



Elizabeth Fry Society of Manitoba  
544 Selkirk Avenue, Winnipeg, MB  
R2W 2M9 [efsofmb@autobahn.mb.ca](mailto:efsofmb@autobahn.mb.ca)  
Tel: 204.589.7335  
Fax: 204.589.7339



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

## **Submission to the Consultation Panel on a “New Women’s Correctional Facility”**

Submitted by:

**Canadian Association of Elizabeth Fry Societies  
Elizabeth Fry Society of Manitoba**

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As outlined below, the Canadian Association of Elizabeth Fry Societies (CAEFS) and the Elizabeth Fry Society of Manitoba (EFS Manitoba) welcome the opportunity to participate in discussions about replacing the Portage Correctional Centre (PCC) with a new approach to addressing the needs of criminalized women in Manitoba. However, we are concerned about the limited scope of the consultations and fear that the mistakes of the past will be replicated if a broader strategy is not adopted to embrace the approach of the Aboriginal Justice Inquiry (community-based alternatives to incarceration, developed and led by Aboriginal people) and other reports focusing on the inability of prisons and jails to address the needs of criminalized women. In light of the wealth of research and experience demonstrating that imprisoning women is extremely costly in human and fiscal terms, and that community-based options better promote public safety and well-being, we do not support the idea of building another jail or other correctional facility to replace PCC. However, to the extent the government is, regrettably, committed to that goal, we outline below some key principles and considerations that should guide decision-making in this area.

### **About the Canadian Association of Elizabeth Fry Societies**

CAEFS is an association of 25 self-governing, community-based Elizabeth Fry Societies that work with and for women and girls in the justice system, particularly those who are, or may be, criminalized. Together, Elizabeth Fry Societies develop the beliefs, principles and positions that guide CAEFS. The association exists to ensure substantive equality in the delivery and development of services and programs through public education, research, legislative and administrative reform, regionally, nationally and internationally.

CAEFS is the leading advocacy organization for women who have been criminalized in Canada. CAEFS has called for and been instrumental in a number of national initiatives aimed at redressing discrimination and injustice experienced by women prisoners, such as the 1994 *Inquiry Into Certain Events at the Prison for Women in Kingston*, the 1997 *Self-Defence Review* which investigated wrongful convictions of battered women who had defended themselves, and most recently the report of the Canadian Human Rights

Commission, *Protecting Their Rights: A Systemic Review of Human Rights in Correctional Services for Federally Sentenced Women* (2003). CAEFS' Executive Director regularly visits all federal women prisons and meets with government officials to address issues of concern. Since Manitoba has indicated that its plans may include some kind of joint federal-provincial facility, the input of CAEFS is essential.

### **About the Elizabeth Fry Society of Manitoba**

EFS Manitoba has been working with and on behalf of criminalized women and girls for over 20 years, promoting their human rights, fair treatment, alternatives to incarceration, and supportive community reintegration. EFS Manitoba provides one-on-one counseling, a free clothing and household items depot, and various other programs and services aimed at reintegration and healing. EFS Manitoba is part of the national CAEFS network that individually and collectively advocates for, and provides services to, women prisoners and other women who have been criminalized.

Both CAEFS and EFS Manitoba work in partnership with a number of other community-based organizations, including Aboriginal organizations, women's groups, mental health advocacy groups, and others, to provide advocacy and support to women who are imprisoned and reintegrating to their communities.

### **Criminalized Women: Penalized Despite Small Numbers and Low Risk**

Women are the fastest growing prison population world-wide, a phenomenon that can be traced to the cuts to social programs such as health care, education and social assistance - - what we used to call our "social safety net." Increasingly, we are seeing a direct relationship between such policies and the increased criminalization of the most marginalized, especially young, Aboriginal and poor women, and those with mental and cognitive disabilities.

Aboriginal women are vastly over-represented in Manitoba jails, a reality that is rooted in the on-going effects of colonization. In a one-day snapshot of women in provincial custody on September 6, 2000, 73% were Aboriginal. *Report of the Aboriginal Justice Implementation Commission, 2001* ([http://www.ajic.mb.ca/reports/final\\_toc.html](http://www.ajic.mb.ca/reports/final_toc.html)).

