups were to participate on an external committee that could make recommendations or suggestions to the implementation committee.

The implementation process was initially defined by questions about the role external groups would play. To the many critics who argue that the regional facilities do not reflect the vision of *Creating Choices*, this is where the whole project fell apart. Kim Pate, current Executive Director of CAEFS, has suggested that the facilities are not representative of *Creating Choices* for many reasons including the "lack of people who had any experience working in anything but a correctional model was actually crucial to it going off the rails, lack of authority at the senior national level and that it was seen as a bricks and mortar exercise rather than breathing life into the vision."¹⁷² In effect this decision denied the same community of stakeholders in women's corrections the ability to continue

¹⁷¹ The Task Force on Federally Sentenced Women, *Supra* note 1 at 130

¹⁷² Interview with Kim Pate, Summer 1997

building the project they had been so integral in devising. These criticisms are not unique to CAEFS.¹⁷³

The decision to exclude community members from the implementation committee was a defining moment in the creation of these new prisons. This decision was largely based on the fact that the assignment before the implementation committee was very different than the mandate given to Task Force members. The recommendations within *Creating Choices* had been accepted and now the federal government had to implement them. The Government believed that the same type of partnership with the community was untenable at the implementation phase because the decisions to be made by the implementation committee were final operational and policy decisions as opposed to recommendations which could be rejected. In many ways, the progressive nature of the whole Task Force project came to an end when the issue of implementation came to the forefront.

According to the Government, issues around accountability made this necessary. The Correctional Service of Canada, part of the Ministry of the Solicitor General of Canada is accountable to the Minister, Parliament, the general public and to the people in their custody. CAEFS and other community groups, are not accountable to the same people, in the same way. Consequently,

¹⁷³ Margaret Shaw also had similar concerns and criticisms, "too great a focus on physical plant and bricks and mortar, as well as ingrained approaches to issues such as staffing and security might overshadow the essential message of the Task Force that there must also be a change in philosophy toward support and choice., *Supra* note 23 at 59

in CSC's opinion, putting external members on an implementation committee was not viable because they would not be in a position to balance competing interests.

However many believe that CSC wanted to close ranks and do things their own way. Task Force researcher and professor, Margaret Shaw explains that "for a number of people, the implementation appeared to be taking place behind closed doors with little public accountability. With the exception of the Healing Lodge, decision making in relation to the plan was seen to rest almost entirely with the Correctional Service."¹⁷⁴ CSC's accountability to the public and its primary mandate of contributing to the protection of society could possibly have been more effectively met with the addition of community representatives on the implementation committee. Their presence would potentially have resulted in "better" facilities that were closer to the ideal of *Creating Choices*. In this way, women inmates may have been able to heal more effectively and this would have reduced the risk to the public upon their release from custody. In this way, CSC could have met the public accountability that was held to be a barrier to community participation on the committee.

It is difficult to deny the positive effect of external members on implementation committees when the Healing Lodge, agreed upon by all, is the facility closest to the vision explained in *Creating Choices*. External groups played a major role in its development, because it was based on Aboriginal

¹⁷⁴ *Ibid.*, at 60

spirituality and took an entirely different implementation path since the expertise was not available within the Correctional Service of Canada. The issue of accountability became secondary to lack of knowledge. According to CSC, the context was different for the rest of the facilities. For CSC, the process was about interpreting *Creating Choices* and implementing its visions in the framework within which CSC was bound.

Creating Choices called for some radical changes in the way women were incarcerated. There was a concern by many external observers that it would be difficult, if not impossible, for CSC to turn away from the status quo so significantly. Shaw explains, “there were concerns about how much a government organization with its own history, traditions and priorities would be able to change those traditions.”¹⁷⁵ That the chair of the implementation committee, Jane Miller Ashton, was also the co chair of the Working Group on the Task Force was an asset because of her experience on the Task Force. Nonetheless critics have suggested that CSC approached the whole exercise solely focused on structure and security measures rather than pursuing the revolutionary nature of the recommendations in *Creating Choices*.

Bonnie Diamond, executive director of CAEFS at the time of the Task Force explains that, “the concept [of woman centred corrections] was so fragile and so novel and so visionary, you needed people who carried the vision and who

¹⁷⁵ *Ibid.*, at 61

were deeply rooted in the vision and able to pull it off.” Certainly external groups did not believe that bureaucrats at CSC would be able to do justice to the concept because they believed it was the community groups and Aboriginal women who had brought the concept to life. As Diamond explains, “correctional people don’t have the independence, freedom and democracy – that’s what is magic about the community, not that we’re brighter or better or anything else but we’re encouraged to dream and be visionaries...”¹⁷⁶

In this area, there will undoubtedly continue to be a tension with respect to the roles played by community groups and the government. Diamond notes that “it’s quite different to bring your dreams to a place where you have a hierarchy, but we can buck it, it’s really hard for individual correctional workers to go against the boss and that’s where community becomes extremely important.” I am not convinced that community members should not have been part of the implementation committee, nor am I sure that if they had been involved the facilities would be more in keeping with *Creating Choices*. However, CAEFS plays a strong advocacy role and there would certainly have been difficulties if their role as critics was blurred by making decisions within CSC’s correctional mandate. CSC believed they implemented the facilities in such a way that they balanced the interests of a number of groups including but not exclusively the interests of federally sentenced women. While the Task Force members had the

¹⁷⁶ Diamond, *Supra* note 80. I am not suggesting here that community groups do not have their

freedom to envision a system of new facilities, they were not officially constrained in the legal, political and policy framework the way the CSC was in the implementation phase. The Correctional Service was operating in a different context than the Task Force.

Looking back, Jane Miller Ashton, chair of the implementation committee disagrees with the exclusion of community members. She believes the implementation process should have been done differently and that the committee should have reflected the membership of the Task Force. She explains that “I think we fell back into our old ways. It was different with the Healing Lodge because the Native women asked ‘how are you planning on building a Healing Lodge without us?’”¹⁷⁷ After their experiences with Aboriginal women during the Task Force, CSC understood at that point that they needed the Aboriginal community’s expertise to be successful with the Healing Lodge.

CAEFS Withdraws From The Implementation Process

The external advisory committee had problems from the outset. This exacerbated the issue of not allowing external groups onto the implementation committee. As Shaw explains, “the EAC [external advisory committee] did not meet for months due to lack of funding, time constraints and changes in personnel and no federally sentenced women were appointed to the committee as originally

own restrictions.

¹⁷⁷ Miller Ashton, *Supra* note 77

planned.”¹⁷⁸ Shaw goes on to say that the External Advisory Committee was perceived by its members to have “almost no power, and much more limited access to information and decision making than government officials”¹⁷⁹ This assessment seems fair. The power wielded by the External Advisory Committee was far less than what the external groups had been able to do on the Task Force and access to information was certainly more limited. Given the community role on the Task Force, this new position had to be a particularly frustrating one. The whole experience turned out to be so frustrating that CAEFS withdrew completely in June 1992.

Current Executive Director Kim Pate, characterizes the withdrawal as a “demonstration of our concern with what had already happened. Essentially the withdrawal had already happened on the part of CSC [because] the EAC was powerless and without funding.” Furthermore, CAEFS believed that: The principles of the Task Force were not being adhered to, NIC [National Implementation Committee] was devoid of representation from federally sentenced women or CAEFS, that apart from the Healing Lodge, the sites selected this far for the regional facilities did not meet the criteria outlined in *Creating Choices* and that no resources had been forthcoming for the

¹⁷⁸ Shaw, *Supra* note 24 at 58

¹⁷⁹ *Id.*

development of a community plan. In essence CAEFS did not feel like it was working in partnership with the government.¹⁸⁰

Kim Pate agrees with Diamond about CSC's inability to implement *Creating Choices* "[They] tried to implement a model on their own that they had no understanding of."¹⁸¹ She also cites the Healing Lodge as an example of how *Creating Choices* can be realized with "the involvement of the community, elders and women's groups - and the Warden was hired from outside the Service. The rest were all trained from the male dominated patriarchal model of CSC so it is no surprise that they could not envision or implement a model with which they never had any experience and it is unrealistic to expect it."¹⁸² This is fair but also limiting in suggesting that employees of CSC are implicitly incapable of implementing such a vision. However, there is little doubt that had community groups been part of the exercise they would have brought different perspectives to the table that would have challenged the structure of the way prisons are built within the CSC. The one facility that Bonnie Diamond has seen [Joliette Institution for Women] was not what she had hoped for:

It wasn't what I had envisioned. When I drove up to it and was greeted by the barbed wire, it has done what I had hoped it wouldn't and that was to signal to people outside the facility that herein lies very dangerous women who have to be kept in and excluded from society by barbed wire...I was extremely disappointed at the physical layout and there was no community component visible at all.

¹⁸⁰ *Ibid.*, at 62

Diamond is not alone in her belief that the regional facilities are not vastly different from P4W. There are many critics who suggest that now there are four smaller versions of P4W. Karlene Faith argues that the regional facilities are simply “regional replacements” for Prison for Women and suggests that “...the problems that have characterized P4W will be compounded five-fold. Five prisons for women cannot be perceived as an advance over one centralized institution.”¹⁸³

Replicating P4W?

In some ways it is difficult to imagine more prisons as an achievement for women. However, the changes to the way women are incarcerated in these prisons cannot be summarily dismissed. These facilities are very different from the Prison for Women. There are vast differences including their design, philosophy, environment, security and staffing. Arguably, if an individual is ready to heal then it could be done anywhere, but for anyone who has been inside P4W, it is very difficult to imagine anyone being able to heal inside that institution, or not be released in far worse shape than when admitted. Having been inside the new facilities, and having spoken to many women inside, these facilities offer women more of an opportunity to heal and their environment is less destructive than Prison for Women. While factors such as accommodation

¹⁸¹ Kim Pate, *Supra* note 172

¹⁸² *Id.*

and programming are greatly improved, it seems to be the relationships with staff that mark the biggest departure from P4W. These relationships appear to be the impetus for change in many women.

The process of change is slow and complex. One inmate who had been incarcerated at the Prison for Women and then transferred to a regional facility noted that “a metamorphosis did not happen on the road from P4W to GVI [Grand Valley Institution for Women]. The inmates brought with them their old attitudes and past hidden fears.”¹⁸⁴ Indeed, it took time for both staff and inmates to adjust to a completely new system and this transition and adjustment phase was not unforeseen. A new position of transition coordinator was established at P4W in the fall of 1994 in order to “implement programs for the FSW [federally sentenced women] to facilitate and support their transition to the community living model of the new facilities...”¹⁸⁵ The transition programming included independent living and problem solving courses. Further a transition steering committee was assembled in the fall of 1995 and was composed of the warden and transition coordinator at P4W, the executive director of CAEFS and the chair of the P4W’s Citizen’s Advisory Committee.¹⁸⁶ In retrospect, the entire transition

¹⁸³ Faith, *Supra* note 69 at 145

¹⁸⁴ Charlotte Ranger, Spring 1998 “One Year In At Grand Valley” The Council of Elizabeth Fry Societies Newsletter – *Opening the Door* at 5

¹⁸⁵ Federally Sentenced Women Program NHQ, *Overviews: Correctional Service of Canada Regional Facilities For Federally Sentenced Women*, at 8

¹⁸⁶ *Ibid.*, at 9

process, especially the transfers, should have proceeded at a much slower pace, especially with respect to the maximum security women.

Conversations with staff and with women at the facilities suggest the new institutions are not just variations of P4W. The large majority feel that the facilities are completely different from anything they have ever experienced: the environment is supportive and staff treat the women with respect. This is not to suggest that there were not staff at P4W who treated women with respect but unlike that institution, the new facilities are founded upon a woman centred, holistic philosophy. This produces a climate where women have the opportunity to heal and are empowered to the extent that is possible within a prison environment. All the staff I met were committed to *Creating Choices*. Not only did they verbalize it, but I saw the philosophy in action in the way staff interacted with the women. These new facilities are no panacea but, they are not the Prison for Women. Diamond does not agree, “now we’ve created multi level facilities out there that replicate everything that Prison for Women did except it’s more modern and it’s regional.”¹⁸⁷ Perhaps what is necessary is an agreement on what type of criteria should be used to assess change but in this case, there are several major elements that distance the regional prisons from the Prison for Women.

¹⁸⁷ Diamond. *Supra* note 80

The Politics of Location

Part of the implementation committee's mandate was to recommend locations for the regional facilities. CSC received over one hundred proposals from towns and cities wanting a regional facility built in their community. Every proposal was rated against 17 criteria which consisted of items such as proximity to the home communities of the majority of the women in the region, good transportation, and well established women's support and counselling services.¹⁸⁸ In the end, the implementation committee recommended Halifax, Montreal, Kitchener and Edmonton. They got half their choices. Truro was chosen instead of Halifax. It is approximately an hour outside of the city, the same distance as Joliette is from Montreal. These two locations were roundly criticized but these were political decisions and ultimately out of CSC's hands. Shaw explained that "the choice of Truro, ignored the explicit criteria set up by *Creating Choices* and from the NIC [national implementation committee] itself. Truro did not have an established network of women's support services, it was far from the home communities of many women in the Atlantic region and it had poor transportation facilities."¹⁸⁹ There is little doubt that if the only criteria was what was best for the women inmates, Halifax and Montreal would have been better locations.

Joliette was the last location to be selected as the government further analyzed whether Maison Tanguay, a provincial prison where many federally

¹⁸⁸ Shaw, *Supra* note 24 at 72

sentenced women were held, would be able to meet the needs of federal women.¹⁹⁰ In the end, the decision was made that Maison Tanguay was not appropriate and the political decision was made to build in Joliette and not in Montreal as originally recommended by the committee. Shaw comments that this decision “went in the face of strenuous lobbying by the local Elizabeth Fry Society and numerous organizations representing women and criminal justice in Quebec, who felt it went against the best interests of women.”¹⁹¹ On the other hand, the Nekaneet reserve in the Cypress hills of southern Saskatchewan was agreed upon by all as an excellent location for the Healing Lodge. It met the Aboriginal specific criteria that will be discussed in the following chapter.

During the time the Task Force was working on their report, a new provincial facility was being built in a Vancouver suburb. The decision was made not to build a regional facility in the Pacific region but to continue Exchange of Service Agreements with the province of British Columbia which provided accommodation and services for federally sentenced women from the Pacific region. Even though the Burnaby Correctional Centre for Women was not built according to *Creating Choices* principles and is not necessarily operated with this vision, the Warden of the facility was included in all the meetings as

¹⁸⁹ *Ibid.*, at 62

¹⁹⁰ Shaw explains that initially the province of Quebec and the local Elizabeth Fry Society argued that separating francophone women from their provincial counterparts would result in a loss of programs and that provincial inmates should also benefit from any changes in women's corrections. *Ibid.*, at 73

¹⁹¹ *Ibid.*, at 62

construction on the new facilities was underway. There are inherent problems with a facility that is not specifically tailored to a federal population and does not entail the same community living model. However, because of its larger size, federal women have access to a range of programming not available at the regional facilities. It is a trade off and will work far better for some women than for others.¹⁹² In some ways Burnaby perpetuates some of the problems that plagued P4W. Women can apply to transfer out of that jail and benefit from the community living model and women centered approach in the other facilities but, they would have to leave their home region and potentially their family and support system. This is not a choice women should have to make.

The Regional Facilities

The new regional facilities consist of: Nova Institution for Women (Nova), a 28 bed facility located in Truro, Nova Scotia; Joliette Institution for Women in Quebec, a 76 bed facility; Grand Valley Institution for Women situated in Kitchener, Ontario accommodating up to 70 inmates. The Okimaw Ohci Healing Lodge situated in Saskatchewan on the Nekaneet reserve outside a small town called Maple Creek with 30 beds; The Edmonton Institution for Women is a 56 bed facility in Edmonton Alberta. In the Pacific region, federally sentenced women may serve their sentences in a provincial jail, the Burnaby

¹⁹² See Faith *Supra* note 69 for more information on the Burnaby Correctional Centre for Women.

