

# Introduction

## Prisons for Women—Theory, Reform, Ideals

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Forming a vision which truly represents an alternative to the status quo is the core of social change. Struggling for changes which transform the lives of all women is the concrete, constructive core of feminism.”  
(Dobash and Dobash 1992:288)

In 1990, the Canadian government published a remarkable report called *Creating Choices* (TFFSW 1990). It set out a new philosophy and set of principles for the construction and operation of five new women-centred prisons. The report was the outcome of the Task Force on Federally Sentenced Women (TFFSW), which was established in 1989 to consider the future of women’s imprisonment in Canada for those serving sentences of two years or more. Canada is in a unique position as one of the first countries to have attempted to develop a new prison regime for women that incorporates feminist principles, as well as recognizing the need to respond to the extraordinary experiences of Aboriginal women.

Apart from stimulating considerable interest in other countries, the report also influenced some provincial governments to rethink their policies for women’s prisons. For example, the provincial government of Nova Scotia set up its own task force on women’s imprisonment. Their report, *Blueprint for Change* (Solicitor General’s Special Committee on Provincially Incarcerated Women 1992) was modelled on TFFSW and argued for the virtual ending of imprisonment at the provincial level in Nova Scotia (i.e., for all those women serving sentences of less than two years).<sup>1</sup> Similarly, Ontario established a Women’s Issues Task Force in 1993, whose more restrained report, *Women’s Voices, Women’s Choices*, appeared in 1995.

The millennium marks the tenth anniversary of *Creating Choices*. The anniversary is an excellent time to reflect on and re-evaluate changes in women’s imprisonment. This book is about women in prison, about the effects of punishment and penalty on those women, about the impact of feminism on the lives of women prisoners and the systemic barriers that limit prison reform. It takes as its starting point the publication of *Creating Choices*. The report serves as a vehicle for analyzing the difficulties of reforming carceral institutions, and the role of prisons in our society, the intersection of gender with race and class, and the particular problems faced by women prisoners. While the focus is on the current period, we argue that it is essential to place the penal system in a historical context in order to understand the present. In a short and introductory text, it is not possible to give a detailed account of all the issues facing women prisoners or penal reform. Instead our objective is to stimulate a reflexive and

why women were much less likely to be committing crime than men. Instead, they were concerned with activities of men and boys. Similarly, early versions of critical theories, like labelling and class-based conflict theories failed to address gender difference in offending or in the administration of the criminal justice system. Feminist recognition of this “collective amnesia” resulted in broader theoretical concerns about the *generalizability* of theories of crime based on men and boys to the experiences of women and girls, and about the failure of existing theories to explain why women and girls appear to commit *far fewer* crimes than men and boys.

Second, before 1970 little was known about the nature of women’s crime or the qualitative or quantitative differences between male and female offending. Early feminist critiques of criminology challenged traditional explanations of female crime (Klein 1973; Smart 1976; Heidensohn 1985) and stressed the importance of examining women’s experiences from their standpoint, of contextualizing women’s offending, of analyzing institutional and interpersonal power relations, and of the gendered nature of social controls. These feminist theoretical analyses evolved into a more substantive critique of traditional criminological methods and positivistic claims of scientific objectivity and neutrality.

Feminist scholars also began the daunting task of redressing the significant gaps in our knowledge about women’s “everyday” experiences in the criminal justice system. Feminist research in this area includes studies of the dynamics of female crime (sometimes referred to as feminist empiricism) and of the *experiences* of women in the criminal justice system—either as law-breakers, victims or practitioners. Many of these studies clearly document the discrepancies in the treatment of males and females by the criminal justice system and in some extreme cases an institutionalized sexism. This research inspired rights-based litigation and policy claims for equality of treatment for women and men

Third, the feminist critique prompted a re-examination of the assumptions underlying the law and the administration of the criminal justice system. A parallel critique of feminist legal scholars identified the male-centred nature of law, and showed how family law, and criminal law in particular, played a major role in gender oppression. Some feminist scholars remain skeptical about the capacity of legal reform to alter the material conditions of women and instead argue for a decentring of the law in favour of other more systemic changes (Smart 1989).