Research reveals that most women who are currently imprisoned do not pose a risk to community safety. (See AJI Report, also Kelly Hannah-Moffat & Margaret Shaw (2001) *Taking Risks: Incorporating Gender and Culture into Classification and Assessment of Federally Sentenced Women*, Ottawa: Status of Women Canada.)

Yet, ironically, due to their small numbers relative to male prisoners, women often serve their sentences in more secure conditions and with fewer supports, programs and services than men. In a report documenting the treatment of women prisoners in the federal prison context, Justice Louise Arbour noted:

Women also served their sentences in harsher conditions than men because of their smaller numbers. They have suffered greater family dislocation, because there are so few options for the imprisonment of women. They have been over classified, or in any event, they have been detained in a facility that does not correspond to their classification. For the same reasons, they have been offered fewer programs than men... They have had no significant vocational training opportunities.

*Report of the Commission of Inquiry into Certain Events at the Prison for Women in Kingston*, 1996, p. 2000 ([http://www.justicebehindthewalls.net/resources/arbours\\_report/arbours\\_rpt.htm](http://www.justicebehindthewalls.net/resources/arbours_report/arbours_rpt.htm))

Unfortunately, as detailed in the *Report of the Aboriginal Justice Inquiry of Manitoba* (1991) the same is true for Manitoba women who are incarcerated in provincial jails such as PCC, with particularly negative and disproportionate effects on Aboriginal women (<http://www.ajic.mb.ca/volume.html>) (hard copy attached).

Fourteen years ago, the AJI recommended that PCC be closed.

In a similar manner, calls for the closure of the old Prison for Women in Kingston were made by numerous government bodies and boards of inquiry for decades. Repeating that recommendation, the Task Force on Federally Sentenced Women released a report in 1990 entitled *Creating Choices* ([http://www.csc-scc.gc.ca/text/prgrm/fsw/choices/toce\\_e.shtml](http://www.csc-scc.gc.ca/text/prgrm/fsw/choices/toce_e.shtml)) in which it recommended taking a “women-centred” approach to corrections and, among other things, the building of a healing lodge for Aboriginal women prisoners. In the 15 years since the release of *Creating Choices*, we have seen the building of five regional women’s prisons, along with the Okimaw Ohci Healing Lodge on the Nekaneet First Nation in Saskatchewan.

However, unfortunately the promise of *Creating Choices* has not been realized. We now have more women prisoners serving time in more secure environments, a greater percentage of Aboriginal women prisoners, and a disproportionate number of Aboriginal women designated as maximum security, along with numerous other problems recently discussed by the Canadian Human Rights Commission. It is imperative that Manitoba learn from this failed experiment.

### **Human Rights of Women Prisoners**

The Canadian Human Rights Commission recently released a report into the discrimination experienced by federally sentenced women prisoners in Canada. *Protecting Their Rights: A Systemic Review of Human Rights in Correctional Services for Federally Sentenced Women* (2003) ([http://www.chrc-ccdp.ca/legislation\\_policies/consultation\\_report-en.asp](http://www.chrc-ccdp.ca/legislation_policies/consultation_report-en.asp)) (hard copy attached) which highlighted a number of areas of discriminatory treatment of women prisoners, with particularly troubling conclusions about discrimination against Aboriginal women and women with mental and cognitive disabilities. Key areas included:

- discrimination in the classification system (meaning that, for example, Aboriginal women and women with mental health needs are disproportionately over-classified as maximum security);
- an over-use of segregation that is not subject to independent oversight or accountability;
- a lack of meaningful programming, education or job-training;
- a general lack of adequate oversight and accountability in correctional decision-making; and
- a lack of community release options for women.