Correctional Center for Women (BCCW) which on average has a population of approximately 35 federally sentenced women.

The number of beds at each facility was determined by the population at the time *Creating Choices* was written. Building to the then current (1989) levels was logical given the stability in the numbers of federally sentenced women over several years and the belief that the new facilities would be more successful than P4W at releasing women into the community at the earliest possible time and being able to keep them out of prison, but this has yet to be determined. The federally sentenced women's population has increased significantly in the last ten years.¹⁹³ The creation of newer, women centred, regional prisons may well have played a role in the increase. There is no longer the stigma of sending a woman to the ominous Prison for Women. That penitentiary was well known for its devastating effects and it is likely that judges are far less concerned about sending women to the new modern facilities with their philosophies of healing and support. The Edmonton Prison for Women will soon be expanding to accommodate the increasing numbers of women from that region being sentenced to federal terms. Increasing the number of women incarcerated was a real fear for the Task Force. While the new prisons may be a factor, they are probably not the cause of the increase. Political times have changed, a more conservative law and order climate, especially in the western provinces, has taken over.

A Community Living Model

The objective for the new facilities was for life in the facilities to imitate life in the community to the extent possible. The Correctional Service believes that the “ability to operate a household is a basic prerequisite for successful community living.”¹⁹⁴ The notion of having more responsibility and the ability to make everyday decisions is connected to building a sense of empowerment.¹⁹⁵ One of the major changes from the Prison for Women was that women would now be living in rooms in a house, instead of cells on a range. This is certainly an advancement however, it is not easy for eight or nine women, each with their own personal issues, to live together. One inmate explains that

living with nine other women, I can honestly say leaves one on pins and needles in the beginning. Automatically, there is usually a personality clash with an offender when a house is at capacity. It’s very annoying to live with individuals who refuse to respect one’s privacy or to be considerate towards others in any manner. House meetings are called to try to resolve problems.¹⁹⁶

The major achievement of this model is it responds to years of criticism that the Prison for Women was infantilizing the inmates, who had long been asking for more responsibility over their daily lives. While it turned out that not all women could adapt to this model¹⁹⁷, the majority of the women’s population

¹⁹³ In 1989, when the Task Force was writing their report, the number of federally sentenced women was 203. Currently that number ranges in the 360s.

¹⁹⁴ National Implementation Committee, NHQ, CSC *Regional Facilities for Federally Sentenced Women: Operational Plan*, at 35

¹⁹⁵ *Id.*

¹⁹⁶ Ranger, *Supra* note 184

¹⁹⁷ I will discuss this issue in Chapter five.

now live in a house with many responsibilities including ordering groceries, cooking meals and sharing chores. Despite its benefits in terms of self-responsibility, this focus on domestic chores also raises concerns about women inmates being trained to be “good” women.

The houses at each facility are large, modern and comfortable. The houses generally have a maximum of ten women. On the main floor there is a large, well equipped kitchen, a large dining area, living room, study, laundry facilities and some bedrooms. The second level is all bedrooms. Each house has 2 full bathrooms. Each woman has her own room which resembles an average dormitory room with a bed, desk and dresser. There are a few rooms in each house that can accommodate two women, but these rooms are not used for double bunking except for short term population overloads. The rooms have a lock on the door so inmates can lock their rooms when absent. The inmates cannot lock themselves in their room, nor is staff permitted to lock them in their rooms.¹⁹⁸ Many of the women have decorated their rooms with pictures, posters and personal belongings.

Critics have suggested that “nice looking” prisons are still prisons and may in fact be more problematic as they mask the true destructive nature of incarceration.¹⁹⁹ While still a prison, it is impossible to ignore the drastic improvement in inmates’ environment and the ensuing positive effect upon their

¹⁹⁸ CSC, Operational Plan, *Supra* note 194 at 35

well-being. In discussing the transition from a cell to community living, one woman explained that while it was an adjustment for some, she found it easy, “waking up to bars is really hard, you feel like you are kicked back into reality – you’re in jail. Here you can open the window and feel fresh air.”

Security

Bonnie Diamond explains how the issue of security was handled by the Task Force: “The understanding was that there would be perimeter security as much to keep people out as to keep them in, that it would be inconspicuous and that above all it would not make facilities look like - herein resides the most dangerous women ever.”²⁰⁰ The Task Force believed escape risk was low and that if escapes did occur, the threat to the public was low. Several women did escape from the regional facilities soon after they were transferred. This led to static security measures being introduced at the prisons. This includes the use of such devices as fences, window and door alarms and cameras in strategic areas. Initially there were only perimeter fences (ie. 4 feet) around the institutions but after the escapes, 8-10 foot fences topped with barbed wire went up. The absence of fences was supposed to reflect many things including the close connection the facilities were to have with the community. The first fence went up at Edmonton Institution in 1996, not long after it opened, after several escapes occurred.

¹⁹⁹ Faith, *Supra* note 69

²⁰⁰ Diamond, *Supra* note 80

Those incidents were the impetus behind the Solicitor General's decision to enhance static security measures.

The regional facilities use both static and dynamic security measures, but the idea from the Task Force was that the focus would be on dynamic security so fewer static measures would be necessary. Dynamic security involves staff, who in the performance of their duties "maintain direct contact with the women through such activities as counselling, program delivery, recreation and leisure, and general conversation, staff will be better able to understand the women, predict their behaviour and respond to warning signals to prevent a crisis situation. It will be the primary means of ensuring safety and security."²⁰¹

Dynamic security was not sufficient when the maximum security women were at the regional facilities. Because static security enhancements have been made, it is not clear how successful dynamic security measures would have been with maximum women no longer at the facilities.

Staffing

The staffing model at the women's regional facilities is very different from the Prison for Women. Front line staff are called Primary Workers and this position has replaced the traditional Correctional Officer or guard position. The Primary Worker "is the front line worker upon whom the successful integration of programs and security will be highly dependent. The duties include a role in

case management, program development and delivery and overall interaction with the women”²⁰². They are classified at the same level as a correctional officer but have a different statement of qualifications and job description. The intent is to recruit staff who are sensitive to women’s needs and are committed to the *Creating Choices* philosophy. Unlike traditional correctional officers, Primary Workers take part in case management and while they perform static security duties, the focus of their position is on dynamic security which focuses on interaction with the women. This position has a unique selection process which was developed to respond to the position’s “integrated functions and ability to work in a woman centred environment.”²⁰³ There are four steps involved: initial screening of the candidate’s resume against the statement of qualifications, a written test, a structured interview and a situational scenario. Professional actors are hired for a role play on which candidates’ responses to a situation are judged. From personal observation, this process seems like it has been successful in hiring a new breed of correctional staff to carry out the philosophy of women-centred corrections.

Staff training reflects the new philosophy of the prisons. Staff receive the standard 10 week correctional officer training program with the exception of the weapons module as there are no weapons in the women’s facilities. In 1995, staff at the Prison for Women and the regional facilities started to be trained in Non-

²⁰¹ Overviews, *Supra* note 185

Violent Crisis Intervention. It is a two day course developed by the National Crisis Prevention Institute and among other things explains the “four levels of a crisis and the appropriate staff attitudes to respond to them.”²⁰⁴ However, what is unique about the training provided to staff at the regional facilities is the development of a mandatory two week women centred training course. Some of the modules included in this course are women’s criminality and the links to personal history, self injurious and suicidal behaviour, surviving family violence, same sex relationships, Aboriginal awareness training, responding effectively to lifers and substance abuse. Staff are also trained in cell entry and extraction, the last resort in crisis intervention. There are four women on cell extraction teams and all actions are videotaped by one of the members to ensure that policy as well as the law are being followed.

The new philosophy and training aim to produce non traditional front line staff. While a major achievement, the dynamics between the Primary Worker and the inmate become much more complex with the dual role of support and security. The following comment is a good summary of the opinions of many women I spoke with:

The new Primary Workers were a surprise to each and every one of us. Most of the inmates were taken off guard. Here we have staff members who were more than willing to accommodate us, but this seemed to complicate matters even more. Some of the inmates abused

²⁰² Operational Plan, *Supra* note 194 at 83

²⁰³ Overviews, Workplace Issues *Ibid.*, at 1

²⁰⁴ *Ibid.*, at 5

this privilege to a vast extent and [or] just didn't know how to handle this new concept of prison life.²⁰⁵

In the beginning, there were many adjustments to be made. Inmates were used to front line staff who were guards in uniforms performing purely security functions, and some women had difficulty adjusting to Primary Workers with their focus on sensitivity and support. The divisive and often combative nature of the relationship between inmates and guards is no longer the norm. The new dual role is a challenge. Kelly Hannah Moffat asserts:

It is difficult to envision the development of meaningful, respectful, and supportive relationships when guards continue to perform strip searches, open women's mail, monitor their relations with others within and outside the institution, and at times punish the prisoners for infractions against the institutional order.²⁰⁶

While these are part of a Primary Worker's responsibilities, this is a limited criticism in that it does not get at the nuances of the relationship between inmates and front line staff. It is a relationship that builds on professional trust. The inmates understand that while staff are there to support and assist them, it is a relationship based on professionalism. The relationships inmates have with staff, however positive, will always be characterized by a power imbalance. These will never be the same type of relationships inmates have with their peers or friends and they are not naïve about that. The inmates realize that staff are working

²⁰⁵ Ranger, *Supra* note 184.

²⁰⁶ Kelly Hannah Moffat, *Supra* note 74 at 153

within a policy and legislative framework and that professional boundaries have to be maintained. The role of the Primary Worker is not without challenges but overall it can work, as is demonstrated every day in the regional facilities. Staff at the new facilities have worked hard to effectively balance their support role with their authority and security role. Many incarcerated women I have spoken to have discussed staff as being the factor who provided them with the support they needed to get on a healing path.

Cross Gender Staffing

The position of Primary Worker in the regional facilities is filled by both men and women, with the exception of Edmonton Institution for Women where there is a three year ban on hiring male Primary Workers. The reason for the ban was to have at least one facility with no front line male staff for women inmates who did not want to be in a facility with men in that position. Having men working on the front lines with women inmates has long been an issue. The debate was raised in earnest again in the aftermath of the strip searching incident at the Prison for Women in 1994 by a male Emergency Response Team from Kingston Penitentiary and the CSC's decision to hire male Primary Workers. Even though front line male workers at the Prison for Women were not involved in the strip searching incident, the whole notion of men being in a potential position to view or search women was denounced by many external parties.

Men have been working at Prison for Women for years, but rather as contractors or in management positions, not on the front line. The Correctional Service had made a conscious decision not to hire men for front line work at the Prison for Women. However, in 1989, there was a competition at the Prison for the position of correctional supervisor. The job description limited the competition to women only. Based on this exclusion, a complaint was lodged. In court, the Correctional Service of Canada argued that "being female was a bona fide occupational requirement because the correctional supervisor was expected to patrol living units, possibly conduct a frisk or strip search and have contact with inmates who had been physically or sexually abused by men."²⁰⁷ CSC lost the case on the grounds that searching women or being present when women were searched was not part of the job description requirements. The correctional supervisor was required only to "ensure that such activities were carried out by female correctional officers."²⁰⁸ The court further found that the inmates had already adapted to a male unit manager so they could see no reason why they would not accept a male correctional supervisor."²⁰⁹

Currently, the staff selection process for front line positions is "not based on gender but on the specific duties of the job, professionalism, and on an assessment of sensitivity to women's issues and ability to work in a woman

²⁰⁷ Marla Marino Vachon, "It's about time: The legal context of policy changes for female offenders" (1994) 6 (1) *Forum on Corrections Research* at 3

²⁰⁸ The Honourable Justice Louise Arbour, *Commission of Inquiry into Certain Events at the Prison for Women* (Ottawa: Ministry of the Solicitor General, 1997) at 210

centred environment.”²¹⁰ The main argument in support of men working on the front lines is that they normalize the prison environment by their presence because there will be men in the community to which these women will be returning. The other main argument is that men can provide positive male role models. The merit argument is also put forward; hiring men creates a system of equal opportunity where the candidate with the best qualifications wins the position. CAEFS and LEAF lead the arguments against men working on the front lines mainly on the grounds that so many women have been sexually and/or physically abused by men, hiring men to work in a position that requires direct contact with women in their houses is inappropriate. They argue that the overwhelming majority of inmates have suffered physical and sexual abuse, and consequently having men on the front lines is inappropriate. These organizations have argued that fundamentally the Primary Worker position goes beyond concerns about privacy and that the issue “extends to the nature of the relationship between men and the women who have suffered abuse at the hands of men.”²¹¹ The women at the centre of this debate were consulted and no clear answers emerged.²¹²

The main recommendation made by Madame Justice Arbour in this area was that an independent monitor be hired by the Service for a period of three

²⁰⁹ *Id.*

²¹⁰ Overviews, *Supra* note 185 at 7

²¹¹ Arbour, *Supra* note 202 at 211

²¹² Shaw, *Supra* note 59

years to investigate and report to the Deputy Commissioner for Women on all matters surrounding cross gender staffing. This recommendation was accepted and a consulting firm with broad experience in women's issues was awarded the contract. They will make their final report in the year 2001.

Programming

The lack of gender specific programming was one of the many criticisms leveled at the Prison for Women. This problem was so serious that in 1980, the Canadian Human Rights Commission found that women in P4W were being discriminated against compared to the programs that were available in men's penitentiaries.²¹³ This ruling resulted in some initial improvements but inequities continued. Not only was programming inadequate for women compared to what men received, but what programming was available did not meet women's specific needs. Almost a decade after this ruling, the Task Force identified programming once again as a major problem. Given the critical need for programs to address women's needs to assist and support them in their healing journey, the new facilities were designed to be program driven.

The legal and policy framework for programs is clear. The *Corrections and Conditional Release Act* sets out that correctional programs must respect

²¹³ The CHRC found the CSC guilty of discriminating against federally sentenced women on the basis of sex - that in virtually all program and facility areas, the treatment of federal women was inferior to that of men, Sheelagh Cooper, "The Evolution of the Federal Women's Prison" in *Supra* note 24 at 45

gender, ethnic, cultural, spiritual and linguistic differences among offenders.²¹⁴

Further, one of CSC's corporate objectives is to "develop and implement research based programs that target the specific needs of offenders to promote their successful reintegration into society."²¹⁵ In this vein, after *Creating Choices* was accepted, one of the ensuing projects was the development of a program strategy targeted to women's specific needs. This document includes a description and discussion of core programming for women as well as the women centred principles upon which all programs will be based. Woman centred programs are defined to mean "programs must reflect the social realities of women and respond to the individual needs of each woman."²¹⁶ This focus stems from a woman centred philosophy.

Literature on women inmates is saturated with the link between women's criminality and their life experiences. Given that women generally have different reasons for ending up incarcerated than men do and consequently have different needs, programs have to address women's specificity. Women's needs are most often interrelated. For example, a woman may not be able to deal with her substance abuse problem or her anger management problem that has led to her criminal behaviour until she has dealt with the physical and/or sexual abuse she has endured. Often, women cannot handle dealing with all their issues at once

²¹⁴ *Corrections and Conditional Release Act*, s77

²¹⁵ Operational plan, *Supra* note 194 at 3

²¹⁶ Correctional Service of Canada, *Correctional Program Strategy for Federally Sentenced Women*, 1994 at 3

under current programming. Each woman determines her own path with support and guidance from her case management team. CSC believes that “correctional programming for women should not have discrete and exclusive areas of specialization but should be multi dimensional. A holistic approach within individual programs appears to have positive results.”²¹⁷

The program strategy defines women centred principles that should be in evidence in all programs. These are: a contextual analysis that understands women’s problems within a social context, and programs that reflect the social realities of women. There is not supposed to be a hierarchy in women centred programs because each woman is understood as the expert on her life.