More recently, North American and Western European feminism has been criticized for its failure to adequately theorize race and socio-economic status (Rice 1990; Carlen and Worrall 1987; Simpson 1991; Hester, Kelly and Radford 1996). The universal category “women” and the proselytizing of feminism by predominantly white and middle-class women, is seen as a form of elitism that ignores the impact of racial and cultural experiences, age, ability and sexual orientation on different women’s lives. The category “women” is contentious in that it highlights only one dimension of a “fractured identity.” Some postmodern legal scholars argue for a more integrated analysis that considers the *intersection* of multiple forms of oppression (Crenshaw 1992; Razack 1994; Bannerji 1995).

analytical discussion of women's imprisonment that goes beyond a description of events or individuals.

## Feminism, Reform and the State

The feminist agenda has always been concerned with bringing about social change, with improving women's lives (although not exclusively). This relates to all shades of feminism (Daly and Chesney-Lind 1988; Comack 1999) and feminist engagement with the state and theoretical analyses and debate (Harding 1987; Rafter and Heidensohn 1995). Yet working for change in the justice system seems to have been more difficult than in other areas of social policy, in part because of the authority and power of the law and its ability to co-opt feminist concerns. Feminist criminologists have raised concerns about the role of state intervention. Many critical and reflexive analyses question the wisdom of relying too heavily on the state; in fact, a number of writers have argued that such engagement can make things *worse* for women (Smart 1989; Snider 1990, 1994; Los 1990; Comack 1999) and that rather than empower women the state contributes to women's oppression. For example, many feminists have documented that male violence against women persists despite numerous well-intentioned state initiatives directed at remedying the problem. The state's response to male violence against women has not remained true to the original feminist agenda. While demands for reform and state action (legislation and policy) have had some immediate advantages for women, such as funding of shelters, feminist structural analyses of this problem is often ignored, misinterpreted and misrepresented. The governments individualize and psychologize (syndromize) the experiences of battered women rather than address the broader concerns about men's behaviour and the structural inequality of women in society.

The impact of feminism in criminology was first felt when Frances Heidensohn in England (1968) and Marie Andree Bertrand in Canada (1969) "awoke criminology from its androcentric slumber" by drawing attention to the omission of women from general theories of crime (Daly and Chesney-Lind 1988:507). Feminist thought, however, has changed considerably over the past twenty years in Canada and elsewhere. The following three areas capture the central components of the initial feminist critique of criminology and criminal justice practices. First was an acknowledgment of systematic neglect of women/gender in criminological theory. Traditional mainstream criminology, like most academic disciplines, had largely ignored women despite increasing evidence that crime was gendered. Those few theories that attempted to explain female crime provided stereotypical and biologically based constructions of women's offending which pathologized, infantilized, demonized and sexualized women's crime and deviance (see Morris 1987; Naffine 1987). These studies reinforced stereotypical views about the nature of females (and males), while ignoring the substantive differences in their social status and economic position. Most traditional sociological theories, including strain theory, opportunity theory, learning theory, subcultural theory and social-control theory, failed to question

for women (Bertrand 1998).

Part of the explanation for the limited impact of feminism on the lives of women prisoners lies in the ambivalence many feminists feel about acquiescing in the correctional treatment of women, or asking the criminal justice system to become, as Snider puts it, “an equal opportunity oppressor” (1994:83). There are other factors which have contributed to the reluctance to engage with such issues, apart from concerns about the theoretical, structural or practical feasibility of doing so, like loss of public interest, which accompanies the post-sentence stages of the criminal justice system. With the exception of a few key women whose situation or sentence rouses public interest, most attention is focused on the drama of the court process up to the sentence itself (Shaw 1995) and that too is where much feminist interest has stopped. The secrecy associated with correctional regimes is another factor that protects those regimes from the public eye. Secrecy presents real barriers to investigation and research (Snider 1994; Doyle and Ericson 1996). Overall, therefore, not only has feminism taken longer to affect the lives of women in conflict with the law than in other areas of social policy, but there has been even less analysis of or engagement with women’s prisons. This is what makes Canada’s attempt to draft a new and feminist-based prison system so unusual.