Tragically, even in light of these serious deficiencies in the federal systems, many Manitoba women ask for a federal sentence when they would normally be given a shorter, provincial sentence because they view provincial incarceration in Manitoba as *even worse* than serving federal time. In addition to PCC's inadequate physical facilities, women at PCC received little, if any, meaningful programming, education or job-training. Access to Aboriginal spirituality and cultural programming is minimal, the building is not accessible to people with physical disabilities, the "visiting area" is a small lobby at the entrance of the building with no semblance of privacy for family visits, and the location of PCC in Portage La Prairie makes it very difficult for the children and other family members to visit women incarcerated there. At any given time, over half the women are often on remand, awaiting trial, with little access to their lawyers who are usually based in Winnipeg. Our EFS worker reports that some women begin to take medication just to deal with the isolation they experience. One example of the degree to which the current incarceration-based approach is destructive to women is the alarming rate of self-harm by women who are incarcerated. See Fillmore, Dell and EFS Manitoba, *Prairie Women, Violence & Self-Harm*, 2000: (<http://www.pwhce.ca/prairieWomenViolence.htm>) (hard copy attached).

For these reasons and those detailed in the AJI Report, EFS Manitoba brought two human rights complaints in 2002 on behalf of incarcerated women in Manitoba. These complaints were supported by a number of Aboriginal organizations, women's groups, and other community-based organizations.\* An investigation team at the Manitoba Human Rights Commission has found merit in those complaints and has recommended that the Commission proceed to mediation and/or arbitration of those complaints. A copy of the Human Rights investigation report is attached.

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\* Supporters of the Human Rights complaints include Mother of Red Nations, Ma Ma Wi Wi Chi Itata Centre, Red River Michif Women's Council, Nine Circles Community Health Centre, Women's Legal Education and Action Fund (LEAF), Canadian Mental Health Association (Manitoba Division), Canadian Association of Elizabeth Fry Societies, Provincial Council of Women of Manitoba, and Council of Women of Winnipeg.

In the meantime, we know that *Protecting Their Rights*, together with the AJI Report, provides a useful starting point for understanding the discrimination experienced by women prisoners and beginning to address it with meaningful community-based alternatives and a human rights-based approach to women who are criminalized. Avoiding the mistakes of the past requires a new approach, not a new jail.

For more background on these issues, see the submissions of various groups to the Canadian Human Rights Commission, including the submissions of the Native Women's Association of Canada, the DisAbled Women's Network, the National Association of Women and the Law, the Canadian Association of Elizabeth Fry Societies and many others ([http://www.elizabethfry.ca/caefs\\_e.htm](http://www.elizabethfry.ca/caefs_e.htm)).

### **Directions for Change: Community-Based Alternatives**

Given the fourteen years since the AJI recommended closure of PCC, EFS Manitoba welcomes the news that the Manitoba government is beginning to take action on its promise to close PCC. However, we are concerned that the scope of the consultations announced by Justice Minister Mackintosh focuses too narrowly on the proposed task of building a new correctional facility (jail).

As discussed below, it is important that the starting point for any consultation about options following the closure of PCC be a constructive dialogue about keeping women in their communities, through developing and/or enhancing alternatives to incarceration. There is a need to allocate funds to communities, including particularly Aboriginal communities -- both urban and on reserve, to support women living in their communities rather than in jail.

Research indicates that returning women to their communities, with the appropriate supports, is the most productive response to crime and to building safe and healthy communities, not to mention often being more cost-effective than building and maintaining jails.

EFS Manitoba does not have data on the cost of imprisoning women in Manitoba. However, in the federal correctional system, the cost of maintaining a male prisoner in 1999-2000 was about \$185.44/day or \$67, 686/year, whereas the cost of maintaining a woman prisoner was about \$316.34/day or \$115, 465/year. (Those costs have no doubt increased since 2000.)

The cost of alternatives to prison, such as probation, bail supervision and community supervision work orders, range from \$5 to \$25 per day. More intensive support, training and education in the community will be somewhat more costly. However, such an approach will still not likely approach the sums spent on imprisonment and, in any event, will be much more effective in meaningfully protecting the public and promoting safe, healthy communities.