Interactions between the facilitator and participants should be “supportive, challenging and non confrontational; women are encouraged to learn from one another”; and most importantly “women are recognized as active agents rather than passive victims.”²¹⁸ CSC has succeeded in providing a strong program base that includes many creative programs. However, there are still problems including a lack of programs targeted for inmates serving long sentences, as well as a need for parenting and vocational programs.

²¹⁷ CSC, Operational Plan, *Supra* note 187 at 8

²¹⁸ *Id.*

Core programs

Core programs are those which directly target criminogenic factors (those factors identified as playing a role in criminal activity) in an attempt to reduce the likelihood of recidivism. These core programs “are responsive to those needs which research has demonstrated to be linked to offending and, therefore are programs which must be made available in all FSW facilities.”²¹⁹ Core programs are cognitive skills, anger management, parenting and community integration, substance abuse programs, literacy/continuing education programs and survivors of abuse and trauma programs. In addition to core programs, there are many other programs which include Aboriginal and vocational programming, as well as art therapy, canine therapy, conflict resolution, Alcoholics Anonymous, Narcotics Anonymous, addiction recovery and the mother/child program.

In the end, it is the women who are incarcerated in the new facilities who will determine whether this is an approach that will work. One woman had this say:

Grand Valley Institution is a prison built around *Creating Choices* and individual rehabilitation. In the past twelve months since arriving here, I myself have developed in many ways. Getting some independence back was a relief, along with creating my own plans for a future in the free world. Yes I like this new concept for women’s prisons. The living arrangements may get on my nerves some days but I do like planning meals and being able to cook and eat what I want. I like the staff who are there for us on a daily basis. If the bus going east pulled up to GVI

²¹⁹ CSC, *Overviews*, *Supra* note 185

and asked for volunteers to go back to P4W, I do not believe there would be any women rushing out the door.²²⁰

Conclusion

The debate about how close or how far the regional facilities are from the vision of *Creating Choices* will continue. In the meantime, transformations are taking place inside the facilities. There are many issues that have to be dealt with including consistency within and between institutions, strengthening of some programming areas and increasing the role of the communities which includes providing a strong continuum of care in communities after release.²²¹ The tensions continue. The regional facilities are quite different from the Prison for Women but they will end up incarcerating more women. What distinguishes the regional facilities from Prison for Women is not only the community living model and programming but the impact of *Creating Choices* and the commitment of staff to its principles. The end result is a place where women can in fact heal, where women can make changes in their lives if they are prepared to do so. The facilities will not magically change women. This was clear from the events surrounding maximum security women. They will provide a real opportunity for change and healing. There are many anecdotal stories of women whose lives have changed and who credit the new facilities and the staff for the new direction in their lives. It is simply too early to tell if recidivism rates and revocations will

²²⁰ Ranger, *Supra* note 184 at 5

decrease as compared to the Prison for Women and if so, what specifically the rates can be attributed to. There is much work and research to be done.

CHAPTER FOUR: THE OKIMAW OHCI HEALING LODGE: REMEDYING MISTAKES OF THE PAST

Introduction

In launching the Royal Commission on Aboriginal Peoples, George Erasmus, stated that “Aboriginal reality in Canada has become a vicious circle of cause and effect.”²²² If that vicious circle is to become a healing circle, the roots of injustice must be addressed.” In the context of corrections, the Okimaw Ohci Healing Lodge, is an attempt to address historical injustices in the way Aboriginal women were treated in prison.²²³ This facility is the most unique and innovative development in the history of women’s corrections in Canada. This facility is unparalleled for a number of reasons including its status as the first federal penitentiary built specifically for Aboriginal women in Canada. The Healing Lodge stands alone not only in Canada, but worldwide. The Healing Lodge was built as a result of the recommendations made by the Task Force on Federally Sentenced Women, and in response to the unique needs of incarcerated Aboriginal women. I will discuss the problems that Aboriginal women faced inside P4W that led to this new development. The Healing Lodge aims to

²²² Established in August 1991, the Royal Commission on Aboriginal Peoples (RCAP) was tasked with examining a broad range of issues, many of which are complex and deal with long standing matters in the relationship between Aboriginal and non-Aboriginal peoples in Canada –

recognize the dual disadvantage²²⁴ of Aboriginal women's place within the correctional system and attempts to create a setting conducive to healing based on traditional Aboriginal cultures and spirituality

To contextualize the need and importance of the Healing Lodge, I will first discuss some of the broader issues that connect many criminalized Aboriginal women. This will provide a social and historical context to individual lawbreaking.²²⁵ This includes an overview of the effects of colonialism and assimilationist government policies as well as the legacy left by years of residential schools. I will also examine Aboriginal women's status as the most over-represented group in federal penitentiaries and some of the theories that explain this problem. When I visited the Healing Lodge as a student in 1997 I was taken aback by the peaceful surroundings and relaxed atmosphere of the Institution. My visit has given me the opportunity to discuss issues such as its physical description, staffing, Elders, healing and some of the challenges the Healing Lodge faces, relying on personal observation as well as the literature.

news release, *Royal Commission on Aboriginal Peoples*, Minister of Supply and Services Canada, 1996

²²³ The Healing Lodge will denote the Okimaw Ohci Healing Lodge.

²²⁴ The existence and experiences of Aboriginal peoples are often referred to in terms of disadvantage for many reasons, including the conditions of reserve life and the burden of racism and discrimination. I use the term disadvantage carefully, with Patricia Monture's words in mind, "we are only disadvantaged if you are using a White middle class yardstick. I frequently find that the White middle class yardstick is a yardstick of materialism. Disadvantage is a nice, soft, comfortable word to describe dispossession, to describe a situation of force whereby our very existence, our histories, are erased continuously before our eyes. Words like disadvantage conceal racism." "Ka-Nin-Geh-Heh-E-Sa-Nonh-Yah-Gah" (1986) 2 (1) *Canadian Journal of Women and the Law* at 169

I have included a separate chapter on the Healing Lodge because Aboriginal women cannot be incorporated or appended into a general discussion of women who commit crime. Aboriginal women face different life circumstances, as was acknowledged in *Creating Choices*. While it is important to note there are some commonalities between incarcerated Aboriginal and non-Aboriginal women, the specificity of Aboriginal women's lives demands an analysis which is separate from both non-Aboriginal women and Aboriginal men. In *Creating Choices*, Patricia Monture Okanee explains that "adding Aboriginal women to the review of women serving federal sentences amounts to the same mistake as tacking women onto the tails of a system designed by, and for and about, men."²²⁶ Overall, I believe that that for individuals who are ready to embrace the teachings of Elders and pursue their own spiritual path to healing, the Healing Lodge can assist women in transforming their lives in a way that is truly remarkable.

Over-Representation²²⁷

The Criminal Justice System impacts in a particularly ominous fashion with respect to Aboriginal peoples in this country. It has long been understood that in federal penitentiaries, Aboriginal men and women are imprisoned in

²²⁵ It is beyond the scope of this chapter to delve into any of these issues in depth. For comprehensive coverage of the issues, see the *Royal Commission on Aboriginal Peoples*, *Supra* note 222

²²⁶ The Task Force on Federally Sentenced Women, *Supra* note 1 at 15

disproportionately high numbers. However, it is Aboriginal women who are incarcerated at proportionately higher numbers than Aboriginal men. In 1991, almost 25% of women serving time in Kingston's Prison for Women [P4W] were Aboriginal, despite the fact that Aboriginal peoples represent 2-4% of the Canadian population. That figure has not dropped significantly. In February 1998, 20% of the federally sentenced women's population were Aboriginal. The Native Women's Association of Canada [NWAC] has argued that an Aboriginal woman is more likely to go to prison than attend University.²²⁸

Given that Aboriginal women are over-represented in prison, either they commit more crimes than any other sector of Canadian society or Canada's judicial system, from the police to courts engage in systemically racist behavior. Chief Justice A.C. Hamilton and Chief Judge Murray Sinclair, authors of the *Report of the Aboriginal Justice Inquiry of Manitoba* believe that both theories are correct. Their findings indicate that Aboriginal women do commit more crimes and that the system is discriminatory, but they caution "there is [nothing] about Aboriginal people or their culture that predisposes them to criminal behaviour. Instead we believe that the causes of Aboriginal criminal behaviour are rooted in a long history of discrimination and social inequality that has impoverished Aboriginal people and consigned them to the margins of society."²²⁹

²²⁸ E. Adelburg, "Aboriginal Women and Prison Reform" *Supra* note 24 at 85

²²⁹ Commissioners Hamilton and Sinclair, *Report of the Aboriginal Justice Inquiry of Manitoba: The Justice System and Aboriginal People*, (Winnipeg: Queen's Printer, 1991) at 85

Racism

Lana Fox and Fran Sugar are two Aboriginal women who were members of the Task Force working group who had served sentences inside the Prison for Women. They conducted research for the Task Force to provide Aboriginal women with an opportunity to tell their stories.²³⁰ Based on interviews with federally sentenced Aboriginal women on conditional release in the community, they argue that systemic racism and colonialism have contributed significantly to the over representation of Aboriginal women in prison. They write, “the critical difference is racism. We are born to it and spend our lives facing it. Racism lies at the root of our life experiences. The effect is violence, violence against us and in turn our own violence.”²³¹ Racism can take on many forms and does not necessarily involve outright, intentional discrimination. Racism can be indirect and take the shape of ignorance and misunderstanding. Regardless, it is the effect that matters and not the intent. It is critical to note that it is not only non-Aboriginal people who hold and perhaps act upon their racist beliefs. Arguably, the most damaging type of racism is the type that Aboriginal peoples internalize. The Royal Commission on Aboriginal Peoples [RCAP] explains the devastating cycle of self hate, “these [racist] attitudes are not held exclusively by non-Aboriginal people either...members of powerless groups who are subjected to demeaning treatment tend to internalize negative attitudes toward their own

²³⁰ Sugar and Fox, *Supra* note 115 at 469

group. Then they act on those attitudes in ways that confirm the original negative judgment”²³². The effects of self loathing and people lost without an identity are demonstrated by their numbers in prison.

The role of racism in the criminal justice system is also evident in research done by Karen Masson who found “a correlation between the severity of sentence and racial designation with Native women more likely to receive a custodial sentence (41.2%) than Caucasian women (25.7%).”²³³ Proactive remedies are needed. As Patricia Monture expressed in *Creating Choices*²³⁴, “efforts must therefore focus on turning off the tap so aboriginal individuals no longer come into conflict with foreign justice systems, be they child welfare systems, juvenile justice, federal or provincial systems.”²³⁵ Aboriginal justice systems, self government and alternative sentencing practices are all methods that can assist in decreasing the number of Aboriginal peoples who are incarcerated; however at this time, these are methods not extensively available to all Aboriginal peoples. While work is being done in these areas, immediate changes were needed in the way Aboriginal women were serving their sentences because at the Prison for Women, many Aboriginal women were dying.

²³¹ *Ibid.*, at 482

²³² RCAP, *Supra* note 222, Vol. 3, Chapter 3 at 10

²³³ Faith, *Supra* note 69 at 192

²³⁴ The Task Force on Federally Sentenced Women, *Supra* note 1 at 18

²³⁵ Fox and Sugar, *Supra* note 115, at 86

Colonialism and Assimilation

Over-representation in prisons is only one of several lasting effects that can be traced back to colonialism and a subsequent government policy of assimilation.²³⁶ Colonialism shattered the traditional lifestyle of Aboriginal peoples in numerous ways including the removal of their lands. The “social problems evidenced in contemporary communities are directly related to the loss of traditional economic activities.”²³⁷ The loss of land resulted in more and more Aboriginal peoples being forced to depend on government assistance as traditional activities could no longer be pursued. This shift signaled the end of an era of independence, and an aftermath which involved reliance on welfare. LaPrairie explains the effects: “dependence upon welfare payments led to a loss of self esteem, alcohol abuse and greater poverty; many Aboriginal women were forced to leave their home communities and migrate to cities.”²³⁸ This urban migration only served to bring more Aboriginal women into conflict with the law.

Another factor that has contributed in bringing Aboriginal women into prisons is residential schools. These schools are one of the most tangible expressions of an assimilationist government agenda. The Royal Commission on Aboriginal Peoples explains, “of all the steps taken to achieve that goal

²³⁶ For a comprehensive overall discussion on government policies and Aboriginal Women, see Sally Weaver, “First Nations Women and Government Policy, 1970-92: Discrimination and Conflict” in eds. Sandra Burt et al, *Changing Patterns: Women in Canada* (Toronto: McClelland & Stewart, 1993) at 92

²³⁷ Fox and Sugar, *Supra* note 112 at 86

[assimilation], none was more obviously a creature of Canada's paternalism toward Aboriginal peoples, its civilizing strategy and its stern assimilative determination than education."²³⁹ The painful consequences of these schools continue to affect Aboriginal women in a number of ways. Not only were children removed from their homes at young ages, but once in these schools, most Aboriginal children were not allowed to speak their languages. Every effort was made to assimilate them into mainstream Canadian society - "Aboriginal students were taught to devalue everything Aboriginal and value anything Euro-Canadian."²⁴⁰ It was the beginning of a self-hate campaign that was all too successful for many young Aboriginal people.

Another relevant consequence of European influence and assimilationist policies was a shift in traditional roles of Aboriginal men and women. European attitudes of men's superiority soon infiltrated the colonies,²⁴¹ and with the passage of the *Indian Act*, patriarchal laws and attitudes soon disrupted traditional Aboriginal societies. In traditional Aboriginal society, men and women were considered equal and traditional teachings instructed both to respect the other. Many Aboriginal societies were matriarchal, prior to contact with Europeans. Women were honoured for their wisdom and vision.²⁴² The *Indian Act* and

²³⁸ Carol LaPrairie, "Aboriginal Women and Crime in Canada" in eds. E. Adelburg and C. Currie, *Supra* note 24 at 240

²³⁹ RCAP, *Supra* note 222, Vol. 1, Ch 10, at 1

²⁴⁰ Hamilton and Sinclair, *Supra* note 229 at 478

²⁴¹ *Ibid.*, at 476

²⁴² *Ibid.*, at 476

continued European settlement perpetuated the loss of value accredited to Aboriginal women and the loss of their status as equal partners. The "imposition of new values and cultural standards brought about tremendous historical, social and economic changes which, for the most part, were destructive to Aboriginal communities."²⁴³

The loss of male traditional roles and the loss of women's status devastated the traditional Aboriginal family: "Aboriginal people perceive that the family as an institution is under severe stress from internal violence, which is both a symptom of stress and a cause of further distress".²⁴⁴ The effects from the breakdown of the family can be seen in Canada's penitentiaries. Carol LaPrairie makes a direct connection between disruption within the family unit and Aboriginal women's crime. "Although research in this area is still limited, mounting evidence suggests a direct causal relationship between the role strain of Aboriginal men, violence against women and subsequent criminal activity by Aboriginal women."²⁴⁵ As traditional activities become no longer viable and employment opportunities decrease, the dynamics of social interactions and family life change. This creates fertile ground for a cycle of abuse and violence to grow.

²⁴³ *Ibid.*, at 477

²⁴⁴ RCAP, *Supra* note 222, Vol. 3, Chapter 2 at 3

²⁴⁵ *Ibid.*, at 242

Violence In Aboriginal Communities

Violence in many Aboriginal communities is different from that in non-Aboriginal communities according to Fox and Sugar: "Many of us are not the victims of violence in the way in which victims of a mugging experience violence. Instead, and all too often we are the victims of long-term and systematic violence."²⁴⁶ For many Aboriginal groups, holistic healing from Aboriginal providers is deemed to be the most effective method of dealing with the effects of violence. But Aboriginal women who continue to be the victims of such abuse and who are caught in cycles of violence, often have turned to violence themselves: "There is no accidental relationship between our convictions for violent offences and our history as victims, for us, violence has begotten violence: our contained hatred and rage has been concentrated in an explosion that has left us with yet more memories to scar and mark us."²⁴⁷ The violence experienced by many Aboriginal inmates comes in the form of physical and / or sexual abuse.

