

Criminalized & Imprisoned Women

Current Trends

- Crime rates in Canada reached a 25 year low in 2006¹, yet the numbers of women being imprisoned are increasing. In fact, the fastest growing prison population worldwide is women, particularly racialized, young, poor women and women with mental and cognitive disabilities. The escalating numbers of women in prison is plainly linked to the evisceration of health, education, and social services.²
- Women account for less than 5% of all individuals serving sentences of 2 years or more and the vast majority of women prisoners are first time prisoners. In 2001, 82% of federally sentenced women were serving their first federal sentence.³
- In 2005 48% of 810 federally sentenced women were in prison and 52% were out on bail or under community supervision. For Aboriginal women, however, the majority were imprisoned with only about 40% in community.⁴
- Two-thirds of federally sentenced women are mothers and they are more likely than men to have primary childcare responsibilities.⁵ There are about 25 000 children whose mothers are in either federal prisons or provincial jails in Canada each year. Separation from their children and the inability to deal with problems concerning them are major anxieties for women in prison.⁶
- In 2002-2003, for a population of 376 women, there were 265 admissions to administrative segregation, of which 83 were for a period of more than 10 days. This typifies the intransigence of correctional authorities when it comes to adherence to the law. Segregation can only be exercised where there is no other reasonable alternative to isolating a prisoner (pursuant to section 31 of the *Corrections and*

¹ Statistics Canada, *The Daily: Crime Statistics 2006*, online: Statistics Canada <<http://www.statcan.ca/Daily/English/070718/d070718b.htm>>.

² Canadian Association of Elizabeth Fry Societies, *Submission of the Canadian Association of Elizabeth Fry Societies to the Standing Committee on Justice, Human Rights, Public Safety and Emergency Preparedness (39th Parliament) Regarding Bill c-10: An Act to Amend the Criminal Code (Minimum Penalties for Offences Involving Firearms)*. (Ottawa: Canadian Association of Elizabeth Fry Societies, 2006) at 4.

³ Canadian Human Rights Commission, *Protecting Their Rights A Systematic Review of Human Rights in Correctional Services for Federally Sentenced Women* (Ottawa: Canadian Human Rights Commission, 2003) at 5.

⁴ The Canadian Feminist Alliance for International Action, *Submission to the United Nation Human Rights Committee on the occasion of its review of Canada's 5th report on compliance with the International covenant on Civil and Political rights* (Ottawa: FAFIA, 2005) at 51.

⁵ Canadian Human Rights Commission, *Protecting Their Rights A Systematic Review of Human Rights in Correctional Services for Federally Sentenced Women*. (Ottawa: Canadian Human Rights Commission, 2003) at 6.

⁶ Voices for Children, *Invisible Victims: The Children of Women in Prison*. (2004) online: Voices for Children <<http://www.voicesforchildren.ca/report-Dec2004-1.htm>>.

Conditional Release Act). In one case, an Aboriginal woman was segregated for 587 days.⁷

- The three Aboriginal women who are subject to the unlawful super-maximum designation known as the “management protocol” have endured prolonged segregation and other punitive and inhumane conditions of confinement which the United Nations has defined as torturous. In addition, as a result of their reactions to their conditions of confinement these three and others have become convicted of additional charges while in prison; in one case the woman entered the prison serving a 3.5 sentence and is now serving well in excess of 20 years.⁸
- Although many reports, from the Task Force on Federally Sentenced Women, the Arbour Commission, the Auditor General, the Public Accounts Committee, the Correctional Investigator and the Canadian Human Rights Commission, have demonstrated that women prisoners pose a low security risk and are less likely to return to prison for new charges, the Correctional Service of Canada continues, for the most part, to use the same risk and needs assessment tools for both populations.
- Because the custody ratings scale is designed according to white, male, middle class standards, it results in skewed discriminatory assessments of federally sentenced women, resulting in too many being deemed high security risks. Among the hardships imposed by this is the fact that maximum security prisoners are isolated in segregated living units and, unlike their minimum and medium security counterparts, are not eligible to participate in work-release programs, community release programs or other supportive programming designed to enhance their chances of reintegration.⁹
- Notwithstanding their relatively low risk to the community in comparison with men, federally sentenced women as a group are, and have historically been, subject to more disadvantaged treatment and more restrictive conditions of confinement than men.
- The 2006 Report of the Correctional Investigator states that there has been a decline in the number of women participating in unescorted temporary absences. This signifies the culture of restriction that is becoming increasingly pervasive throughout the prisons.¹⁰