### Studies of Women's Prisons

In the wider criminology literature—as within feminism—there has been extensive analysis of penalty and the role of the prison in society. Views on changing penal trends are divided. Some argue that the emergence and development of the penitentiary in the nineteenth century was progressive, humanitarian and positive. Others—who are referred to as the *revisionists*—contend that those changes led to more pervasive and totalizing forms of social control (Foucault 1977; Ignatieff 1978; Rothman 1980; Cohen 1985). Such works have almost without exception ignored the situation of women prisoners and women’s prisons.

In most countries, critical studies of the imprisonment of women emerged only in the past twenty years. Concerns about male power in terms of repression and social control dominate many of these accounts. Most of these studies outline the patriarchal oppression of women prisoners at the hands of their (usually) male keepers, from the seventeenth to the twentieth centuries, while some also consider the impact of class, race and issues of women’s resistance (e.g., Freedman 1981; Rafter 1992; Carlen 1983; Zedner 1991). Dobash, Dobash and Gutteridge (1986) for example, show how penal and therapeutic techniques of governing women prisoners amount to gender-specific forms of disciplinary regulation. They trace the development of punishment and prison regimes, and discuss the role of criminological and expert knowledge in the formation of those regimes. Thus, their work offers a valuable critique of the revisionist analyses of men’s penalty (Ignatieff 1978; Rothman 1980; Foucault 1977) for failing to consider the role of patriarchal and gender-based assumptions in the development of modern prisons.

Others argue that feminist inquiry has to be expanded to include analyses of masculinity as well as femininity (Newburn and Stanko 1994; Daly and Maher 1998). There has also been a recent critique of feminism's portrayal of women primarily as victims, who neither act nor resist but merely submit to violence (Bosworth 1999), as well as its neglect of women's capacity to perpetrate violence (Heidensohn 1992; Shaw 1995).

In the course of the past thirty years feminism has undergone considerable development, and its ideals and visions for change or reform have included a wide gamut of approaches. These range from trying to reform the mainstream institutions of the state through policy and law reform to rejecting reform, preferring instead radical grass-roots activity and radical social change because "the system" cannot adequately address the concerns of women as a group.

### The Neglect of Incarcerated Women

Where does feminism now stand in relation to women in prison? As Rafter and Heidensohn (1995:7) have pointed out, it is ironic that while "feminists began their criminological critique with the neglect of women as *offenders*, their greatest achievement has been developing new theories about and policies for women (and children) as *victims*." Until recently, much feminist research has focused on the treatment of female victims of sexual assault and domestic violence. In the same way, feminist advocacy has concentrated primarily on dispelling the myths and misconceptions surrounding violence against women, and on improving women's access to services and the response of the criminal justice system to victims. It has been suggested that feminist criminologists gave greater attention to women's victimization rather than their lawbreaking because it is more easily linked to patriarchal relations of power (Daly and Chesney-Lind 1988). In short the issue of victimization appears to be more consistent with the feminist project, and it was perceived as a more pressing social problem. With the exception of women accused of violence against intimates, and the acceptance by the courts (in some cases) of the "battered women's defence," the impact of feminist research and activism on offending women has been much more restricted (Ursel 1991; Comack 1993; Noonan 1993; Bertrand 1994). There is little evidence of changed regimes, correctional agendas or sentencing practices for women offenders in most countries. There has been relatively little focus on the lives of women who come into conflict with the law and even less on imprisoned women. The characteristics and condition of women prisoners remain depressingly familiar, with considerable deterioration in conditions in some countries. In the United States, for example, the number of women in prison has risen from some 12,000 in 1980 to more than 60,000 in 1995, an increase that includes primarily non-white women sentenced for minor offences (Chesney-Lind 1995; see also Bloom, Lee and Owen 1995). A recent comparative account of women's prisons in North America and some European countries reaches the conclusion that they still feature excessive security, fail to classify appropriately, restrict access to children and families, and lack a range of suitable programs