²⁴⁶ Fox and Sugar, *Supra* note 115 at 470. Also, the Royal Commission on Aboriginal Peoples has dealt with this issue: The frequency of abuse differentiates Aboriginal women inmates from non Aboriginal but that is not the only factor. The Royal Commission on Aboriginal Peoples explained that violence in Aboriginal communities is distinct from non-Aboriginal society for three reasons. It has "invaded whole communities and cannot be considered a problem of a particular couple or an individual household. Second, the failure in family functioning can be traced in many cases to interventions of the state deliberately introduced to disrupt or displace the Aboriginal family. Third, violence within Aboriginal communities is fostered and sustained by a racist social environment that promulgates demeaning stereotypes of Aboriginal women and men and seeks to diminish their value as human beings and their right to be treated with dignity.

Supra note 215

²⁴⁷ Hamilton and Sinclair, *Supra* note 229 at 473

The large majority of incarcerated women have been sexually and/or physically abused, but this number is consistently higher for Aboriginal women in both categories. As Sugar and Fox discovered in their interviews, 69% “described experiences of childhood violence: rape, regular sexual assault, witnessing of murder, watching their mother repeatedly being beaten, beatings in juvenile detention homes at the hands of staff or other children.”²⁴⁸ While these devastating events are certainly not exclusive to the lives of Aboriginal women, it is the frequency, and the astonishingly high numbers of Aboriginal women who come from abusive backgrounds that set this group of women apart. This is not to suggest that all Aboriginal communities are immersed in violence, only that it is important to realize that Aboriginal women face a degree of violence so extreme that it may require different types of solutions for those who are incarcerated.

Violence has led to more violence. The majority of crimes for which Aboriginal women are sentenced involve violence. In fact, in 1989, 89% of the Aboriginal women in Kingston’s Prison for Women were admitted for violent offences, including murder, manslaughter, assault, and robbery.²⁴⁹ A spokesperson for the Native Women’s Association of Canada explained the connection between violent crime and abuse, “today, in this country, Aboriginal women make up 25% of the federal prison system. Their crimes have been

²⁴⁸ *Ibid.*, at 498

violent crimes. I mean murder and violent assault. And they have told us why they have committed these crimes. Many were victims of incest. Many were victims of sexual assault. Many were physically abused as children.”²⁵⁰ Many Aboriginal women who were victims of violence have become victimizers. This transformation is explored by LaPrairie who discovered in research on Aboriginal peoples in the inner city that “the degree of victimization and victimizing are linked directly to the degree of social and economic marginalization and family disruption. Violence occurs not as an isolated problem but within a context conducive to violence.”²⁵¹ The context in which Aboriginal women commit their crimes is crucial to understanding how to respond to them.

Social, economic, political and cultural factors are at the root of much Aboriginal criminality. To only focus on one element, while dismissing the others, would result in an incomplete picture. Attempting to locate the reasons why Aboriginal women commit crimes is problematic because of the role that society plays in these crimes, but trying to understand why Aboriginal women commit crime provides society with the opportunity to respond both proactively and reactively. Further, by understanding individual criminal motivations, correctional officials can react to the problems by delivering effective programs and providing the necessary supports such as counselling. The vast majority of

²⁴⁹ Vic Satzewich and Terry Wotherspoon *First Nations, Race, Class, and Gender Relations*, Scarborough, Nelson Canada 1993 at 197

²⁵⁰ Sharon McIvor, spokesperson Native Women’s Association of Canada, Toronto, Ontario June 26, 1992 in RCAP, *Supra* note 222, Vol3, Ch 2 at 12

women will return to a community, whether on a reserve or in an urban center and the level of available community services will largely determine the success of the woman's ability to reintegrate into society and live crime free. In other words, while the individual woman has a role to play in her reintegration, so does the community.

Prison for Women

The Prison for Women is a devastating place for women to be incarcerated, but few would contest that it is even worse for Aboriginal women. There is much evidence that imprisoned Aboriginal women experience additional and different pains of imprisonment, because of the dislocation from their communities and cultures. At P4W, essential medicines for praying such as sweetgrass were considered contraband. There was no Elder program and no Native Sisterhood. Racism by CSC officials made life excruciating for many Aboriginal women inside P4W. Fox and Sugar explain that not only were their cultures denied but the system actively discriminated against Aboriginal women: "Sexist and racial barriers imposed by administration and security classifications [that] were applied to us because as Native women we were seen as a collective, as a war party that posed a risk to the good order of the institution."²⁵² Programs and services were inadequate for all women but for Aboriginal women, the

²⁵¹ LaPrairie, *Supra* note 24 at 387

²⁵² Sugar and Fox in Adelburg and Currie, *Supra* note 24 at 78

situation was especially dire. What programs were offered were delivered in a culturally inappropriate manner.

The need for Aboriginal peoples to be in supportive roles inside the penal environment is critical. As Sugar and Fox explain, "how can we be healed by those who symbolize the worst experience of our past?"²⁵³ It is not about symbolism but different life histories. It was unlikely that non Aboriginal men or women would have the capacity to truly understand or relate to the issues affecting criminalized Aboriginal women. One incarcerated Aboriginal woman at P4W summed up the problem, "They come from an opposite life experience. The average case management person is Caucasian, married, has one or two children, may have a university degree, is from a middle class background with no comparable experiences to those of a Native woman."²⁵⁴ It is not surprising that most Aboriginal women would be unwilling or uncomfortable in opening themselves emotionally to someone who, inherently, could have no real understanding of their lives.

The consequences of the isolation felt by Aboriginal women, denied their cultures and any staff to relate to were serious. "I entered Prison for Women as a young, poorly educated, Native woman. I will soon be released with similar characteristics but you can add another deficiency. After seven years I am now an ANGRY young, poor, uneducated, Native woman!!!!" [emphasis and punctuation

²⁵³ *Ibid.*, at 83

in original].²⁵⁵ As a result of the multitude of problems at P4W, rates of suicide for Aboriginal women were much higher than for non-aboriginal women.²⁵⁶ One of the women who committed suicide was Pat Bear, a young Aboriginal woman from the Prairies. A friend and fellow inmate explained some of the difficulties Ms. Bear faced being an Aboriginal woman in a non-Aboriginal environment:

It seems to me she became a victim of competing ideologies. One month she would meet with visiting Native Elders and they would encourage her to use traditional healing medicines like smudging with Sweet grass or Sage and going to a Sweat Lodge when this was occasionally possible. The next month Pat would see a white male psychiatrist who would give her his medicine bundle of anti psychotic pills. She found no relief in this cross-over treatment."²⁵⁷

This lack of understanding and indirect racism has life and death consequences for Aboriginal women.

The devastating plight of Aboriginal women at P4W diminished slightly with a slowly awakening cultural awareness by government officials. Aboriginal women have been asserting that the only way that incarcerated Aboriginal women can begin to heal is through a connection with their cultures and Elders. In order to take some steps to support Aboriginal women's need for their spirituality, CSC authorized the construction of a sweatlodge and Aboriginal women in the Prison

²⁵⁴ Jo-Anne Mayhew, *The Journal of Prisoners on Prisons Volume 5*, Number 2, Summer, 1994 at 46

²⁵⁵ *Ibid.*, at 47

²⁵⁶ For a more in-depth discussion of this issue, see Michelle G. Grossman "Two Perspectives on aboriginal female suicides in custody" (1992) July-October *Canadian Journal of Criminology* at 403

²⁵⁷ *The Journal of Prisoners on Prisons Volume 8*, Number 1 and 2, 1997

for Women formed a support group called the Native Sisterhood. This group of incarcerated Aboriginal women practice cultural traditions and provide moral and emotional support for one another. Karlene Faith describes what she calls the irony of the situation, “through self help organizations they have reclaimed their cultural identities within the very environment that has intensified their oppression.”²⁵⁸ The Native Sisterhood can also be conceptualized as a form of resistance to the continued authority of the dominant society and the denial of culturally specific ways of healing. These first steps assisted Aboriginal women in surviving their incarceration but this was not enough. Aboriginal women needed a place to heal. The right environment, even a penal one can promote healing. Ellen Adelburg and Native Women’s Association of Canada highlight this possibility, “although prisons have been problematic in the past, they still have within them the capacity to promote healing instead of rage.”²⁵⁹ While Sugar and Fox emphasize the devastation of life inside a prison, they also see that healing can occur in prison with the appropriate philosophy:

No amount of tinkering with prisons can heal the before-prison lives of the Aboriginal women who live or have lived within their walls. However the treatment of Aboriginal women within prisons can begin to recognize the realities of the lives that Aboriginal women prisoners have led. By understanding this point, we can begin to make changes that will promote healing instead of rage.²⁶⁰

²⁵⁸ Faith, *Supra* note 69 at 193

²⁵⁹ Adelburg and Currie, *Supra* note 24 at 79

²⁶⁰ Sugar and Fox, *Supra* note 115 at 469

The Okimaw Ohci Healing Lodge appears to be proving that Aboriginal women can heal in a prison environment if the right elements are in place.

The Okimaw Ohci Healing Lodge

Okimaw Ohci means "Thunder Hills" in English.²⁶¹ The name for the Healing Lodge was gained during a vision quest, "strength and guidance will be attained from the name and this sacred place."²⁶² Aboriginal women have long required a place where they can heal in a culturally sensitive manner. Accepting the necessity of an Aboriginal prison was the first step in a long and challenging process. The Correctional Service of Canada first had to design and implement a Healing Lodge, with little direction from *Creating Choices*. This report did develop some criteria but there was a lack of detail on how to implement such an innovative facility.

Recognizing the need for Aboriginal expertise, the Correctional Service initially asked the Native Women's Association of Canada to play an advisory role in the process of implementing the Healing Lodge. This request was immediately refused. Sharon McIvor explains, "we told them we wanted to be more than advisors, we wanted Aboriginal women to have control over the

²⁶¹ In 1991, the Planning Circle was established and was met regularly until the Kikawinaw was hired in 1994. In June of that year, the Ground Blessing ceremony was held and three months later construction began and was completed a year later when the grand opening was held. In November of that year, the first group of offenders arrived.

²⁶² CSC Pamphlet on the Okimaw Ohci Healing Lodge, Women Offender Sector, National Headquarters

planning of the Healing Lodge."²⁶³ This type of power sharing agreement was reached and NWAC got the control they were seeking. It is telling that a federal government penitentiary was being planned and built by a committee where there were more Aboriginal than non-Aboriginal members and more non-government than government members. This process was the antithesis of the struggle that was occurring between CSC and community groups over the role they would play in the implementation of the 4 other regional facilities. CSC maintained that community groups were involved with the Healing Lodge because their knowledge and expertise were integral to its development.

The joint committee between Native Women's Association of Canada and the Correctional Service of Canada developed the overall operational plan which determined the design, staffing model, training plan, and program strategy.²⁶⁴ The Planning Committee subsequently changed its name to the Planning Circle. There were nineteen members and the majority of those were Aboriginal representatives from a variety of Aboriginal organizations; Elders and Nekaneet Band members were also involved.²⁶⁵ As part of its mandate, the Planning Circle produced the Healing Lodge Vision and the location / site selection criteria.

The Planning Circle assessed all the submissions that were received and recommended their preferred location to the Solicitor General of Canada who accepted their choice of the Nekaneet reserve in southern Saskatchewan. The

²⁶³ E. Adelburg and NWAC, *Supra* note 24 at 88

criteria focused on "land, water and the availability of a supportive Aboriginal community, including Elders and Medicine people."²⁶⁶ In fact, McIvor explains that "we were really looking for a submission that recognized the value of the women. The Nic-a-neek submission was the only one that articulated a need to help these women. As well, it was one of the few places where we could find unused land, spring water and the opportunity to build a new building which would meet our specifications."²⁶⁷

The choice of Saskatchewan was also logical in the sense that the majority of federally incarcerated Aboriginal women are from that province. Although this location was not ideal for Aboriginal women from other provinces, the facility with its Aboriginal based healing might ease the pain of distance for some women. The legacy of the Planning Circle is that "it demonstrated to the Correctional Service of Canada that Aboriginal initiatives require the full participation from conception to implementation of Aboriginal people."²⁶⁸ This process marked a major shift in the role Aboriginal peoples play in CSC's corporate planning of Aboriginal initiatives.

²⁶⁴ *Id.*

²⁶⁵ *Id.*

²⁶⁶ CSC pamphlet, *Supra* note 61

²⁶⁷ Adelburg and Currie, *Supra* note 24 at 89

²⁶⁸ Norma Green, 'Correctional Service of Canada - The Federally Sentenced Women's Initiative: Okimaw Ohci Healing Lodge' Joann Morton ed., *Complex challenges, collaborative solution: programming for adult and juvenile female offenders* (Baltimore: United Book Press, 1998) at 166

The implementation of the Healing Lodge was generally without problems. Sharon McIvor, Chair of the Planning Circle explained that "we have had absolutely no problem dealing with Corrections. So far the track record is that the Minister has totally agreed with each of our recommendations."²⁶⁹ She attributes this success to being "reasonable in our requests...I think we are a fairly minor project in the overall scheme to close P4W and relocate all the women."²⁷⁰ She underestimated the role of the Healing Lodge. It is the flagship of the regional facilities and generally an overall a success story. It is the only regional facility that is not rigorously criticized by external agents.

Physical Layout

While the Healing Lodge is set within much beauty, there is also much pain carried by the women. But there is a "sense of community that bonds the residents to the Healing Lodge. It is a place where they can walk and talk with individuals who can truly understand what it means to be an Aboriginal woman in a non Aboriginal world."²⁷¹ There are generally between twenty and twenty-five women in the facility at any given time. There is usually a waiting list to go to the Healing Lodge. While the Lodge is based on Aboriginal cultures, non-Aboriginal women may serve their sentences there as well. Unlike the regional facilities,

²⁶⁹ E. Adelburg and NWAC, *Supra* note 24 at 88

²⁷⁰ *Id.*

²⁷¹ Steven Francis and Dale LeClair, *Alternative Dispute Resolution at the Okimaw Ohci Healing Lodge: Creating New Approaches through Institutional Dynamics* (CSC-NHQ, Aboriginal Issues Sector, 1997) at 14

women inmates must apply to be transferred to the Healing Lodge. All applicants must demonstrate a commitment to Aboriginal culture, spirituality and healing in order to be accepted. All cases are analyzed individually and the applicant's behaviour in her present environment is a major factor. After consulting with elders, the final decision rests with the Kikawinaw.²⁷² This one factor creates a completely different dynamic.

The design and layout of the Healing Lodge is very different from the other regional institutions. Critics of the regional facilities often point to the Healing Lodge as an example of how *Creating Choices* can be operationalized. Although other facilities can learn from Aboriginal ways of healing, this cultural element cannot be simply replicated elsewhere. Because women have to apply to get into the Healing Lodge, it will always remain a different type of institution and be incomparable to the others. Women who are there want to heal and if they do not, they are eventually transferred. The staff at the Healing Lodge provide women with support and time to get on the healing path but if they do not show an inclination to do so, it is suggested that another facility may be more appropriate for them at that time. Not all women succeed in staying the first time; once there some women realize they are not ready for this type of environment.

²⁷² The Kikawinaw means "Our Mother" in Cree and refers to the Warden of the facility.