The AJI recommended the closure of PCC. However, the focus of the AJI's chapter on Aboriginal Women was *not* on building another jail to replace PCC. Rather, the AJI recommended community-based responses, such as the establishment of "community houses" run by Aboriginal people in Aboriginal reserve and urban communities, which would include meaningful counseling, job-related training and attendance at school or work during the day. (AJI Report, 1990, Chapter 13).

In addition to focusing on community-based alternatives to incarceration, a human rights-based approach to addressing the needs of women who have been criminalized will:

- recognize the relationship between cuts to social programs (including particularly social assistance) and the increased numbers of women in the criminal justice system, and will act immediately to reinvest in social programs to provide women with the means to support their families and avoid crime;
- learn from the mistakes of the past at both the provincial and federal level and act to implement the recommendations of the AJI Report and *Protecting their Rights*;
- recognize that criminalized women represent a low risk to the community and that a security or risk-based approach is not appropriate;
- focus any new programs or facilities on addressing women's needs (poverty, inadequate education, histories of abuse, drug and alcohol dependency, mental health issues, and lack of support in caring for their children); and
- allocate resources to criminalized women and their advocates, First Nations and Aboriginal organizations, and other interested parties, to develop proposals for programs and facilities to replace PCC.

We welcome the opportunity to participate in such a constructive process.

### **Areas of Concern and Guiding Principles**

In the meantime, CAEFS and EFS Manitoba are concerned that the Manitoba government may proceed with its stated intention to build a new "correctional facility" for women. For the reasons outlined above, we do not support such an approach. However, we will continue to advocate for the human rights and fair treatment of women who are criminalized and believe that it is important to highlight some lessons learned and key principles to be adopted in any plans to build any "correctional facility":

1. Meaningful commitment to the "least restrictive measures" being used in all cases;
2. Location of any facility must promote contact between women and their children and other community supports;
3. Community-based (rather than institutional) programming and mental health supports, which requires adequate funding of community groups that will deliver

- programs; and
4. Openness, accountability and independent oversight of correctional decision-making.

We will discuss each of these key areas of concern and the related issues arising under them.

## 1. Least Restrictive Measures

As reflected in the research and numerous reports, women at the federal and provincial level do not present a significant risk to the community, yet they are routinely incarcerated in more secure environments than their male counterparts. Consistent with this reality, it is imperative that the Manitoba government make a commitment to using the least restrictive means necessary to ensure public safety in every case. We suggest that overwhelmingly, such a commitment will lead to a conclusion that supporting women in their communities will promote public safety and reduce recidivism.

Examples of community-based options that may be pursued include:

- **Adopting a statutory model along the lines of s. 81 of the federal *Corrections and Conditional Release Act*.** That section provides:

**81.** (1) The Minister, or a person authorized by the Minister, may enter into an agreement with an aboriginal community for the provision of correctional services to aboriginal offenders and for payment by the Minister, or by a person authorized by the Minister, in respect of the provision of those services.

Unfortunately, s. 81 has been woefully under-utilized by the federal government, particularly in the case of Aboriginal women. However, the guiding principle of establishing such a system is consistent with the recommendations of the AJI Report and *Protecting Their Rights*. In light of the catastrophic over-representation of Aboriginal people in prisons and jails and the inherent right of Aboriginal peoples to autonomy and self-government, there is an urgent need – and an opportunity -- for the Manitoba government to enter into agreements (with the infusion of adequate resources) for Aboriginal communities to address the needs of criminalized Aboriginal women.

- **Providing an opportunity for First Nations and other Aboriginal and community groups to develop s. 81 and s. 84 and private home placement sentencing and release options in urban, rural and reserve communities.** In the federal system, these options are extremely limited in their number and availability to women, and usually only in a very narrow way to women on parole. However, these models could be adapted and expanded in the Manitoba context, particularly for Aboriginal women who are supported by Aboriginal women's groups in urban settings, as well as those who have community-based

support in and from rural and reserve communities — especially in the North. Women could serve their sentences (or be released on bail or parole) to supportive, adequately resourced homes in their own communities. The private home placement could be an extended family member or other community member. Such an option would be much more cost-effective than building a correctional facility, even a “healing lodge” in the North or elsewhere, and will better address the problems of dislocation and distance between the woman and her community (including her children and family supports).