⁷ Canadian Human Rights Commission, *Protecting Their Rights A Systematic Review of Human Rights in Correctional Services for Federally Sentenced Women*. (Ottawa: Canadian Human Rights Commission, 2003) at 44.-45.

⁸ CSC Case Files.

⁹ Canadian Human Rights Commission, *Protecting Their Rights A Systematic Review of Human Rights in Correctional Services for Federally Sentenced Women*. (Ottawa: Canadian Human Rights Commission, 2003) at 28.

¹⁰ Howard Sapers, *Annual Report of the Correction Investigator 2005-2006* (Ottawa: Minister of Public Works and Government Services Canada, 2006) at 10.

- More than half of all charges for which federally sentenced women are convicted are non-violent, property and drug offences. Property offences account for around 32%¹¹ of all court cases and 47%¹² of all charges against women. One reason why women account for 5% of admissions to federal penitentiaries is because they are far less likely than men to commit or to be convicted of serious crimes of violence which result in sentences in excess of two years.
- The recidivism rate for federally sentenced women is approximately 21%,¹³ as compared to 59% for men. Only 1-2% of federally sentenced women are returned to prison as the result of the commission of new crimes; and less than 0.5% are for a violent offence. The overwhelming majority represent women who have their parole revoked as a result of administrative breaches of conditions of their community release.¹⁴ The recidivism rate of women released from the Okimaw Ohci Healing Lodge is even lower.
- Aboriginal federally sentenced women and other racialized women are singled out for segregation more often than are other prisoners. Data from the Correctional Service of Canada show that although Aboriginal women comprised 32% of all federally incarcerated women in February 2003, they accounted for 35.5% of all involuntary admissions to administrative segregation.¹⁵
- Women who are classified as maximum security tend to be so designated because they are labeled as having difficulty adapting to the prison (i.e. institutional adjustment) rather than because they pose a risk to public safety.
- Eighty percent of all federally sentenced women report having been physically and/or sexually abused. This percentage rises to 90% for Aboriginal women.¹⁶
- Federally incarcerated women and men tend to have lower educational attainment than the Canadian adult population as a whole. While more than 80 percent of women in Canada have progressed beyond Grade 9, for women prisoners the figure is closer to 50 percent.¹⁷

¹¹ Canadian Center for Justice Statistics, *Female Offenders in Canada*. (2008) at 10 online: Canadian Center for Justice Statistics <<http://www.statcan.ca/english/freepub/85-002-XIE/85-002-XIE2008001.pdf> >

¹² Canadian Center for Justice Statistics, *Female Offenders in Canada*. (2008) at 3 online: Canadian Center for Justice Statistics <<http://www.statcan.ca/english/freepub/85-002-XIE/85-002-XIE2008001.pdf> >.

¹³ *Ibid* at 5.

¹⁴ *Ibid*.

¹⁵ Canadian Human Rights Commission, *Protecting Their Rights A Systematic Review of Human Rights in Correctional Services for Federally Sentenced Women*. (Ottawa: Canadian Human Rights Commission, 2003) at 45.

¹⁶ *Ibid* at 7.

¹⁷ *Ibid* at 7.