In many respects, the Healing Lodge is a difficult place to serve a sentence. Women who are there must continually work on their issues and face their traumas and take responsibility for their actions. Women must demonstrate a desire to continually work on their personal issues through their spirituality. Much is expected of these women: "accountability and responsibility to community is now placed squarely on the shoulders of the women residents and it is not easily breached."²⁷³ Not all women are ready to handle the responsibility. If the timing is wrong, often they can return at a later date. The Healing Lodge is not going to magically heal every woman who resides there. Not every woman will heal. Rupert Ross concurs, "I have never heard an Aboriginal community say that healing can work with everyone; what I have heard however, is that it is short sighted to offer healing to no one at all and to rely entirely on deterrence and jail instead."²⁷⁴

I was fortunate to be given a tour of the Healing Lodge by the Deputy Warden.²⁷⁵ It is a stunning facility with circular design and scenic view. Shortly after the tour began I realized how unprepared I was for how truly different this facility is. One of the first indications was when I was greeted by an exuberant yellow Labrador retriever aptly named Okie. The Healing Lodge has its own

²⁷³ Francis and LeClair, *Supra* note 271 at 15

²⁷⁴ Rupert Ross, *Returning to the Teachings: Exploring Aboriginal Justice* (Toronto: Penguin Books, 1996) at 14

²⁷⁵ Unlike the Kikawinaw, who is an Aboriginal woman hired from outside the Correctional Service, the Deputy Warden is a non aboriginal male with a long career in the CSC. It was a good combination.

permanent canine resident. The tranquil scenery, the vast land, the beautiful design, the dog and the lack of any perimeter security (no fences) made the Prison for Women seem a million miles away. There is a gate outside the main building where visitors are required to announce themselves. The Deputy Warden explained that this procedure was more for the women's safety than anything else. Apparently after the Lodge opened, curious onlookers arrived at all hours wanting to tour or look at this new facility. Unlike the regional facilities which have fences topped with barbed wire, the fences at the Healing Lodge are to keep neighboring livestock off the property. Because there is no security fence, that is not to say there are no security measures. There are six cameras located on the grounds, including one in the safe lodge (for short term crisis intervention) and one in the recovery room. The doors in the units are secured at 10pm. Despite minimal security features, no woman has ever tried to escape. The Deputy Warden believes that no one has tried to escape, because of their belief in the Elders and their respect for their teachings.

What is most striking upon first view of the Healing Lodge is that it is a circular building amidst very wide open space. The decision to construct the main building in a circle was made by the Planning Circle and was based on "Aboriginal principles of life: beginnings and the rebirth of new beginnings."²⁷⁶ The Spiritual Lodge can only be described as breathtaking. It is in the shape of a

²⁷⁶ CSC pamphlet on the Healing Lodge, Women Offender Sector Resource Centre, CSC-NHQ

tee-pee, very tall with skylights at the top and a large wood stove is centred in the middle. The Spiritual Lodge has been described as the "focal point of spirituality centred learning. It is here that resident offenders come to meet and speak of their joys and sorrows, to share their thoughts and feelings with each other and the staff at the facility. It is here where the healing process begins, out of the roots of sharing and involving each other in their daily lives."²⁷⁷ There is a definite and tangible sense of tranquillity in the Spiritual Lodge.

The inmates' houses resemble rustic cottages, as they are bungalows made out of wood. The look of the houses and the vast space were also carefully thought out elements. The houses were designed to be "visually open to the naturally wooded landscape, reflecting the importance of nature in aboriginal culture and healing. There is also a carefully designed balance between the need for privacy (provided through the two bedroom residential lodges and the larger than usual 160 acre rural site) and the requirement for community interaction (provided through a community kitchen/dining area, communal program spaces and the spiritual teepee)."²⁷⁸ Incarcerated women not only "do time" but they also "do space" - the ability for the women to literally have the room to heal is essential. Unlike the regional facilities where women cook, eat and plan their meals in their houses, the residents of the Healing Lodge eat lunch and dinner communally in the dining area and staff often join in. The idea of communal

²⁷⁷ Dale LeClair and Steven Francis, *Supra* note 271 at 8

dining is to reinforce the strong sense of community among the women. Other aspects of community involvement include women being issued temporary absences for programs or services, monthly round dances and fundraisers are held on site, some sports take place at the Nekaneet community gym, slow pitch teams come to the Healing Lodge, and residents perform volunteer work for the Elderly on Nekaneet reserve.

Each morning, the women go into the Spiritual Lodge to smudge with sweetgrass and sage and have a talking circle. The second day that I was at the Healing Lodge, one of the staff members encouraged me to go to the daily prayer. I wanted to experience as much as possible, so I happily attended. Upon entering the Spiritual Lodge alone, I introduced myself to the Elder and sat by myself waiting for the daily ritual to begin. I began to feel somewhat anxious but could not identify why. It was only after the smudging and during the talking circle that I realized that I was interfering in a process of healing in a very private place of pain. I felt I did not belong. The Elder told stories, and prayed in her own language. Then a stone was passed around the circle and each woman held it while she spoke. I introduced myself and why I was there but as soon as I finished I wished I had said more, explained my presence in more detail. Some women spoke at length and some women simply greeted the room and passed the stone along. When one woman began to speak emotionally and candidly about

²⁷⁸ *Id.*

some of the problems she was having, I began to understand my discomfort. I felt like I was intruding on their pain; an outsider who entered a private refuge. Morning prayer is a sanctuary of understanding and support and I wish I had the foresight not to attend this sacred ceremony. The experience demonstrated to me that I needed to learn more about Aboriginal culture.

Staff

The majority of Healing Lodge staff are Aboriginal including the Warden. The staff selection process used in recruiting Aboriginal staff is progressive. For example, for interested candidates who did not have their high school diplomas, tutors were provided to assist them in achieving this level. Advertisements for staffing positions were placed in Aboriginal papers. However, what was deemed most important were the candidates' attitudes and ability to be a positive influence on the women. Specifically, the Task Force members recommended that the main criteria should be the candidates' "life experience and their ability to act as positive role models for women serving sentences."²⁷⁹

The training of the staff selected to work at the Healing Lodge was intense and unprecedented. This may be one of the reasons why there are so few complaints about staff from inmates at this facility. Forty staff trainees went through intense training with no guarantee of a job at the other end. They all spent a month inside a treatment center where they were treated like any other

client including being locked in and denied phone calls for the first two weeks.

One of the staff who went through the process remembers a tangible sensation of losing her freedom. Following the selection process, there was two months of training followed by a further twelve weeks attending the Correctional Training Program.

Staff came to the Okimaw Ohci Healing Lodge having bonded with each other through the training process and dedicated to what they were about to embark upon. One staff member explained the “real trust between staff and a knowledge that we would be there for each other.” She spoke about how much the staff, the older sisters (correctional officers) and other staff cared about the women there, how they would often go home worrying about them or thinking about them. Now that the facility has been opened for some time, only the standard training takes place. Successful candidates go through the same training as for the other regional facilities.

Staff Perspectives

I had the opportunity to speak with the director of programming. When asked her thoughts on whether the vision of *Creating Choices* could be realized she replied, “this *is* the vision, we have come closer than any others.” However, she was quick to add that it would be unfair to compare the Healing Lodge to the other new facilities. She claimed that it was by virtue of the focus on Aboriginal

²⁷⁹ The Task Force on Federally Sentenced Women, *Supra* note 1 at 146

culture and discovery of self that made the Healing Lodge successful. She cautioned that “we are not miracle workers. The women have to really desire to change.” She concluded by saying that “ I believe the Healing Lodge works, it will never be perfect but it is on the right track.”

In speaking with the Deputy Warden, I was most interested in how he experienced and adjusted to this new philosophy after spending years in a traditional male penitentiary. He spoke about having to relax his approach to security as being one of his major adjustments but one that he felt he had made. He felt he could make a difference in something a lot of people didn't believe in. The women inmates have to believe in it, or they cannot remain at the Healing Lodge. He explained that management is patient but the women must address some problems so that staff see some changes or there is no point in them occupying a space because there are women waiting to get into the Healing Lodge.

I asked the Deputy Warden what he thought worked best about the Healing Lodge, and he spoke of Aboriginally based programs. He noted that there were many women who had become exposed to their culture and spirituality in this way and he had witnessed a lot of progress in them. He explained that these women were not slashing or running away. He felt the resolution circles and the whole Elder program was working well. In terms of areas that needed improvement, he identified program space as a major issue and explained that he

would like to have more programs that taught the residents marketable job skills. He also wanted to get the women involved in computer training. Overall, he was a firm believer in the vision of *Creating Choices* and was moved by the positive changes he saw occurring in many of the women who did their time at the Healing Lodge.

It is easy to get caught up in the aura of the Healing Lodge and to perhaps even consider it to be a panacea for Aboriginal women. There is no doubt that the Healing Lodge is an innovative, radically different facility. Nonetheless, the Healing Lodge is not a cure-all and has its share of difficulties. One of the biggest problems is making the transition from the Healing Lodge into the community. First, the Healing Lodge is a beautiful, peaceful place where the support is constant and all needs are met. This will not be the case in the community. In fact, "rarely do urban support services offer traditional spiritual practices, healing medicines or women's teachings that reflect Aboriginal values. Access to Elders is limited, if available at all."²⁸⁰ Women who have been released from the Healing Lodge sometimes find life in the community more difficult than at the Healing Lodge. There is simply not enough resources or support for these women once they get back into their communities.

²⁸⁰ RCAP. *Supra* note 222, Vol. 14, Ch 7 at 5

Healing

The essential ingredient to healing at the Lodge is the role played by the Elders; they can be described as “teachers and the keepers of a nation’s language, culture, tradition and laws; they are the trusted repositories of learning on history, medicine and spiritual matters. Their roles include making decisions on certain important matters, providing advice, vision and leadership, and resolving disputes within the community.”²⁸¹ The Elders at the Healing Lodge perform all the functions. There is an Elder at the Healing Lodge twenty four hours a day, seven days a week. Initially there were a variety of Elders on the premises, but it was soon evident that there was a problem because women would start to trust and connect with an Elder and they would leave. The solution has been to hire part time Elders who take turns being on site two weeks per month. There are also visiting Elders from many different Aboriginal communities who regularly attend the Healing Lodge. Different Elders may focus on different teachings but all “Elders teach that individuals, inside and outside of prison must make a personal commitment to heal themselves through teachings and spiritual cleansing. Elders promote a holistic approach to healing, which means healing must begin with the inner self; the mind, body, emotions and spirit.”²⁸²

²⁸¹ RCAP, *Supra* note 222, Vol. 2 Ch 3 at 3

²⁸² Francis and LeClair, *Supra* note 271 at 9

Likely because of the Elders' constant presence and teachings, there has been very little conflict at the Healing Lodge. When an issue arises, it is the Elders and some staff members who deal with the problems, usually through a circle.

I had the opportunity to talk with the Elder who was on site. She is one of the regular Elders, who along with her husband (who is also an Elder), live at the Lodge for periods at a time. I presented her with a package of tobacco as a sign of respect. She told me many fascinating stories about the land, old Chiefs and her family. I asked her about the teachings that she gives the women who were there. She spoke of trying to pass on the traditional teachings. She and her husband provide support and spiritual guidance as well as counselling, organizing sweats, accompanying residents on fasts and conducting morning prayers. She does not believe in divorce and accordingly urges women to choose their partner slowly. She advised looking to prospective mate's parents to see what they were like because she believes that patterns repeat themselves. The philosophy appears to work well for her: she and her husband have been married forty-two years and have three children.

She spoke about how the "girls" would share their dreams and in return she would share her interpretation of what the dreams meant. She spoke about teaching the "girls" to respect themselves. On the subject of religion she explained that other religions cannot be brought onto the reserve but that the "girls" could go into town to pursue religion. She spoke fondly of the "girls" she

calls her grand-daughters and how hard it was when they got hurt, but that she was always on their side. Her philosophy is that “you must put your past behind you and go to the future, it’s the only way we can heal the girls...they have to feel like a brand new person when they get out.” Traditional teachings also include having a good heart, telling friends only good things, if there are bad things then you must go pray and get rid of it or you will cause pain in someone else or yourself. She teaches honesty and respect. She bans swearing. She expressed the belief that the women who ended up in prison generally did not have good home lives.

Healing is a painful journey and this is what makes the Healing Lodge a hard place to do time. As Ross explains, “some teaching is indeed painful, and some healing is much more painful than simply hiding from the truth in a jail cell.”²⁸³ There is no place to hide at the Healing Lodge and conflicts arise but the support system is strong. The Healing Lodge focuses its efforts on the three main factors that have led the majority of the women to a point in their lives where they are serving federal time: survival of physical and sexual abuse, freedom from substance abuse and a reconnection with Aboriginal culture in its broadest sense.²⁸⁴ The Elders are the foundation of the entire healing process.

²⁸³ Ross, *Supra* note 274 at 14

²⁸⁴ CSC pamphlet, *Supra* note 276

Conclusion

The Healing Lodge can provide Aboriginal women with the tools to connect with their spirituality and begin their healing journey. What it cannot do is change the context of women's criminal actions. Aboriginal women will be released from the Healing Lodge and return to communities where cycles of abuse persist, or to urban centres where they are likely to face the same barriers as prior to their incarceration. The woman may be able to heal but she must return to a society that remains unchanged. However, by its very existence, the Healing Lodge is attempting to remedy correctional mistakes of the past. Everything about the Healing Lodge is different from traditional prisons and different from anything I imagined. I had the same issues with respect to visiting the Healing Lodge to do research as I do about writing this chapter. White skin privilege implicitly limits what I can do and raises questions about what I should be doing. Yet, the Healing Lodge needs to be discussed. Supporting the development of this unique, healing based facility, planned by Aboriginal leaders and community members, using Aboriginal philosophies and traditions is a major milestone for the CSC. Hopefully, the path that has now been set for Aboriginal peoples to have more control in the developments within the Service that affect them. This is a facility that can heal some Aboriginal women in a way it is unlikely to happen anywhere else. This facility "may serve as an example in Canada and the rest of the world of the possibilities when creativity is allowed to triumph over

colonial and patriarchal traditions as represented by the Prison for Women."²⁸⁵

The Healing Lodge can heal the lives of some women who would unlikely be able to heal anywhere else. It also offers an opportunity for women who have failed throughout the system another chance at regaining their lives if they are willing to make that commitment.

²⁸⁵ *Ibid.*, at 91

CHAPTER FIVE: MAXIMUM SECURITY WOMEN: CHALLENGES AND INITIATIVES

Introduction

The most flawed planning assumption in *Creating Choices* was a belief that one generalized healing model that would be the foundation for the new regional prisons, could address the needs of all federally sentenced women. The ideology in *Creating Choices* was assumed to apply to federally sentenced women as a whole but this has not been successful in meeting all women's needs. Based on limited research, the Task Force did not recognize the intensity of needs within the maximum security population. The Task Force also did not recognize the heterogeneous nature of this population. The belief at that time was that the poor institutional behaviour exhibited by women classified as maximum security was both specific to, and as a result of, their incarceration inside the destructive environment of P4W. Powerful personal stories of pain and disempowerment were attributed to the inadequacies of the Prison for Women. Task Force members believed that maximum security women's behaviour would drastically improve in the rehabilitative environment of a healing based, women centred prison system. This did not occur. These women's behaviour could not be "corrected" in the new facilities. This fact calls into question the effectiveness of such a model and / or the ability of some women to heal. I continue to believe that all women can heal given the right support and time, but I am not sure just

how a correctional system can most effectively assist some women who have been so severely damaged that they present a high risk to themselves and to others. The move to a healing model is progress but women classified as maximum security present the starkest dilemma with respect to this model.

Before I started this thesis, I believed that the removal of maximum security women from the regional facilities was a poor decision and that CSC must be somehow to blame for whatever problems had occurred. Since I have worked for CSC, I have realized the situation is much more complicated than I had originally imagined. I think that initially, the main problem was that neither the Task Force, nor CSC understood the population they were dealing with because everyone's focus was on the destructive nature of P4W. This obscured deeper problems. Many women had severe personal problems before the nature of the environment inside the Prison for Women compounded the situation. The question is what to do with this group of women so that their needs are balanced with the needs of other inmates and the rest of society.

In this chapter, I will examine some issues surrounding maximum security women, beginning with the question of who these women are. I will discuss the risk / needs based system CSC uses to classify inmates as well as the criticisms that are leveled at this system. I will also discuss the development of a new reclassification tool specifically for federally sentenced women, women who act with violence, and the long term strategy for maximum security women.