To the extent that the Manitoba government believes that even a small number of women ought not to serve their sentences in the community, the “least restrictive measures” principle must be kept in mind in any decision to replace the Portage jail.

Examples of practical ways to implement the “least restrictive measures” principle:

**To the extent that security measures are considered necessary, dynamic security (through staff support and intervention) rather than static security (bars, walls, fences, cameras, etc.) should be adopted.** This was certainly the view of the Aboriginal Women’s Vision Circle for the Okimaw Ohci Healing Lodge, yet most of the members have since been frustrated by their inability to hold the Correctional Service of Canada to the Vision. See Patricia Monture-Angus, *The Lived Experience of Discrimination: Aboriginal Women Who Are Federally Sentenced*, 2002 (<http://www.elizabethfry.ca/submissn/aborigin/aborigin.pdf>) (hard copy attached).

- **The use of segregation should be rejected or, in the alternative, extremely limited in terms of length and nature of isolation, and subject to strict controls and external oversight and review mechanisms.** Segregation is an ineffective and harmful response to women who suffer from mental health issues, engage in self-harm, or are otherwise despondent. At PCC, women are routinely kept in segregation on the basis of administrative decisions that are not subject to any form of independent oversight or review. The staff at PCC have not even allowed women in segregation to meet with an Elizabeth Fry worker or other community advocate, even when women are clearly depressed and deeply troubled. There has been no independent study of the use of segregation at PCC. However, at the federal level, report after report has severely criticized the lack of independent oversight or review of decisions that, like at PCC, keep women in segregation for extended periods of time with no effective recourse. See our discussion below on the overall need for external, independent oversight throughout correctional decision-making.
- Like many other provinces and territories, Manitoba has demonstrated a desire to utilize federally developed models of risk assessment, classification and case management for provincially sentenced prisoners. Aboriginal women are disproportionately classified as maximum security. Forty-one percent of federally sentenced women who are classified as maximum security women are Aboriginal, whereas Aboriginal women represent only 30% of the total population of



federally sentenced women, and less than 2% of the population of Canada. Women are unfairly assessed according to social and personal disadvantages in their backgrounds over which they have no control. For example, if an individual is assessed as having been the victim of spousal abuse or was considered unemployed at the time of arrest, she will be identified as having a "need" in those areas. The greater the number of identified needs, the higher the resulting assessment of her risk and later security classification. Women with mental health needs are too often categorized as maximum security, thereby denying them the supportive environment they need. The "risk factors" used to assess probability of escape and the level of risk to the safety of the public cannot be reasonably applied. In *Protecting Their Rights*, the Canadian Human Rights Commission has cited discrimination in the federal classification system. Escapes by women occur so rarely, the recidivism rate for women is much lower than that for men, and a much smaller percentage of the crimes committed by them are violent. Utilizing demonstrated behaviour and individual achievements within institutional settings as the barometer, we are confident this would result in much lower classifications and many more community based sentencing and/or release arrangements.

## **2. Location of Facility**

In light of the fact that a majority of women serving time at PCC are from Winnipeg, any new facility or community strategy should focus on keeping those women in Winnipeg, close to their families and other supports, as well as close to education and training opportunities and other community-based programs that will facilitate their reintegration.

The location of PCC in Portage La Prairie has created a number of problems for women and their families, particularly those from Winnipeg. Most of the women and their families live in poverty and, therefore, the women receive few visits from their children because they cannot afford to travel to Portage La Prairie. The fact that the "visiting area" (the small, open lobby of the jail) is completely unsuited to any form of meaningful family visit also creates additional hardship for the women, many of whom are mothers. Our EFS worker who visits PCC reports that children who have been apprehended by Child and Family Services (CFS) in Winnipeg are rarely taken out to PCC to visit their mothers, due to the cost of such visits and the lack of any suitable visiting area. By contrast, the primary provincial jail for Winnipeg men is in Headingly, Manitoba, close to Winnipeg, and accessible for family visits.