- Imprisoned women have much lower employment rates than incarcerated men: in 1996, 80% of the women serving time in a federal facility were unemployed at the time of admission, compared to 54% of men.¹⁸
- Reflective of the types of crimes that women commit, those found guilty in court are more likely than men to be sentenced to prison. For example, Canadian statistics reveal that 25% of men versus 37% of women are jailed for theft.
- The context in which federally sentenced women are charged with causing death is important in understanding the risk they pose to society. In many cases, their actions were defensive or otherwise reactive to violence directed at them, their children, or another third party.¹⁹
- Relative to men, women pose a far lower risk to the safety of the community upon release and lower rates of recidivism.
- In 2001-2002, more than 40% of priority complaints and grievances (those considered to have a significant impact on a prisoner's rights and freedoms) were NOT processed within established time frames.²⁰
- The use of violence by prisoners against themselves or against others is often interpreted as an expression of violent pathology of the individual prisoner and results in punishment. However, that approach omits the role of the prison regime in generating violence.
- Almost 50% of Aboriginal federally sentenced women are precluded from accessing the Okimaw Ohci Healing Lodge because they are classified as maximum security prisoners. Many are now confined in the new maximum security units in the regional women's prisons, while a small number remain confined in the segregated maximum security unit in the men's Regional Psychiatric Centre in Saskatoon. No maximum security women have ever been able to access the Healing Lodge.²¹

Accountability and Oversight

- The more the human rights and Charter protected rights of women prisoners are violated, the more likely it is that the conditions of confinement to which women prisoners are subjected will create situations that interfere with the safety of women prisoners, as well as with the staff within the women's prisons.
- Women prisoners in particular tend to be invisible to society, because of their relatively small numbers.²²

¹⁸ *Ibid* at 7.

¹⁹ *Ibid* at 32

²⁰ *Ibid* at 64

²¹ *Ibid* at 28-29.

²² *Ibid* at 5.

- Approximately 20 reports, investigations, and commissions of inquiry have chronicled the urgent need for oversight and accountability mechanisms to address the violations of the rights of women prisoners in Canada.
- In 1996, Louise Arbour in her report into the illegal stripping, shackling, transfer and segregation of women prisoners at the Prison for Women in Kingston, found that culture of the Correctional Service of Canada was one of disrespect for the rule of law. Accordingly, she made recommendations for judicial oversight and external accountability mechanisms.²³
- Eight years later, the Canadian Human Rights Commission (CHRC) found an ongoing need for oversight and accountability mechanisms to address the discriminatory treatment of women prisoners in Canada. They also focused on the need to address the discriminatory security classification and discussed the need to ensure that correctional practices be remedied so as to not violate the human rights of women prisoners. The CHRC found that the discriminatory impact is exacerbated by the ineffectiveness of current grievance mechanisms and the lack of external oversight of CSC.²⁴
- In 2005, the United Nations Human Rights Commission (UNHRC) called on Canada to remedy the discriminatory treatment of women prisoners. Moreover, as part of their review of Canada's performance in relation to the International Covenant on Civil and Political Rights (ICCPR), the Commission called upon Canada to implement the recommendations of the CHRC, especially those related to external redress and the need for adjudication processes for prisoners. They also instructed Canada to report within one year on their progress on this front. No such report has been submitted.²⁵
- On April 27, 2006, CSC released its responses to the 4 of the most recent reports critiquing their treatment of federally sentenced women. Despite many sweeping assertions of significant progress, the reality of continued human and Charter rights violations reveal a less than stellar record.

²³ Louise Arbour, *Report of the Commission of Inquiry into Certain Events at the Prison for Women in Kingston*. (Ottawa: Solicitor General, 1996).

²⁴ Canadian Human Rights Commission, *Protecting Their Rights A Systematic Review of Human Rights in Correctional Services for Federally Sentenced Women*. (Ottawa: Canadian Human Rights Commission, 2003) at 71.

²⁵ United Nations Human Rights Commission, *Concluding observations of the UNHRC in relation to the report submitted by Canada under Article 40 of the ICCPR*. (2005).

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