Background

As discussed in earlier chapters, all federally sentenced women were to be transferred to the new regional facilities from the Prison for Women regardless of security classification.²⁸⁶ However, several incidents including escapes, murder and a rash of self mutilations in the new facilities, led the Commissioner of Corrections to order the removal of women classified as maximum security. The majority of the incidents involved maximum security women but in some cases, they also involved medium security women. All maximum security women were transferred to discrete units inside one of four men's penitentiaries or back to the Prison for Women, depending on the location of their home region.²⁸⁷ The temporary placement of women inside men's institutions has been severely criticized. In the past two years, the Correctional Service of Canada has developed a long term strategy for these women and an announcement on the specifics of that plan will be delivered by the Solicitor General in the Summer of 1999. One element of the strategy has been made public: women will no longer be housed in co-located units inside men's penitentiaries.

²⁸⁶ The timeline of the transfers was dependent on which regional facility the women were going to as the facilities did not open all at once. They were all open by January 1997.

²⁸⁷ Saskatchewan Penitentiary, Regional Psychiatric Centre (Prairies) and Springhill Institution (Nova Scotia), Regional Reception Centre (Quebec)

Who Are Women Classified as Maximum Security?

An inmate will be classified as maximum security if she demonstrates a “high probability of escape and a high risk to the safety of the public in the event of escape or requiring a high degree of supervision and control within the penitentiary” [emphasis mine]²⁸⁸. The proportion of maximum security women shifts but ranges between approximately 8% and 15%, of the total federally sentenced women’s population. The actual numbers have declined in the last two years, from high 30s in 1997 to 27 as of March 1999.²⁸⁹ With respect to their specific characteristics, two thirds of these women are young, between the ages of 20-34 and the large majority are single. In comparison to the general population, maximum security women are serving more sentences for violent offences. As of March 1999, 74% (n=27), were serving sentences for a Schedule 1 offence²⁹⁰ compared with less than half of the women in the general population. Interestingly, very few (4%) maximum security women were serving drug related sentences compared with almost 20% in the general population. It appears that maximum security women are also serving slightly longer sentences; 41% are

²⁸⁸ Consequently, an inmate will be classified as medium security when the inmate presents a low to moderate probability of escape and a moderate risk to the safety of the public in the event of escape or requiring a moderate degree of supervision and control within the penitentiary and minimum when the inmate presents a low probability of escape and a low risk to the safety of the public in the event of escape and requiring a low degree of supervision and control within the penitentiary. - *Corrections and Conditional Release Act*, s30

²⁸⁹ Profile of Maximum Security Women Offenders, Women Offender Sector, National Headquarters, Correctional Service of Canada, March 1999

²⁹⁰ Simply defined, Schedule 1 offences are those offences that are classified as violence against the person (ie. robbery, manslaughter); Schedule 2 offences are those involving drugs

serving a sentence of less than 6 years while 67% of the general population fall into this category. Also, more maximum security women had served a prior federal sentence.

The number of Aboriginal women classified as maximum security has been a major problem as they represented half of the maximum security population a year ago²⁹¹ The numbers have been declining recently. In September of 1997, there were 15 Aboriginal women classified as maximum security and this represented 41% of the maximum security population. In February of 1998, that number rose to 17 (50%). Since that time there has been a significant decline in the total number of maximum security women and the number of whom are Aboriginal. In March 1999, there were 6 Aboriginal women classified as maximum security, representing 22% of that population.²⁹² The reasons for this decline are not clear. The decline is a positive step but without being able to pinpoint the reasons for it, it is difficult to ensure that the numbers do not increase again to a disproportionate level.

When maximum security women were transferred out of the regional facilities, the Prison for Women went back to the basics with the group of women who returned to that institution, to try and gain a better understanding of this

(trafficking, possession) and non-Schedule offences are those which are the least serious (ie. fraud).

²⁹¹ See Maximum Security Women's Profile, Appendix H.

²⁹² This data is taken from the Offender Management System at CSC and is a document produced by the Women Offender Sector, National Headquarters, Correctional Service of Canada

population. Staff re-examined every woman's intake assessment and a multi disciplinary team (ie. Behaviour Science Technicians, psychiatric nurses, correctional officers) also did a social history on each woman, beyond what was in the original assessment.²⁹³ The results are staggering: 33% had serious mental health disorders, 27% personality disorders, 47% had a history of suicide attempts, 40% engaged in self injurious behaviour, 33% reported depressions or mood disturbances, 87% had substance abuse issues, 20% had eating disorders, 7% had borderline intellectual functioning, 53% had a history of sexual abuse, 100% had inadequate coping and problem solving skills, 73% had employment problems, 73% had marital family problems, 87% had personal and emotional orientation problems.²⁹⁴ At a minimum, these results diffuse the notion that federally sentenced women are a homogenous group.²⁹⁵

Classification

..... The process of classifying inmates is the foundation of the entire correctional system and is required by s.30 of the *Corrections and Conditional Release Act* (CCRA). Classification is a management tool used to maintain the security of the population as well as in meeting individual inmate's needs. The CCRA obligates the CSC to assign every individual to the lowest possible security level so that

²⁹³ Therese Leblanc, Warden at the Prison for Women, speaker at the National Stakeholders Meeting, Montreal Quebec, April 21, 1998

²⁹⁴ *Ibid.*

²⁹⁵ To compare these statistics with women inmates classified as minimum or medium, see Appendix F

excess restrictions are not imposed. The overall security classification assigned to an inmate is first assigned when the inmate enters the federal system. Inmates are classified on a risk / needs basis. This means that a security level is assigned based on a comprehensive assessment of the inmate's risks and a correctional plan with the inmate's goal in it is developed using a thorough assessment of the inmate's needs.²⁹⁶ An inmate's needs are examined using fluid and dynamic factors such as employment, education and personal / emotional orientation. The results of the risk assessment determine the security level (minimum, medium or maximum security) while the results of the needs assessment determines the areas in which women need programming. The classification process is so important because the level that a woman is assigned will determine where she will be placed. Her level will have a major impact on her entire sentence, including temporary absence applications and parole. Should she be classified maximum security, she will not be able to benefit from the regional facilities and be incarcerated in men's penitentiaries. It is likely this group of women who are most in need of healing and they are the ones who are negatively affected because the healing model at the regional facilities does not meet their needs. Criminogenic needs are elements that play a role in women's criminal activity, and

²⁹⁶ This assessment is formally called the Offender Intake Assessment and is comprised of a Criminal Risk Assessment and a Case Needs Identification Analysis. There is also another tool called the Custody Rating Scale that when completed assigns each inmate a score and there is a corresponding security classification.

when addressed, should result in a reduction of criminal behaviour.²⁹⁷ Not everyone accepts that there are such things as criminogenic needs, but CSC views them as a subset of risks. Need areas that are determined to be criminogenic are not supposed to impact on the security level. Whether this happens in practice is another question. Understanding needs as part of risk raises questions about what constitutes risk. In many ways, risk is what society deems to be unacceptable and what will not be tolerated in the community. There is a moral element to the concept. Risk is derived from a combination of research and opinion. In the end, risk in relation to federally sentenced women is what legislation and policy determine it to be. It is assessed as a combination of static factors. Theoretically, once criminogenic needs have been addressed, the risk of committing crimes will be reduced. Needs will be identified and then addressed through treatment and/or programming.

The problem with a needs analysis is often determining which needs are criminogenic and which are not. Few would argue that a woman with poor anger control, that results in violent actions is not a criminogenic need, but other areas are less clear. A lack of education, on the face of it, can be construed as a need, but it should only be viewed as criminogenic if it plays a role in her criminal activity. As James Bonta et al, note, “most offender needs, however, fall in the shadows

²⁹⁷ J Bonta et al, “Predictors of Recidivism Among Incarcerated Female Offenders” (1995) 75-3 *The Prison Journal* at 283

where we do not know whether or not they are criminogenic.”²⁹⁸ Further research should be conducted into how and when needs are determined to be criminogenic so the concern of miscategorizing needs is diminished.

.... One of the basic concerns with any classification system is the difficulty in predicting human behaviour and the skepticism about the “accuracy, validity and reliability of the categories and tools used to assess and predict risk...”²⁹⁹ There is no tool that can accurately predict what an inmate will do upon release. It is important however, to attempt to link certain risk factors with the likelihood the inmate will reoffend once in the community. Knowledge of predictors related to recidivism is important because in practical terms part of the Correctional Service’s mandate to manage risk and protect the public. It is interesting to think of the impact if CSC’s mandate prioritized healing. While CSC aims to protect society, it tries to do so by assisting inmates to reintegrate successfully back into society.

As CSC’s primary focus is on public safety, they utilize measures to assist in the determination of the likelihood that some inmates will reoffend while others will not. In one study, researchers determined that the following factors were statistically related to recidivism: age, criminal history, women relying on illegal sources of income prior to arrest and physical abuse as an adult.³⁰⁰ The factors

²⁹⁸ *Id.*

²⁹⁹ *Ibid.*, at 80

³⁰⁰ Bonta, *Supra* note 295 at 288, 289 - The factors in these lists are only example and are not exhaustive.

that were not predictive of recidivism in federally sentenced women are equally important: admitting offence, women released after serving life sentences and those women who were released on full parole. There were a number of factors that are predictive for men that are not for women: history of juvenile delinquency, commission of an offence with a weapon, and offence with a partner.³⁰¹ If there were no recidivism measures, there would be little information on which to base release decisions. It would be guesswork as to which individuals are good release risks and this would not support CSC's mission to contribute to public safety. The issue is not whether there are measures, but what those measures are and how the factors that are determined to be predictive of risk are determined.

The assessment process is based on an actuarial tool. There is some room for comments and subjective opinion to play a role but the aim of this tool is to be as objective as possible in assigning a security level. That is to say, its aim is to assign security levels based on research and not bias through personal opinion. This assumes that the research will not itself be biased but research can be biased in systemic ways and this fact can often be overlooked. The classification tool does not have the capacity for complete objectivity. No tool can ever completely remove the biases inherent in different peoples' approaches to of risk, whether that be in calculating the questions to be asked in the first place or how to

³⁰¹ *Id.*

interpret the answers. This is why the override system can be important by leaving room for case management officers to counter balance any perceived inadequacies in the process.

However, there are concerns about this type of discretion. Kelley Hannah Moffat argues that “the use of overrides poses a serious threat to objective classification systems and signals an unwillingness of staff to fully embrace actuarial systems.”³⁰² While it seems that CSC is committed to actuarial tools, there is no one scale that can take every single possibility into account. It is important to have some flexibility within these tools but equally important that any subjective decision by prison staff in this process be closely monitored. While I think it is important to have some room for discretion, this is also cause for concern because it creates the potential for personal bias, conscious or not, to invade the process and negatively impact inmates. For example, subjective decision making may cause problems for Aboriginal women whose cultures may not always be understood by non Aboriginal staff. However, to completely remove the human being who is interacting with the inmate from the equation would be an error. There are some safeguards that attempt to decrease the potential for bias. In the regional facilities, staff awareness and sensitivity to a variety of women’s issues are prerequisites to being hired. Once hired, staff go through women centred training. In the end, although there is the potential for

³⁰² Hannah Moffat, *Supra* note 74 at 221

problems, personal judgment and awareness can be useful components of the classification system. It is important to balance the two approaches by closely monitoring the power to override and continuing to conduct research in this area.

One of the main criticisms of this classification system is that CSC blurs the line between risk and needs. Hannah Moffat suggests that “it seems that where there is an unsatisfied need, there is a potential risk factor. In some cases, these two categories are undistinguishable.”³⁰³ She argues that the “interpretation of needs as *criminogenic* neatly locates them within a realm of correctional managerialism and justifies normative interventions aimed at reducing the effect of criminogenic needs/risks.” [emphasis in original] The problem with such a meld is explained by Hannah Moffat:

the danger here is that as hybrid risk / need factors, characteristics like self injury, history of abuse and incidences of mental health problems can be used by correctional officials to justify various interventions, increase security and to hold the offender accountable for her actions and life circumstances.”³⁰⁴

The fear is that CSC is turning women’s needs into risk factors and then classifying these women at high levels. During the intake and assessment process, needs are not supposed to impact on the determination of security level. Generally criminogenic needs are identified in order to set out a plan to meet these needs and decrease the likelihood that woman will recidivate upon release. Criminogenic needs “reflect risk factors of the offender that are changeable and

³⁰³ *Ibid.*, at 225

when modified, reflect changes in the likelihood of recidivism.”³⁰⁵ There are concerns about the underlying assumption that if criminogenic needs were addressed they would have a significant impact on women’s release success. I think this has the potential to be a serious problem and CSC has to be very careful in what needs it labels as criminogenic so that women with multiple needs do not end up being placed at higher security levels. There is some difficulty because women who are classified as maximum security have been assessed as having a high level of risk. Often, but not always, these women have a high level of needs which leads to the discussions about women with the highest number of needs being classified at the highest level. In fact, it should be that the women with the highest level of risk are classified maximum security. In practice, it is possible that these two factors may blur.

CAEFS argues that this is precisely what happens: women who have the most needs and who are the most disadvantaged are more likely to be classified maximum security. “Many of the criteria target the disadvantage experienced by women as an avenue to increase her classification...the most disadvantaged are most likely to be subjected to the most restrictive conditions.”³⁰⁶ This criticism suggests that during the intake process, women who demonstrate the most needs are automatically assigned the highest classification. This is a function of criminogenic needs being inextricably tied to risk. But, needs are not to be taken

³⁰⁴ Hannah Moffat, *Supra* note 74 at 86

into account during the assignment of a security level - only an assessment of risk factors. However, it may be that women who are the most disadvantaged, those who grew up in the worst poverty and / or were the most victimized, have a greater tendency to be violent as a result of their traumatic life history.

With respect to the debate about needs being turned into risk, researcher Kelley Blanchette explains that it is at the reclassification stage where needs play a direct role, "an inmate's needs could directly impact on classification - if the inmate is successful in addressing her needs this would have a positive influence on her institutional adjustment rating. This could also work conversely."³⁰⁷ For example, if a woman is committing robberies to sustain her substance abuse problem, her abuse problem is a need and not a risk. However, if she is not prepared to take substance abuse programming and work on her addiction, this will impact her security rating at the time of reclassification. Thus, if her criminogenic factors are not addressed then the likelihood of a successful reintegration is greatly reduced.

The dilemma that surfaces is that the most disadvantaged women tend to be the ones most severely punished because they pose the greatest risk because they are the most damaged / disadvantaged. This is an unfortunate aspect of this classification system. Women who are the most disadvantaged are the women who most need a healing model, but their perceived level of risk and their

³⁰⁵ *Ibid.*, at 85

behaviour inside prison have denied them the opportunity to be part of the *Creating Choices* vision. The new long term strategy will hopefully address this problem.

CAEFS also criticizes CSC's classification system as resulting in an over-classification of women inmates, especially Aboriginal women. This is a complex issue because women and men are being assigned their initial security level using the same assessment tool. The tool was originally developed for men but it has been validated on women and Aboriginal inmates, but not Aboriginal women specifically.³⁰⁸ This is a gap that needs to be remedied in order to reflect this population's experiences. This is especially important since Aboriginal women are over represented in the general inmate population and often in the maximum security population. There has been a decline in the number of Aboriginal women classified as maximum security women in recent months.³⁰⁹

The classification process, based on an assessment of an inmate's risk and needs that assigns a security level, as described above, can always be overridden. That is to say, the case management officer in the institution who is conducting

³⁰⁶ CAEFS position paper on maximum security women

³⁰⁷ CSC Fact Sheet on Classification

³⁰⁸ Simply defined, to validate the Custody Rating Scale on women inmates, researchers took a sample of women and examined the security level the CRS assigned these women (ie. minimum, medium or maximum) and then determined a number of outcome criteria relevant for security classification. Such criteria would be such that the expectation is that the women with higher security levels would have the most difficulty (ie. parole). Then researchers would look at the score the scale gave them to determine if that was consistent with the outcome measures and if it is, then the tool is validated. The determination of outcome criteria and which women are part of the test group are critical. In this case, there were not enough Aboriginal women for the tool to be validated for this group.

the assessment, may feel that the score that the inmate receives from the assessment and the ensuing security level is not appropriate. Overrides can be completed for a number of reasons. With respect to women, some of those reasons involve gaps in the assessment tool. It does not have the capability to take into account some potentially relevant factors such as “inmate protection, geographic location, medical conditions and deportation status.”³¹⁰ In the end, assigning a security classification is guided by legislation as well as internal policy but there is a capacity for human subjectivity.