Of the women who are not from Winnipeg, most are from northern or other reserve communities throughout the province. For those women, both Portage La Prairie and Winnipeg are a long way from home and family supports. As discussed above, EFS Manitoba and CAEFS support the development of programs to keep those women in their communities – both on bail (through the development of adequately funded community-based bail supervision programs) and while under sentence (see strategies outlined above).

In addition, the substantial number of women at PCC who are on remand status, awaiting trial, has meant that these women are often unable to access their lawyers (some of whom do not accept collect calls from PCC). For these unsentenced women (who, by our EFS workers' records often amount to 60% of the population), being housed in Portage La Prairie means that they and their lawyers may be inadequately prepared for their trial.

These and other problems associated with the location of the women's jail in Portage La Prairie are raised as human rights violations in the human rights complaints filed by EFS Manitoba on behalf of women incarcerated at PCC. (See attached copies of the human rights complaints, together with the report of the investigation team of the Manitoba Human Rights Commission, finding a prima facie case of discrimination on these and other grounds and recommending that the complaints go to mediation and/or arbitration.)

To the extent that "economic development" concerns may play a role in decision-making about where to locate a new correctional facility, we urge this Committee to reject those considerations. The fact that jobs may be lost in Portage La Prairie is an important matter that the government can address through other economic development initiatives in that city. Viewing jails as economic development projects ignores the very real human costs associated with jailing people, particularly in locations that are far from their families and community supports.

Furthermore, there is a substantial body of research indicating that jails are not positive economic development initiatives for rural areas. We attach a copy of a recent research report which gathers statistical evidence from communities in upstate New York (where there has been a boom in prison building) and demonstrates that the prisons have had little to no positive impact on the economic well-being of those communities (in terms of reduced unemployment or increased per capita income, etc.). See Ryan King, Mark Mauer and Tracy Huling, *Big Prisons, Small Towns: Prison Economics in Rural Areas* (2003, Sentencing Project) ([www.sentencingproject.org/pdfs/9037.pdf](http://www.sentencingproject.org/pdfs/9037.pdf)) (hard copy attached). Poverty and unemployment throughout Manitoba are important matters for the government to address through job-creation strategies. However, it is a mistake to view prison-building as a solution to these problems. Aboriginal communities – both urban and rural – should be adequately funded to support Aboriginal women living in their communities.

EFS Manitoba is a partner in the proposed Healing Place project, together with Onashowewin (Aboriginal Restorative Justice Program), the Native Women's Transition Centre, and Mother of Red Nations Women's Council of Manitoba. Together, we have applied for funding from the Winnipeg Housing and Homelessness Initiative to build A Healing Place, the goal of which is to provide a continuum of emergency and transitional housing resources and culturally appropriate and women-centred supports to women who are exiting or recently released from correctional institutions. Supports will include counseling/healing, advocacy, literacy, academic upgrading, employment skill development, job search assistance, personal development, and child care, to be developed and delivered by Aboriginal women. EFS Manitoba and its partners are of the view that a facility such as A Healing Place must be located in or very near to Winnipeg to enable

women to maintain contact with their children and to successfully reintegrate into their urban communities.

### **3. Community-Based Programming and Mental Health Supports**

Research and experience in the federal and provincial correctional systems have demonstrated that institutionally-based programming is not effective in addressing women's needs and assisting them with healing and reintegration into their communities. Currently, there is little, if any, case planning offered to the women at PCC as guards are the assigned case managers. The primary role of guards is the security of the institution and they have little time or expertise in pre-release planning.

