

If you have come to help me,  
You are wasting your time  
But if you have come because your liberation  
is bound up with mine  
Then let us work together.  
**Lilla Watson**  
(Australian Aboriginal Woman)

## Introduction

### Who is an Advocate?

An Advocate can be any person or any group who **seeks justice** for another –one who for various reasons is disabled in their ability to act for themselves. An advocate may:

- uphold the cause of another through support or pleadings
- defend by argument and/or
- intercede on behalf of another

### What should the governing principles of any prisoners' advocate entail?

- To a pursuit of justice that is seen to be done
- To understand that any information collected and/or given by a prisoner is **confidential** unless told otherwise
- To use a vocabulary which reflects at all times the **reality** of imprisonment (see Section I)
- To uphold the focus on truthfulness and **normative legitimization** (see Section III)
- To reject any means/ends rationality which is indifferent to culture, society, personality and Constitutional entitlement in particular the guarantees under section 15 of the Charter of Rights and Freedoms of the *Constitutional Act of Canada*.

When confronted with a problem concerning the rightness or wrongs of “treatment” and the willingness or unwillingness of an advocate to speak for the cause of the prisoner, one needs to ask the questions:

- Does the matter evoke in the prisoner a deeper respect for another person, or enhance his or her own interpersonal, social, cultural or spiritual evolution towards becoming a better member of humankind?
- Does the matter contribute towards a good opportunity for an effective and permanent method of preventing recidivism?
- Is the “power exercised over the prisoner by the prison seen to be legitimate, and not power which is divisive, oppressive or exploitative?(2000:68)<sup>i</sup>

Any negative response to these questions affirms advocacy.

Advocates wish to strengthen bonds of human solidarity. Decreasing the dominance of systems is one method.

### How does a prisoners' advocate work?

Upon the acceptance of assistance offered to those with no voice or those whose voice is not heard, enabled or accepted to be legitimate, the advocate works by seeking justice on their behalf:

- By showing the same respect to the prisoner as you would to any person you were acting on behalf of
- By asking the prisoner what s/he thinks could remedy the situation before making suggestions of your own. *Sometimes the prisoner knows what to do, but doesn't know how to begin the process. Often the prisoner may not have any ideas, but it shows respect to ask first.*
- By assisting the person to become productively pro-active in his or her own situation through education and example. *The most help you can provide to any prisoner is to assist them in building on their own strengths. Often the prisoner simply does not understand that s/he does have strengths and therefore can make choices positive to her or his existence. Most prisoners need help in understanding that for the time being, prison is their existence but no matter how long or how short a time, it is mainly in their hands how the time is spent.*
- By understanding that you are not expected to know the many nuances involved in the prison experience. *Use care when using descriptive terms. If you are unsure of the application of any descriptive, refrain from using it until you are sure. (see Appendix I – Language)*
- By acting as a resource person in the capacity that you are most comfortable with. *The needs of prisoners encompass all aspects of existence, however each prisoner has her or his own priority list.*
- By always asking permission of the prisoner to request the assistance of another person and/or group  
*If you are referring any question or request to another person, ask the prisoner if that is acceptable before involving anyone else.*
- By quickly acting to refer the matter to another advocate, specialist or group when in an emergency situation i.e.: *If the person you are assisting is held incommunicado causing you concern*
- By returning phone calls and requests by prisoners as soon as possible even if not being able to help immediately
- By leaving a message on your answering service stating return time when out of the area and preferably leaving someone else to reference

**58.** *The purpose and justification of a sentence of imprisonment or a similar measure deprivative of liberty is ultimately to protect society against crime. This end can only be achieved if the period of imprisonment is used to ensure, so far as possible, that upon her/his return to society the offender is not only willing but able to lead a law-abiding and self-supporting life;*

**60.** *The regime of the institution should seek to minimize any differences between prison life and life at liberty which tend to lessen the responsibility of the prisoners or the respect due to their dignity as human beings.*

**61.** *The treatment of prisoners should emphasize not their exclusion from the community, but their continuing part in it...*

**United Nations Standard Minimum Rules for the Treatment of Prisoners New York, 1984**

**An advocate does not:**

- ask the prisoner what s/he is doing time for (*considered by prisoners to be extremely rude*)
- betray anything considered by the prisoner to be confidential
- ask a prisoner anything about any other prisoner
- seek counsel from prison authorities
- make promises s/he cannot keep  
*When agreeing to find information, etc. give yourself a reasonable amount of time to obtain results and communicate the length of time required in a clear manner.*  
I.e. "This may take (specified period of time) to find out for you. I will get back to you on this (day & date)."
- reinforce the *ideal* of penal authority
- rationalize punishment particularly when euphemized as "treatment"
- assist in the control of prisoners
- accept any oral or written statements concerning a prisoner and/or her/his behaviour as the complete and unmitigated truth of the matter without first listening to the prisoner's perspective in privacy
- participate in the searching of a prisoner and/or her/his belongings
- speak "down" to a prisoner ( *It will be obvious and your attempts at helping may be rejected. On the other hand, don't expect that all prisoners will understand terms that you use. If you are unsure, affirm their understanding from time to time when in dialogue.*)

### Effective Advocacy

- *Understand yourself and your motivations for involvement.*
- Understand that every situation in all of our lives is "political"
- Be realistic but maintain a strong focus. Understand that the prison regime is a very complex and complicated one. It is most unlikely that you could help any prisoner in all of the areas of need.  
*If the entire gamut of needs by prisoners seems overwhelming, you might consider a selection of particular areas of personal interest.*

Would your advocacy interests, talents and focus be better used as a therapist or a teacher? a counselor or a leader? a spiritual guide or a meditation partner? a housing advocate and liaison? a First Nations advocate? Women of colour advocate? community liaison? Post-secondary education advisor? assertiveness trainer? transportation coordinator? volunteer crisis intervenor? liaison in family relationships? legal inreach? vocational assistance? health and fitness counselor? Fine arts or applied sciences?