Researchers at CSC embarked on an evaluation to ensure that the classification system was separating women into the three security levels that were legitimately reflective of their risks and needs.³¹¹ The research was conducted in response to criticism from external stakeholders about the over classification of women inmates. The project examined federally sentenced women’s risk and needs to determine whether there were significant differences in the three security levels. The research compared 212 federally sentenced women³¹², separated by security level, on the basis of their perceived risks, and needs as well as the possibility of suicide. The research demonstrated that maximum security women present different and higher needs and risks than their medium or minimum security counterparts. As Blanchette notes, women with a

³⁰⁹ Profile of Maximum Security Women Offenders, CSC, See Appendix H

³¹⁰ CSC, Research Department, Security Classification Information Sheet

³¹¹ I am aware that I am assuming that there is such a thing as risks and needs and that they can be researched in such a way that is “knowable”.

“maximum security designation were higher risk, more needy, and evidence greater suicide potential”.³¹³ That is to say, women who were maximum security were designated that level because their risk required a higher level of supervision. Some women inmates are classified as maximum security because they require higher levels of supervision and restrictions as a result of their institutional behaviour. It seems that a number of women are not initially classified maximum security but are reclassified to that level because of their behaviours and attitudes at the regional facilities. The research found that the system was working and the difference between the women in different security levels was valid. This may be so, but one must remain aware of the fact that the research is done by CSC and the tools are devised by CSC employees. An independent assessment may have different results because those researchers would not have a stake in the results.

Because CSC research is often perceived as a means to support its own policies, it has been severely critiqued for supporting its own initiatives and policies. For example, in its 1996 Annual Report, CAEFS argued that “CSC is distributing its own self aggrandizing publications and opinions as “research” and “documentation” of its supposed success...telling the world all about the wonderful things it is apparently doing. Obviously back here on the farm, the

³¹² 34% minimum, 49% medium and 17% maximum

³¹³ Kelley Blanchette, Risk and Need Among Federally Sentenced Female Offenders: A Comparison of Minimum, Medium and Maximum Security Inmates, Research Department, CSC-NHQ 1997, R-58 at 22

reality is vastly different.”³¹⁴ I would suggest that CSC research cannot be automatically dismissed. However, when CSC research supports CSC policies it is understandable that critics would question its validity. This is also a potential limit of CSC research. Researchers in general want to support their hypotheses, so it is possible, even unconsciously for data to be manipulated and presented in a self serving way. One possible method of dealing with this issue would be to contract with criminologists outside the Correctional Service to engage in research and studies, working with and without CSC researchers. There are avenues to follow should there be an interest in seeking them out.

Reclassification

The purpose of the reclassification process is to ensure that each inmate is classified appropriately and reviews are completed yearly, if not more often. There are three factors that are examined during the classification review: institutional adjustment (incidents inside, disciplinary convictions, continuation of criminal activities, behaviour and program participation), escape risk (escape, attempted escape, sentence status, unusual concerns³¹⁵ having the potential to increase an inmate's escape risk) and public safety (violent incidents, program participation, mental illness or disorder, other public safety concerns).³¹⁶ These

³¹⁴ CAEFS 1996 Annual Report at 23

³¹⁵ One example could be a woman in the middle of a custody fight, prison officials may view this as a potential risk factor for her to try and escape. It does not have to be a custody fight but any problems regarding her children may be interpreted as a potential risk factor for escape.

³¹⁶ Blanchette, *Supra* note 312 at 15

are criteria that have been established as having some predictive ability. The criteria involve a combination of needs (ie. mental illness and program participation) and risks (escape risk and violent incidents) Thus the same issue of collapsing needs and risks arises with respect to reclassification as discussed above. As with the initial classification process, federally sentenced women have been classified using the same tool as men. However, for reclassification purposes, this will soon change.

Researchers at CSC are developing a new reclassification tool to be used solely for women inmates.³¹⁷ The tool will attempt to create a more standardized and more objective reclassification method that relies upon variables that have been demonstrated to be valid for women. This process is underway now because the reclassification tool was recently modified. While this newer tool had been validated on women, the decision was made to create a reclassification tool from scratch solely for women inmates. The impetus behind this decision was criticism about women being assessed using the same tools as men. A measure created specifically for women would have the ability to more fully take the context of incarcerated women's lives into account. It is important to note that the reclassification tool will not deal with what critics perceive to be some of the fundamental problems with the classification process. The initial security level

³¹⁷ Women inmates are initially classified upon entering the federal correctional system, but there are classification reviews on a yearly basis or before a major event such as a parole hearing. That is, initial classification is one event, and the reclassification process is a different

classification is a different process from the reclassification procedure and has not been subjected to the same modifications.

As it is such a controversial issue, women with maximum security levels tend to have their classification reviewed more frequently than the yearly review required by legislation. For example, the Warden at Prison for Women explains that “we review their classification on a quarterly basis or earlier if need be. We have a multidisciplinary team and a reintegration board that meets once a week that discusses every single woman in the institution.”³¹⁸ The factors relied upon for classification indicates that women inmates must demonstrate behaviors that CSC deems acceptable. Hannah Moffat criticizes this practice, “Women prisoners are often penalized for resistance to an institutional regime which tries to produce healed, productive and moral citizens who no longer engage in criminal, deviant or immoral behaviour. In many cases, resistance results in higher classification”³¹⁹ Her statement is revealing. Society demands for certain socially acceptable behaviours are replicated in the prison environment. In prison, as in society, women may have the choice not to conform to these demands but there is a cost for refusing to conform. This could be seen as an empowering decision, but it is one that comes with consequences as women who do not conform are punished.

process that uses more fluid criteria, such as program motivation, on which to base decisions. A classification review need not result in any changes to an inmate’s classification.

³¹⁸ Therese Leblanc, National Stakeholders Meeting, April 28, 1998, Montreal Quebec.

³¹⁹ Hannah Moffat, *Supra* note 85 at 225

It is the correctional system's responsibility to offer inmates an opportunity to deal with their issues, but there must be individual motivation to change. Institutional staff should foster and support the desire for change, albeit in a way that CSC, as a reflection of broader society considers appropriate. If a woman is not making attempts to deal with her criminogenic factors to CSC's satisfaction, her risk will not have changed and neither will her classification. In some ways then, resistance to CSC's interpretation of social norms and rules can be construed as a criminogenic factor. CSC is in the business of trying to find the most effective ways of producing healed prisoners. There is pressure to conform and to heal through the programs offered to meeting the National Parole Board's expectations and to be successfully released on parole. Women who do not participate in programs are not seen to be healing and will not be released early. There is a tension between women making the personal decision to attempt to face their issues and try to heal and the somewhat coercive nature of the whole process: get on healing path or be punished (for example, no parole, denied entry to the Healing Lodge). Because of CSC's mandate to contribute to the protection of the public by assisting inmates to become law abiding citizens, there will always be a coercive nature to healing because non healed or non rehabilitated inmates means CSC is not doing its job.

Women Who Act With Violence

At the time of the Task Force, the prevailing belief was that the small group

Of women who were high risk would be ready, willing and able to change when transferred to the new facilities. If the occasional crisis situation arose which required more traditional security measures, an enhanced unit with cells and cameras was available for short term secure intervention. These enhanced units were built only as a precaution as the environment of the new facilities was supposed to change women's behaviour. However, it was discovered, too late, that there are some women whose acting out behaviors could not be contained in the regional facilities. The prevailing notion that the environment in the Prison for Women was largely responsible for the acting out behaviors also turned out to be wrong in some cases. Environment can be considered a contributing, but not the sole, factor for women acting out which includes such behaviours as slashing, threatening, committing assaults and muscling.³²⁰ There was no real understanding that many of the women who acted out inside the prison exhibited these behaviours before being admitted. Some women brought their behaviours with them into the prison setting.

There have been many theories but little in the way of empirical data to explain what factors contribute to women's violence. For example, as a result of the large number of inmates who have been abused, abuse is often understood as a major contributing factor to women's violent actions. While I do not dispute that abuse may often be a contributory factor, there are many federally sentenced

³²⁰ Muscling generally refers to women using various forms of intimidation or threats to get

women who have committed violent acts, including murder, whose acts are not related to abuse, whether of an ongoing or previous nature. In a study at the Prison for Women, Alexander Loucks found that “the pathway from childhood victimization to adult criminal behaviour is certainly not inevitable, as fully 71% of the large community sample of abused or neglected children did not earn an adult record, while 21% of non abused, non neglected children did.”³²¹ With respect to women committing violent acts, Loucks found that factors such as depression, suicidal history and problem behaviour during youth have been found to be correlates, and one study describes a link only between physical abuse in adulthood and violence for women prisoners.³²²

Research was also undertaken at CSC to compare violent and non violent women inmates in terms of the risks they presented and the needs that should be addressed.³²³ The determination of who was considered violent was based on the most serious admitting offence.³²⁴ Once the women were divided into these two groups, analysis was done on risk and need factors as well as suicide potential to

something they want.

³²¹ Alexander Loucks, *Criminal Behaviour, Violent Behaviour and Prison Maladjustment in Federal Female Offenders*, Doctor of Philosophy Thesis, Queen's University, Kingston, May 1995 at 13

³²² *Ibid.*, at 14

³²³ Kelley Blanchette, *Comparing violent and non-violent female offenders on risk and need*, Research Branch, Correctional Service of Canada, May 1997

³²⁴ Violent offences were: homicide, attempted homicide, assault, sex offences, robbery, kidnapping, forcible confinement, arson and non violent offences were determined to be drug and property related offences.

determine if there were significant differences between the two groups.³²⁵ One of the major findings was that “violent offenders were more likely to be unable to recognize problem areas and make informed choices, to be narrow and rigid thinkers, show disregard for others and be unable to understand the feelings of others.”³²⁶ These are important findings because by gaining some insight into this group of women, programs can be modified or developed that target these areas. In the regional facilities, there are several cases of women with violent histories who have been able to work through their anger and change their behaviour with the support of staff. It is especially important to try to change these women’s behaviour because of the serious risks they present to society. From a public safety standpoint, CSC’s coercive healing measures gain legitimacy in proportion to the violence of the woman’s actions.

Long Term Strategy For Maximum Security Inmates

As this chapter is being written, the strategy for maximum security inmates is not public but I will briefly discuss some of the issues surrounding its development including where the women would be located, what types of programs would be available and what type of staff expertise was available. The first decision that had to be made was whether the women who had been transferred into co-located units in male penitentiaries would remain there. This

³²⁵ Out of data available for 182 offenders, 106 (58%) were designated as violent and 76 (42%) were designated as non violent

notion was disagreeable to all. There were other options: building a centralized facility, building two facilities, one in the East and one in the West or returning this group of women to the regional facilities with an accommodation plan. As the Deputy Commissioner for Women noted, "the units will close but where would the women go...possibility of building specific units at a limited number of locations, looking at some kind of different type of unit at the regional facility that could manage some of the women at reduced levels of security or even at maximum security."³²⁷ The determination had to be based on where these women's needs would best be met in terms of programs and security while balancing the needs of the rest of the population and of society.

There is pressure by external stakeholders to return the maximum security women to the regional facilities. By relying on dynamic and fluid security, CAEFS maintains that maximum security women could be housed together in a house and interact with the rest of the population. They envision increased resources and maximum security houses. These women would only move through the prison accompanied by staff." A major concern with a house for maximum security women is the effect this would have on the rest of the population. There were so many problems with this accommodation plan when women with all classifications were transferred to the regional facilities. CAEFS

³²⁶ *Ibid.*

³²⁷ Deputy Commissioner of Women, speaking at the National Stakeholders Meeting, April 21 & 22, 1998, Montreal Quebec

might argue that these problems were based on CSC actions such as their opinion that at least one facility was opened before it was ready.

The issue is not simply a matter of separating the maximum security population from the rest of the general population but about separating the identifiable subgroups within the maximum security population. The Deputy Commissioner for Women explains, “we are aware of our legislative mandate to integrate as many people as possible into the general population...there are issues of isolation but integration is not always a good thing, the wrong combination of people can create a very destructive environment, some women can't cope with other women's issues in the same space as they are trying to cope with their own...”. Healing and progress for some women requires not having to deal with some of the more serious issues facing other women

.....The Deputy Commissioner for Women has explained that during the process of discussing long term strategy options, it became clear that more research needed to be done: “we really needed to fine tune our thinking about what it was that we were trying to achieve and who we were trying to develop a program and treatment base for.”³²⁸ CSC needed to further their understanding of what this group of women required and ask them what they want and need and what CSC can offer them in a way that has a positive effect.³²⁹ There are two major research projects that have recently been completed and will soon be made public. These

³²⁸ *Id.*

projects have made proposals on how to deal with women that Creating Choices did not identify or understand.

Conclusion

I believe that the most glaring problem is the question of the blurred line between risks and needs and the practical effect that the women with the most needs are also those with the highest risk who are therefore located in maximum security units. I think that in the abstract it is easier to make the claim that needs should not be turned into risks but in practice, I am not sure this boundary can always be maintained. More research, including concrete studies in this area would be helpful in order to glean more precise information about the exact nature of the interaction of risks and needs during the initial assessment process. Another important task facing CSC should be the revisiting of the criteria used in the initial classification process. Despite research to the contrary, I am not convinced that a new tool designed solely for women, would not result in fewer women being classified maximum security. There is a possibility that needs and risks are interacting where they should not be - during the assignment of a security level. Even if this is not occurring, the criteria used to determine a woman's risk is the same as for men. Given the many substantiated difference between men's and women's criminality and experiences of imprisonment, I am not clear on why this would not translate into a tool that could still attempt to be

³²⁹ *Id.*

neutral but have within it categories and questions that are more relevant to women's lives.

This chapter has explored a small population of women who do not fit into the Task Force's one-size-fits-all healing model. The current situation is a consequence of the Task Force and CSC not engaging in enough concrete research before embarking on an entirely different model of corrections. Women who have been incarcerated in cells inside men's penitentiaries have paid the price of both the Task Force's and CSC's misunderstanding of the populations they were managing. Hopefully, the new strategy will make up for this deficiency and offer maximum security women an opportunity to serve their sentences in a manner which is conducive to healing. In the meantime, getting federally sentenced women out of men's penitentiaries is a start.

CONCLUSIONS: TOWARDS A MORE INCLUSIVE MODEL OF HEALING

Regardless of personal opinion about *Creating Choices*, there is no disputing that it has changed the landscape of women's corrections. It was the basis for the construction of five new regional prisons for women, including a healing lodge for Aboriginal inmates. In many ways, the new regional prisons were an accomplishment. For instance, they have reduced the pains of imprisonment, but it is also interesting to wonder what would have happened if the Task Force did not recommend building more prisons? What would have been the result if they refused to work within their restrictive mandate and instead focused on lobbying for legislative changes?