Training, educational and therapeutic programs do not meet the needs of the women in Canada's prisons. Although it is clear the programs are not comparable in quantity, quality or variety to those provided to imprisoned men, CAEFS and EFS Manitoba believe it is not useful to make simple comparisons between programs for men vs. programs for women. Instead, the particular needs and interests of women prisoners must be examined to ensure substantive equality, and allow women prisoners to progress toward a successful re-integration into society. The following are some key observations about the nature and availability of programs for federally sentenced women in Canada, which are even more apt in the context of provincially-sentenced Manitoba women who have little access to any meaningful programming:

- Programs that should prepare women for meaningful work are virtually non-existent. In many cases, the emphasis is on traditional "female" skills, cooking, cleaning, and sewing. Where promising programs do exist, enrollment is often very limited or the equipment and training skills taught are outdated. For examples of programs that are not working in the federal system, see *CAEFS' Response to the Canadian Human Rights Commission Consultation Paper on Federally Sentenced Women* (2003):
- [http://www.elizabethfry.ca/chrc/CAEFS\\_RESPONSE\\_TO\\_CHRC\\_CONSULTATION.pdf](http://www.elizabethfry.ca/chrc/CAEFS_RESPONSE_TO_CHRC_CONSULTATION.pdf) (hard copy attached).
- The limited access to job training and educational programs directly interferes with the ability of women to meet the terms of their "correctional treatment plan". As a result they frequently experience delays in obtaining all forms of conditional release, including parole.
- For women with disabilities, there are even fewer training programs geared to their needs. Access to therapeutic counseling is very limited. Moreover there is a coercive nature to some of the therapeutic treatment offered. See *CAEFS' Response* (link above) and the submission of the DisAbled Women's Network (DAWN) to the CHRC: Yvonne Peters, *Federally Sentenced Women with Mental Disabilities: A Dark Corner in Canadian Human Rights* (2003): <http://www.elizabethfry.ca/submissn/dawn/dawn.pdf> (hard copy attached).

- Many Aboriginal women have limited access to programs and services of any kind, let alone programs that meet their cultural needs. The over-representation of Aboriginal women in maximum security means even fewer get to access meaningful programs. See CAEFS' Response (link above)

#### 4. Openness, Accountability and Independent Oversight

One of the most pressing and pervasive problems at PCC is the lack of adequate accountability mechanisms and independent oversight of correctional decision-making that affects women's liberty interests and bodily integrity. This problem has been well-documented in the federal prison system, having been a major focus of the Arbour Report and the recent *Protecting their Rights* CHRC Report, as well as a recent discussion paper by the federal Correctional Investigator, *Shifting the Orbit: Human Rights, Independent Review and Accountability in the Canadian Corrections System* (2004) ([http://www.oci-bec.goc.ca/reports/orbite\\_e.asp](http://www.oci-bec.goc.ca/reports/orbite_e.asp)) (hard copy attached). Howard Sears, the Correctional Investigator of Canada, recently noted that "experts [such as Justice Arbour and the Canadian Human Rights Commission] have concluded that the [Correctional] Service's internal decision-making processes do not adequately promote the accountability for human rights that should characterize corrections in the post-Charter of Rights and Freedoms era."

There have been repeated calls for correctional accountability that have gone unheeded. These calls for accountability were reinforced by Madam Justice Louise Arbour in her 1996 report. Indeed, the Office of the Correctional Investigator, the Task Force on Federally Sentenced Women and many previous reports and Commissions of Inquiry, not to mention the reports of the Auditor General and the Parliamentary Public Accounts Committee, have called for increased accountability within corrections and between the Correctional Service of Canada and other external bodies. In the federal context, CAEFS has made the following recommendations:

- CAEFS recommends a mechanism for **judicial oversight** of decisions that impinge further upon the liberty interests of prisoners, and that long term segregation, in particular, be reviewable by the courts.
- Along with an external governance body, CAEFS recommends the creation of an office of an **Inspector General of Women's Prisons**, mandated and resourced to conduct annual audits of adherence to legislation and policy within each of the regional prisons, such audits to be submitted to the Minister of Public Safety and the Standing Committee on Justice and Human Rights.
- **A Commissioner of Women's Corrections** should be appointed to govern all matters related to federally sentenced women, including the supervision of the wardens of the regional prisons and the Kikawinaw (head) of the Healing Lodge. The Commission office would be independent of CSC, reporting directly to the Minister of Public Safety.