There are also analyses of the impact of feminist engagement with the prison (Hattem 1990; Biron 1992; Kendall 1993a, 1994a, 1994b; Shaw 1993, 1996b; Hannah-Moffat 1994, 1995; Faith 1995; McLean 1995; Bertrand 1998). Kathy Kendall and Shoshana Pollock, for example, undertook extensive analyses of the development of programs based on feminist principles at the Prison for Women in Kingston in the early 1990s (Kendall 1993; Pollack 1993). These studies fill an important gap in our knowledge of women's imprisonment in Canada and reveal the many failed attempts to reform the conditions under which women serve their sentences.

### Who Are the Women in Prison in Canada?

Canadian women's prisons are unique in part because of the political and social development of the country as well as its physical characteristics (including its enormous size, the relatively small and widely spread population, and the existence of significant language and cultural differences). Unlike many other countries, Canada has a two-tier correction system. The 1867 constitution divided responsibility for imprisonment between provincial and federal governments, and parallel institutional systems developed for men and women (Friedland 1988). Those who receive sentences of under two years, referred to as *provincially sentenced*, serve their sentences in a provincial correctional institution or jail. In some provinces and territories, such as Manitoba and Saskatchewan, provincially sentenced women are housed in the province's single women's prison. In others, for example Quebec, there is more than one women's prison but for the most part women serve their sentences in small sections of prisons housing much larger numbers of men. Ontario, for example, has for many years imprisoned women in jails and detention centres throughout the province, often in very inferior conditions (Shaw et al. 1991; Shaw 1994a).<sup>4</sup> An exception is British Columbia where both provincially and federally sentenced women have been housed at the Burnaby Correctional Centre for Women since 1990.

Women sentenced to two years or more are referred to as *federally sentenced* and serve their sentences for the most part in a single federal penitentiary. Institutions for men are dispersed throughout the country and offer a variety of programs and facilities as well as security levels. For women until 1995, in part because of their small numbers, there was only one federal prison, the Prison for Women in Kingston, Ontario. Unlike prison systems in some other countries, there were no minimum-security facilities, no facilities for mothers with babies nor even specific psychiatric facilities for women serving long sentences.<sup>5</sup> And even those who come from Ontario, the same province in which the prison is situated, might still be up to 1000 miles from home. From the 1970s some federally sentenced women were able to stay in provincial prisons under exchange of service agreements, so that they could receive services in French, in the case of women in Quebec, or be closer to home.

Provincially sentenced women form the larger group, most of them serving very short sentences.<sup>6</sup> In 1991, for example, almost 10,000 women were

More recently, Howe (1994) has shifted the emphasis. She claims that the introduction of gender into the study of women's imprisonment has not advanced feminist theory, and that "gender-sensitive penal analyses do not seem to have realized that a consideration of gender cannot be reduced to a study of women" (Howe 1994:158). She argues that feminist analyses of penality must also consider the role of masculinity in the development of men's prisons, as well as incorporating the insights of non-feminist critical analyses of penality. Thus, Howe advocates an approach to the study of women's "penality" that does not focus explicitly on the prison, but rather on wider strategies of regulating women. However, her assertion that many feminist histories of punishment have been *atheoretical* in nature clearly misses the importance of feminist contributions that document (and in some cases do theorize) the experiences of women prisoners and reformers.

