

Resolution of Human Rights Complaints brought by Elizabeth Fry Society of Manitoba against Manitoba Justice

1. The Human Rights Complaints

Two complaints were filed by the Elizabeth Fry Society of Manitoba (EFS) against Manitoba Justice concerning treatment of women incarcerated at the Portage Correctional Centre (PCC), as well as the conditions at PCC, alleging violations of *The Manitoba Human Rights Code* respecting sex, race, and disability. Manitoba Justice denied that it had violated the Code.

The Manitoba Human Rights Commission referred the complaints to mediation.

The process of mediation has resulted in a resolution of issues without prejudice to the respective parties' positions on the merits of the complaints, and EFS hereby withdraws its complaints.

The parties focused on the following five general categories:

- (i) Provision of programs that meet the needs of women
- (ii) Facilitating contact with children and families
- (iii) Meeting the special needs of Aboriginal women
- (iv) Meeting the special needs of women with disabilities, both physical and mental
- (v) Meeting the physical, mental, nutritional and counselling needs of pregnant women

2. Agreement on principles:

During discussions between the parties it has been acknowledged and agreed that the needs of women in the Corrections system differ from the needs of men and that these differences have significant implications for the delivery of services. More particularly, it has been acknowledged and agreed by the parties that:

- There are physical differences between men and women (including but not limited to menstruation, menopause and pregnancy).

- Women respond to incarceration differently than men.
- Women often bring with them a history of victimization.
- The dislocation from family and children exacerbates the situation.
- Women have higher levels of self-harm.
- Aboriginal women have different needs than other women.
- The principles set out in *The Human Rights Code* are paramount.
- Government should use the least restrictive means consonant with good security practices.
- Programming can be broken down into three areas:
 - *Intervention* designed to address behavioural changes. Currently this type of programming is only available to sentenced prisoners on the basis that women in remand custody are presumed innocent and cannot or should not be forced to participate in programming with this kind of focus (although government is looking at changing this approach);
 - *Educational*, including formal, vocational, substance abuse, addictions. This type is applicable to both remand and sentenced prisoners;
 - *Health and wellness*, including mental health, physical and recreational activities, pre-natal, parenting. This type is applicable to both remand and sentenced prisoners.
- Education and programming should be culturally appropriate and there should be programming specifically for Aboriginal women.
- There is value to a Women's Program Advisory Committee and of providing a continuum of care for women who go through the Corrections system.

The parties also agree on the following principles:

1. Women imprisoned in Manitoba have a substantive right not to be subjected to discrimination in a manner contrary to *The Human Rights Code* and a right to Correctional services not only as effective as those received by men, but that respond to their particular needs and circumstances, which may be different from those of their male counter-parts.
2. Equality is based on the real needs and identities of women prisoners, not on stereotypes, misperceptions or generalizations. A contextual approach is necessary to understand and respond to the needs of women prisoners, including Aboriginal women and women with disabilities, as they relate to Correctional services.
3. Manitoba Justice's duty to promote and protect the human rights of women prisoners in the provision of Correctional services is immediate, proactive, and ongoing.
4. Justifications for policies, practices, etc which result in discriminatory treatment in the delivery of Correctional services must conform to human rights requirements, and are generally related to safety, health, efficiency, security and cost. In such situations, where Manitoba Justice does not accommodate the needs of women prisoners that relate to protected grounds under the Code it must demonstrate that reasonable accommodation is not possible in the circumstances, or would generate undue hardship, as that term is used in human rights principles.
5. A proactive approach requires Manitoba Justice to implement strategies and policies to support the development and delivery of Correctional services that are consistent with human rights. These include: adequate data collection and reporting, meaningful consultation processes (which includes the Women's Program Advisory Committee), appropriate individual assessment processes, human rights education and training for all Correctional staff, and annual policy and program assessments that address human rights impacts.

3. Progress

Some positive changes have been made at PCC since the start of this process. In particular:

- computers have been moved into three different living locations with new programming available and a computer expert is working with residents to put more programming on the computers; as well a computer training room has been identified and implemented;
- the former computer room is now considered to be a sacred space;
- there is a newly hired cultural worker who attends at PCC 28 hours per week, including weekend services and has already provided such supports as assisting a number of women to make a star blanket;
- there are regularly scheduled sharing circles open to everyone;
- there is some one-to-one counselling available with the cultural worker;
- there are guidelines set by the elder and cultural worker for the use of sage and sweetgrass and they are posted in the living locations and cultural room;
- signage at PCC has been changed from "Offender" to "Inmate" and policies and standing orders will be clarified to acknowledge the distinction between offender and inmate and will reference inmates;
- there has been some identification of policies and practices relating to: assistance for physically disabled inmates and visitors; free telephone availability to lawyers and to other resources directly related to bail and release plans; photographs and possessions and community visits for mothers and children;
- nutritional evening snacks are now provided;
- Manitoba Justice has committed itself to an effective strategy for communicating to women prisoners what

programming and activities are available through such means as a posted monthly calendar, daily announcements, and case manager communication;