I became engaged in this project to explore the vision of a woman centered model of corrections depicted in *Creating Choices* and to determine whether such a model could be realized. I was also equally interested in the effects this type of shift would have on the women who would live it on a daily basis. Would the new regional prisons lead to significant changes in the way women inmates experience their incarceration? Initially, I questioned the ability of a prison to become, through philosophies, policies and staffing, an environment where women could heal. I now believe it is entirely possible, in large part, because many women inmates have told me so. They have told me

that the prisons and especially the staff within them, have made the prison environment one that is conducive to personal change and growth. Unlike the Prison for Women, the regional facilities offer each woman incarcerated within it, a real opportunity to heal and change her life, if she makes that choice.

I have argued that these regional prisons are better than the Prison for Women and that they can be construed as an advancement in women's corrections. However, I still have many difficulties with the foundation upon which they were built. CSC relied on *Creating Choices* to guide the development of the new prisons. The Task Force on Federally Sentenced Women based some of their conclusions on feminist criminology. This is an area that has made significant advancements in the area of understanding women and crime, but it has also created some new problems that I believe *Creating Choices* perpetuated. In attempting to create theories that moved beyond the stereotypes traditionally used to explain women's crimes, feminists replaced those stereotypes with others. Women inmates have come to be viewed as victims of an unequal and unjust society. Arguably, this is an image that still prevails. This is a major issue because of its potential impact on policies and programs. Few would disagree that it is important to view women inmate's actions within the context of their lives but to also require them to take responsibility. The issue is the point at which women should take responsibility for their actions. How should society view them? It seems to be increasingly difficult to build a bridge between a

theoretical focus on the effects of an unequal society with the need for a practical emphasis on the criminality of individual women. How do we theorize about women's criminal actions in such a way that does not blame their circumstances for their actions thereby victimizing them, while at the same time acknowledging the social context in their behaviour?

The regional facilities have a philosophy that is based on healing, but what does it mean to heal? Further, in concrete terms, how does an inmate heal? Like empowerment, healing cannot be defined in any one way. However, in this context, I believe that it involves confronting and working through personal issues in such a way that women become healthier in a holistic manner. They come to some personal sense of peace and eventually reintegrate safely and successfully back into society. It is also important to view healing as having coercive elements. The regional prisons require women to embrace a standard of behaviour that CSC and society deems acceptable. This is not inherently a problem, but it is important to recognize this aspect as inmates do not necessarily define what healing is to them, it must be done in a certain context. Women must change, but the social conditions in which they have committed their crimes do not.

The woman centred model can be understood as an attempt to bring healing and personal responsibility together. There are some problems with this model but none of which is serious enough to override its overall effectiveness. It

has been effective in creating the environment in which many women have been able to change the directions of their lives. While there will continue to be debate on whether the regional facilities represent the vision of *Creating Choices*, it is difficult to deny the impact of the new prisons and this model. The main problem with the construction of these new prisons is whether they will result in more women being incarcerated in a federal penitentiary. With some difficulty, I have suggested that the facilities are worth the risk because they seem to significantly reduce the pains of imprisonment that many women faced inside the Prison for Women - especially for Aboriginal inmates.

It is well known that Aboriginal women are over represented in federal prisons and even more so in provincial prisons in the Prairies. While there is much work to be done in trying to reduce these numbers, the development of a Healing Lodge built based on Aboriginal cultures, spirituality and traditions, is a major accomplishment. Unlike at the Prison for Women, no Aboriginal woman has committed suicide since its construction, and several women who had been unable to do so in another prison, have completely turned their lives around. It is the flagship of all the regional facilities. Given the success of the Healing Lodge in transforming women's lives, what would it mean for all Aboriginal women, regardless of security classification to be incarcerated there? It might be a mistake by risking the progress that other women are making, but it is interesting

to think about what it would mean for the most damaged women to be allowed to serve their sentences at the facility most widely praised as promoting healing.

Women who are classified as maximum security are the ones who have been the most negatively affected by *Creating Choices*. Because their needs and risks were not fully understood by the Task Force on Federally Sentenced Women or CSC, they have spent the last two and a half years inside men's penitentiaries. Work has been ongoing within CSC to remedy this situation. CSC has developed an alternative accommodation and program strategy for these women. The healing model has the potential to work with the majority of federally sentenced women but it does not apply to all. Further, there are some women who do not want to heal. What does a prison system premised on a healing model do with women who are not on this path?

The inability of the healing model set out in *Creating Choices* to work with women inmates classified as maximum security and their ensuing transfers into male penitentiaries has resulted in a re-examination of this population. This has meant several research projects were initiated. One such project involved the review of the classification process to ensure that there were reliable and clear differences between the three levels. The research concluded that there were significant and valid differences, but CSC's classification methods remain at the centre of the debate. CSC is criticized for turning women's needs into risk factors resulting in higher security levels. Whether or not needs and risks are collapsed

in practice is debatable. This is an issue that has to be somehow resolved in the future. Regardless, there is no doubt that there are some women whose risks or needs cannot be managed in the regional facilities.

CSC has been condemned for the way they handled the implementation of *Creating Choices*. They excluded community groups and in so doing, lost their support and this has impacted negatively on the whole process. Many have argued that this exclusion resulted in the failure of the *Creating Choices* vision to be fully realized. The loss of community groups' participation and support of the process changed the way the facilities were built and marred the relationships with important groups, such as CAEFS. Representation on the implementation committee was a complex issue, but I believe that CSC should have handled it better than they did. This could have included a number of measures including giving these groups a small number of seats on the committee. The implementation process must be viewed as a process that is just as critical as the initial policy development. The implementation process does not just naturally flow from a new policy, it needs as much attention, by the same people who developed the original policy.

... *Creating Choices* reflects the emotions of Task Force members and of federally sentenced women. It is an emotionally powerful document with a clear sense of urgency. There was a rush to change the way women inmates were incarcerated and that change was based on some flawed assumptions because the Task Force

got locked into one type of research. Innovation is difficult for a large government bureaucracy like CSC and it was made all the more difficult by its decision to exclude community groups from the implementation process. Even though the regional facilities are successful on many levels, by adopting the *Creating Choices* model, perhaps CSC promised more than it could deliver.

LIST OF APPENDICES

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- Outdoor Visiting Area
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- Typical Bedroom

Appendix C: Joliette Institution for Women

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Appendix E: Edmonton Institution for Women

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Appendix F: Okimaw Ohci Healing Lodge

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Appendix A: The Prison for Women

Prison for Women

Appendix B: Nova Institution for Women

NOVA INSTITUTION FOR WOMEN

ENTRANCE DRIVE

OUTDOOR VISITING AREA

NOVA INSTITUTION FOR WOMEN

Lower bedroom, House #2

Lower bedroom, House #2

Appendix C: Joliette Institution for Women

Correctional Service Canada

Date: 30/04/96

Projet: FPPF - lot #3 - Joliette

Contrat no.: 647415-662896

JOLIETTE INSTITUTION

KITCHEN

Appendix D: Grand Valley Institution for Women

Correctional Service Canada

GRAND VALLEY INSTITUTION FOR WOMEN

AERIAL PHOTOGRAPH

GRAND VALLEY INSTITUTION FOR WOMEN

HOUSING UNIT

Appendix E: Edmonton Institution for Women

EDMONTON INSTITUTION FOR WOMEN

AERIAL PHOTOGRAPH

HOUSES AND COURTYARD

Appendix F: Okimaw Ohci Healing Lodge

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OKIMAW OHCI HEALING LODGE

AERIAL PHOTOGRAPH

OKIMAW OHCI HEALING LODGE

INTERIOR MAIN LODGE

OKIMAW OHCI HEALING LODGE

SPIRITUAL BUILDING

Appendix G: Profile of Incarcerated Women Offenders

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PROFILE OF WOMEN OFFENDERS¹
1994, 1997 and 1998

<i>PROFILE</i>	<i>% OF OFFENDERS²</i> <i>1994</i>	<i>% OF OFFENDERS³</i> <i>1997</i>	<i>% OF OFFENDERS⁴</i> <i>1998</i>
Age 20-34 years	51.7	48	50.7
Single (includes separated, divorced widowed, not stated)	57.3	67	67.5
Common-law	18.0	23.2	22.4
Married	13.3	9.8	10
Race			
Caucasian	64.7	57.3	56.3
Aboriginal	18.0	21.9	19.8
Black	7.4	8.8	8.1
Asiatic	2.2	2.4	1.4
Other	2.5	5.4	4.2
Not stated	5.3	5.2	10

¹ This profile is based on an incarcerated population of 354 as of February 8, 1998 (includes 316 incarcerated, 17 new sentences, and 21 suspended temporarily detained).

² Basic Facts About Corrections in Canada - 1994

³ EIS - Execu-view Report - May 27, 1997 & Offender Management System, CSC, May 27, 1997.

⁴ Data provided by Performance Assurance February 1998

<i>PROFILE</i>	% OF OFFENDERS 1994	% OF OFFENDERS 1997	% OF OFFENDERS 1998
Serving a sentence for			
Murder	15.5	20.6	18.4
First-degree murder	4.6	4.8	4.2
Second degree murder	10.8	15.8	14.2
Schedule I offence	47.4	53.3	49
Schedule II offence	21.1	20	19.6
Non-Schedule offence	16.1	10.9	12.9
Sentence length			
Under 3 years	24.5	25.1	29.7
3-6 years	37.5	33.7	33.3
Serving a sentence of less than 6 years	61.9	58.7	63
6-10 years	13.6	15.9	11.2
10 years +	8.7	4.8	7
Life/Indeterminate	15.8	21.2	18.8

<i>PROFILE</i>	<i>% OF OFFENDERS 1994</i>	<i>% OF OFFENDERS 1997</i>	<i>% OF OFFENDERS 1998</i>
Previous Terms (Sentence) of Incarceration			
No previous term of federal Incarceration	74.3	80.9	80.9
One previous term of incarceration	15.2	13.6	14
Two previous terms of incarceration	5.0	3.9	3.6
Three previous terms of incarceration	2.2	.9	.6
More than three previous terms of Incarceration	3.4	.6	.8

Over the four year period (1994-1998):

- the proportion of single women has increased, (57.3% to 67.5%);
- the younger age group (20-34) has remained relatively stable, averaging at approximately half the population;
- the proportion of offenders not stating their race has almost doubled from 5.2% to 10%); there are fewer Caucasian offenders (64.7% to 57.3%);
- there is little change in the type of offences with the exception of non-Schedule offences which have decreased (16.1 to 12.9);
- there is a significant increase in the number of sentences under three years (24.5% to 29.7%);
- overall, there are more first time federal offenders, (74.3% to 80.9%);
- community release patterns have remained stable.

Appendix H: Profile of Maximum Women Offenders

PROFILE OF MAXIMUM WOMEN OFFENDERS

<i>PROFILE</i>	SEPTEMBER 1997¹		FEBRUARY 1998²	
	<i># OF OFFENDERS</i>	<i>% OF OFFENDERS</i>	<i># OF OFFENDERS</i>	<i>% OF OFFENDERS</i>
Age 20-34 years	30	81%	22	65%
Single (incl. separated, divorced, widowed, not stated)	24	65%	23	68%
Common-law	10	27%	7	21%
Married	3	8%	4	11%
Race				
Caucasian	19	51%	13	38%
Aboriginal	15	41%	17	50%
Black	1	3%	2	6%
Asiatic	0	0	0	0
Other	1	3%	1	3%
Not stated	1	3%	1	3%
Serving a sentence for				
Murder	0	0	2	6%
First-degree murder	1	3%	0	0%
Second-degree murder	6	16%	2	6%
Schedule I offence	29	78%	29	85%
Schedule II offence	1	3%	1	3%
Non-Schedule offence	0	0	2	6%

¹ Data provided by Performance Assurance - OMS report September 17, 1997 for 37 offenders; 2 additional maximum-security offenders are recent admissions and no information is as yet available through OMS.

² This data includes all incarcerated women serving a federal sentence who are classified as maximum security; data was provided by Performance Assurance, February 1998 with a total of 34 women classified as maximum security.

PROFILE OF MAXIMUM WOMEN OFFENDERS

SEPTEMBER 1997		FEBRUARY 1998		
PROFILE	# OF OFFENDERS	% OF OFFENDERS	# OF OFFENDERS	% OF OFFENDERS
Sentence length				
Under 3 years	9	24%	7	21%
3-6 years	12	32%	14	41%
Serving a sentence of less than 6 years	21	57%	21	62%
6-10 years	5	14%	5	15%
10 years +	4	11%	5	15%
Life/Indeterminate	7	19%	3	9%
Previous Terms (Sentence) of Incarceration				
No previous term of federal incarceration	27	73%	28	82%
One previous term of incarceration	7	19%	3	9%
Two previous terms of incarceration	1	3%	1	3%
Three previous terms of incarceration	1	3%	0	0%
More than three previous terms of incarceration	1	3%	2	6%

Maximum-security women offenders differ from the general women offender population in the following areas:

- They are younger: 65% are 20 to 34 years old compared to 50.7% in that same age range in the general population;
- The over-representation of Aboriginal women is significantly more acute at 50% compared to 19.8% in the general population;
- The majority have committed Schedule I offences: 85% compared to 49% in the general population;
- Significantly fewer have committed Schedule II offences - 3% compared to 19.6% in the general population;
- Only 6% have committed a non-Scheduled offence, compared with 12.9% in the general population;
- No maximum security women are serving a sentence for first-degree murder, compared with 4.2% in the general population;
- 6% are serving a sentence for second degree murder, compared with 14.2% in the general population.

Appendix I: Profile of Women Offenders in the Community

PROFILE OF WOMEN OFFENDERS IN THE COMMUNITY **FEBRUARY 1998¹**

<i>PROFILE</i>	<i># OF OFFENDERS</i> <i>1998</i>	<i>% OF OFFENDERS</i> <i>1998</i>
Age 20-34 years	129	35.4
Single (includes separated, divorced, widowed, not stated)	268	73.6
Common-law	52	14.2
Married	44	12
Race		
Caucasian	231	63.5
Aboriginal	43	11.8
Black	47	13
Asiatic	10	2.7
Other	15	4.1
Not stated	18	4.9
Serving a sentence for		
Murder	50	13.6
First-degree murder	4	1.0
Second-degree murder	46	12.6
Schedule I offence	104	28.6
Schedule II offence	163	44.8
Non-Schedule offence	48	13.1

¹ This profile is based on 364 women offenders in the community February 8, 1998; the 364 does not include those offenders on bail (8), or those who are revoked UAL or suspended UAL (13).

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Sentence length			
Under 3 years	80	21.9	
3-6 years	157	43.1	
Serving a sentence of less than 6 years	237	65.1	
6-10 years	47	12.9	
10 years +	27	7.4	
Life/Indeterminate	53	14.5	
Previous Terms (Sentence) of Incarceration			
No previous term of federal Incarceration	332	91.2	
One previous term of incarceration	25	6.8	
Two previous terms of incarceration	6	1.6	
Three previous terms of incarceration	1	.2	
More than three previous terms of Incarceration	0	0	

Community Release Type

	Aug. 1995 ²	Sept. 1997	March 1998
Day Parole	15.8	14.7	15.2
Full Parole	75.3	77.6	75.6
Statutory Release	8.9	7.8	9.1

²Proceedings, National Workshop to develop a Community Strategy for FSW, FSW Community Typologies, Summary of Presentation by Larry Motiuk, Manager, Correctional Research and Development.

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The population of women on release in the community differs from the population of women offenders who are incarcerated in the following areas:

- The proportion of younger women out on release is fewer than those in prison;
- There is a somewhat higher proportion of Caucasian offenders in the community than incarcerated (63.5% compared to 56.3%);
- There is a higher proportion of Aboriginal offenders incarcerated than in the community (19.8% compared to 11.8%);
- There are fewer women on release who have committed murders than those who are incarcerated (13.6% compared to 18.4%);
- There are significantly fewer women on release versus those incarcerated who have committed a Schedule 1 offence (28.6% compared 49%);
- There are significantly more women on release versus those who are incarcerated who have committed a Schedule 2 offence (44.8% compared to 19.6%);
- There are slightly more women offenders on release, versus those who are incarcerated (91.2% compared to 80.9%).

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