- *A fund to allow women in prison to access legal aid* services to address issues related to their conditions of imprisonment and conditional release is needed to ensure that their rights and entitlements are realized.

CAEFS and EFS Manitoba strongly believe that similar mechanisms are urgently needed in the provincial system and the relatively small number of women prisoners provides an opportunity to “pilot” these measures. Through our work with women at PCC, we have found that the absence of openness, accountability and oversight are even more pronounced in the provincial system than in the federal system.

We have observed a culture at PCC that is generally closed to public accountability and community involvement to support and advocate for women incarcerated there. For example, since EFS Manitoba filed the human rights complaints about conditions at PCC, our EFS worker has not been permitted to meet with women for one-on-one counseling (a support that was beneficial to the women and which the women have repeatedly requested). PCC insists on having a guard present with our worker at all times while she is in the jail. In addition, PCC now only allows our worker to meet with women who have requested in advance to meet with her and who have specifically stated what they wish to discuss with our worker. She is prevented from making a request to meet with women, even women she believes may be in serious need of support. PCC also bars our worker from meeting with women in segregation, when they are most in need of support. These and other restrictions substantially limit the effectiveness of the support and pre-release planning that our worker can offer the women and seem to be premised on suspicion of independent advocacy and involvement with the women.

There are numerous other seemingly small ways in which the “closed” culture of PCC is manifested. For example, PCC staff will not allow our EFS worker to bring visitation forms to Winnipeg to make them available at our office and to facilitate family members filling them out. Instead, the institution requires that the incarcerated women mail the visitation forms to their family members and some women simply do not have the money for stamps.

In terms of available mechanisms for external accountability, in the federal system there is at least a designated investigatory/ombuds agency for prisons, the Office of the Correctional Investigator, which is independent of the Correctional Service. While the Correctional Investigator’s role is limited to reporting and making recommendations to remedy problems (*i.e.*, it has no enforcement power and does not report directly to Parliament), we simply note that this is more than is available to Manitoba prisoners. In addition, the federal prison system has implemented a limited form of external adjudication of disciplinary offences in prison.

The *Correctional Services Act*, C.C.S.M. C. C230 and the regulations provide for an extremely limited and grievance process whereby complaints are made to, and decided by, the warden and guards of the institution itself. In the case of preventative segregation, a prisoner is entitled only to have her segregation reviewed *by the warden or her designate*

within 7 days (and thereafter every 7 days for the first 60 days of segregation; after 60 days, she is entitled to a similar internal review every 30 days).

The only other recourse available to prisoners is a complaint to the Office of the Ombudsman. The Office of the Ombudsman is responsible for responding to complaints against all government Ministries and bodies, as well as dealing with complaints under the laws concerning privacy and personal information. In releasing his most recent report, Ombudsman Barry Tuckett commented on the “important need for government to refresh its commitment to open, accountable, and fair government in a visible way.” A lack of commitment to accountability and effective oversight is particularly problematic in the context of government bodies that have control and custody over the very liberty and bodily integrity of Manitobans, such as correctional facilities. The situation cries out for meaningful and effective oversight and accountability mechanisms.

### **Conclusion**

Unfortunately, since criminalized women have been considered “too few to count” when compared to their male counterparts, they have often endured inadequate and over-secure facilities and a lack of attention to their needs. However, the relatively small number of criminalized women actually presents an opportunity to pilot new approaches and to “think outside the (prison) box.” We urge this Consultation Panel to recommend community-based options, rather than a new jail. The Manitoba government’s decision to close PCC and take a new approach to addressing the needs of criminalized women in Manitoba creates a long-awaited opportunity to implement the key recommendations of the AJI and the reports of numerous other national and local bodies including that of the Canadian Human Rights Commission. CAEFS and EFS Manitoba look forward to an opportunity to engage in constructive dialogue about how to implement the kind of meaningful change that is necessary and, equally as important, to avoid repeating the mistakes of the past.