- PCC now supplies free tampons and three stamped envelopes per week;
- with respect to diversity of faiths, requests are made through the chaplain and elder and are assisted by two divisional coordinators;
- steps have been taken to provide confidential meeting space for EFS's meetings with inmates;
- a public health nurse funded by the Regional Health Authority has begun to provide services once a week to women at PCC;
- EFS has begun providing a small-scale literacy program at PCC, funded by Manitoba Justice, and the parties agree further efforts will be made to improve literacy training; and Manitoba Justice is making continued efforts at exploring various delivery models that might be appropriate in the PCC, obtaining resourcing for programming, and so on; and
- Manitoba Justice will amend its standing order relating to telephone use by inmates to provide for free long-distance calling by women at PCC upon request to include legal counsel and community-based organizations to facilitate bail and release plans, and will amend its telephone rules in the Inmate Handbook to reflect those changes.

These actions are considered as baselines and Manitoba Justice has agreed to provide notice to WPAC of any substantial change to these.

4. Ongoing initiatives:

The parties have agreed to the following ongoing initiatives:

- The parties agree that there should be a Provincial Reintegration Program and a Bail Supervision Program for women, and at the invitation of Manitoba Justice, EFS submitted proposals for same, which were incorporated into Manitoba Justice's estimates requests.

- A Women's Program Advisory Committee (WPAC) is hereby created; its terms of reference are attached to this document.
- The parties agree that abuse and trauma counselling should be made available to inmates, and WPAC will discuss the particulars of the complex implementation of this.
- Some improvements have already been made in the recreational equipment available to the inmates, and the parties agree that more programming should be done within operational requirements; to that end Manitoba Justice will explore contracted services for recreational programs.
- Manitoba Justice has drafted a new cross-gender staffing policy with a view to implementing one in the near future after a full consultation process.
- Given the number of incarcerated Aboriginal women, there is an increased demand and need for Aboriginal spiritual and cultural services, and Manitoba Justice will pursue avenues to increase those services.
- Library resources should be enhanced, and the parties will work towards that.
- The parties are committed to hold regular meetings between representatives of Manitoba Justice at the level of front-line staff in the institutions, the level of EFS Executive Director and institutional Superintendent/Executive Director of Corrections, and finally, at the level of EFS Board and Assistant Deputy Minister.
- Manitoba Justice agrees to review its applicable standing orders at least annually and to provide them, along with notes of changes, to EFS until one year after a new facility for women has been in operation; and Manitoba Justice is considering a request by EFS to make its applicable standing orders available to the inmates in their library; and in any event, Manitoba Justice will update its Inmate Orientation Handbook annually.
- Manitoba Justice will work with the Manitoba Human Rights Commission to develop and deliver human rights training

materials for Correctional staff and for inmates, to integrate human rights training at all levels of Corrections, and to ensure that accountability for human rights compliance is a part of managerial accountability in Corrections.

- Manitoba Justice will work towards writing accommodation policies/standing orders:
 - for accommodating the needs of inmates with physical disabilities;
 - for accommodating the needs of inmates with mental disabilities; and
 - providing minimum standards for dealing with pregnant inmates

all of which will be provided to EFS on an informational basis upon completion.

- The parties have had preliminary discussions about the possibility of bringing together experts in the field of women who self-harm to talk about how Correctional staff may better respond to women who engage in self-harm while incarcerated; and this matter will be further discussed by WPAC.

Conclusion:The parties have achieved a good working relationship through this mediation process and acknowledge the demonstrated concern and commitment from those within EFS and Manitoba Justice who participated so fully in the process. The genuine commitment to work towards an increased accommodation of the needs of incarcerated women and towards their substantive equality is a mutual one of both Manitoba Justice and EFS. The parties hope that the working relationship can continue beyond this process and toward a future of enhanced collaboration and cooperation.

SIGNED this _ day of June, 2007.

On behalf of Manitoba Justice:

On behalf of the Elizabeth Fry
Society of Manitoba:

Greg Graceffo, Assistant Deputy
Minister

Debra Parkes, President of the
Board