*Try to be thorough in a general way or in a specific way if you have selected a specific area of advocacy (see Section IV for specific needs of prisoners).*

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-In researching and in keeping updated on new legislation and correctional policies.  
-In clarifying to yourself the differences between "*privileges*" and "rights", between "*treatment*" and "punishment",

- An Advocate must accept that correctional policies will often **not** flow directly from law but rather may be in opposition in the prison environment. This may occur through

deliberate and/or unintentional, misguided and/or misunderstood comprehension and interpretation of laws. It may also occur simply because the particular prison employee or regime is ignorant of the applicability of the law to prisoners. There are varying degrees of non-compliance with the law within prison environments.

- The less educated, less supported, less communicative prisoner will more often be the target of these misinterpretations of law and/or policy. The higher the security level that a prisoner is held under runs parallel to the degree of misguided and misunderstood interpretations of and/or ignorance of the law as applied by prison regimes to the prisoner .i.e. *maximum-security prisoner; segregated prisoner*
- An advocate must therefore be careful when making any assumption that policy is necessarily lawful or that policy quoted is formally authorized policy. For example, a prison employee may tell you that it is policy that no one can file a grievance for the prisoner, but the prisoner herself. This is clearly a statement in opposition to Section III of the CCRA which states:
  - 170.(1)The Correctional Investigator may commence an investigation*
  - (a) on the receipt of a complaint in writing by or on behalf of an offender*

The Advocate, along with the prisoner, also has the right to accessibility of a full set of the Commissioner's Directives (CDs) as per CCRA 98. (2). Remember however, that the right to accessibility does not mean that a complete updated set of CDs may be found in the prison library. This is a practical example of how many of us have inherent rights under the law, but this is not the same as the ability to access those rights. It is the Advocate who may best be able to assist and/or advise a prisoner in these areas.

It is therefore suggested that the advocate have some knowledge of and is able to reference the CCRA and the challenges to the CCRA put forward by CAEFS and the Canadian Bar Association if so required.

#### ➤ *Educate yourself*

Familiarize yourself with an outline of the history of incarceration of women in Canada like the now classic, *Too Few To Count*<sup>i</sup>. Know that though federal and provincial prison regimes may often operate in differing proprietary ways they are always focused upon control. Read material prepared by Kim Pate<sup>iii</sup>, other advocacy groups and by abolitionists like Karlene Faith,<sup>iv</sup> Ruth Morris<sup>v</sup> and by prisoners. Many excellent edited collections are now available through different universities across the country.

## Conclusion

Criminal law has basis in Roman law that is rooted in Hammurabai's 1927 BC Law of Retaliation - "AN EYE FOR AN EYE." Even after nearly 4,000 years there are still many

who subscribe to this form of “justice” and in fact at present the subscribers’ numbers appear growing. Even if a part of you believes in a form of retribution to right wrongs done but also believes that permanent psychological, physical or mental impairment should not result, then prisoner advocacy is the correct path to improving the outcome.

”If you are to punish a (wo)man retributively you must injure (her) him. If you are to reform him(her), you must improve him(her). And (wo)men are not improved by injuries. (1978:119)”<sup>vi</sup>

In many ways, the position of prison advocate and the activities of advocacy are among the most abstract conundrums. When should an advocate speak out? What are the “unwritten rules” with regard to assisting prisoners? When deciding to speak out, who is the dialogue best directed to? What are the repercussions if one stands against a seemingly insurmountable bureaucracy as well-funded, staffed and technologically supported as prison regimes?

An advocate is often caught between “a rock and a hard place”, not knowing if one’s actions are indeed helping or may be hindering the process of seeking justice. And it is true that sometimes one believes one is performing an act of advocacy but in fact is only maintaining “the status quo.” You will learn by experience what is what. Ask your peers for advice without divulging the person involved if confidence was a precondition of your advocacy.

At this point you may say, “yes, what’s the point of carrying on when it seems that the more I try to help, the more it seems I don’t understand why it is not helping.” I heard someone say the other day that; “There are no perfect people, only perfect intentions.” This is a credo one can live and work by. Just do your best and be sincere and you will gain respect from all involved. I hope that even one advocate may have a clearer idea of what is facing her/him when venturing within the walls of the growth industry called corrections and have confidence that the efforts of all advocates are sources of wonder and inspiration to those who are locked inside the walls.

This material is presented from the viewpoint of a lifer. You may not wholly agree with the contents but I am hoping that there will be some worthwhile information within it, such that one prisoner or member of a prisoner’s family in need of an advocate may be assisted in some way. There is not one prisoner who would not benefit.

We thank you for your wonderful examples of humanity.

Compliance with the law ultimately depends upon an interdependent trust --trust in the rightness of the law and in the right enforcement of that law which "reflects ideals of liberty, equality and fairness (*nullum crimen sine lege, nulla poena sine lege* - there can be no crime, nor punishment, without law)"(Arbour 1996:179).

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