In her work on women's penality, Kelly Hannah-Moffat (1997, 1999, 2000 forthcoming) builds on Howe's study and on recent analyses of "governmentality"<sup>2</sup> as they relate to the problem of crime and its management. She argues for a more complex analysis of how power is exercised over individuals, particularly prisoners. She suggests (1997; 2000 forthcoming) that the analysis of relations of power between prisoners and their managers must be extended beyond an analysis of disciplinary power and patriarchy. Changes in contemporary organization of prisons cannot be viewed in isolation from past strategies of governing. Using this method she argues that recent risk discourses are gendered and racialized and thus differentially affect incarcerated men and women (Hannah-Moffat 1999; Shaw and Hannah-Moffat 1999).

As with other countries, the literature on women in prison in Canada is scarce, and most of it was written in the past fifteen years.<sup>3</sup> Some accounts look at the historical treatment of women prisoners (Backhouse 1991; Cooper 1993; Hannah-Moffat 1997; Oliver 1998). Others examine specific institutions such as the Andrew Mercer Reformatory, the first prison specifically for women in Ontario (Strange 1985; Berkovits 1995), or that established by the Soeurs du Bon Pasteur in Montreal in 1876 (Hamelin 1989). A few studies focus on the struggle to reform the imprisonment of federally sentenced women and the infamous Prison for Women (e.g., Cooper 1993; Berzins and Hayes 1987). Others examine more recent history, including the conditions under which women serve their sentences and the social controls over them (Berzins and Collette-Carrière 1979; Watson 1980; Adelberg and Currie 1987, 1993; Hamelin 1989; Woodrow 1998; Shaw 1991; Frigon 1999). There are some comparative studies that examine conditions in women's prisons in other countries as well as Canada (Axon 1989a, 1989b; Shaw 1991; Faith 1993a, 1993b; Bertrand 1998). There are surveys of women prisoners' needs and experiences based on interviews with them, and accounts of the impact of imprisonment on them in the context of their lives—of separation from their children and families, of prison programs and of punishment and segregation (Walford 1987; Sugar and Fox 1989; Shaw et al. 1991, 1994; Kendall 1993; Sommers 1995; Comack 1996).

- Aboriginals are over-represented.

On the other hand, there are also a number of distinct differences (Shaw 1994a, 1994b):

- two thirds of women in prison are mothers, and are far more likely to be primary or sole care-givers than men;<sup>7</sup>
- women's health needs are different and often greater than those of men;
- Aboriginal women are even more over-represented than Aboriginal men;
- women's criminal histories are generally less extensive and serious than men's;
- women are less likely to be reconvicted and are generally seen as better "risks" than men;
- women have higher reported levels of physical, sexual and emotional abuse as children and adults than men;
- overall, women have lower education and job-skill training than men, and more poverty and welfare dependence;
- women are more likely than men to be diagnosed as having mental health problems.

Apart from these "factual" differences, women also *experience and respond to prison* quite differently from men. Women tend to feel the "pains of imprisonment" more than men, and to express their feelings in different ways (Liebling 1994). For women, relationships with their children, family and friends are central, their relationships in prison are more intimate than men's (Shaw 1994a, 1994b). In general, there is less overt violence in women's prisons, but a greater likelihood that women will slash or injure themselves or attempt suicide. There is a long history of controlling women in prison with medication (as there is outside prison), and a greater use of disciplinary proceedings for minor infractions which would not be pursued in a male facility. They are often regarded as being "more difficult to handle" than men, and more verbal and emotional.

In summary, while there is some overlap in the kinds of offences for which women and men are convicted, there are also considerable differences, and the context of their offending and their experiences outside and inside prison, as well as their reactions to imprisonment, are both quantitatively *and* qualitatively different from those of men. These differences underline the importance of considering women's imprisonment independently of men's. Still, changes in prison practices must also consider the differences *between* women in terms of their own experiences of racism and poverty, as well as the possibility that changes to women's regimes could benefit men's institutions.

## The Task Force on Federally Sentenced Women



admitted to provincial prisons under sentence, and a further 8,500 on remand, compared with 141 women admitted on a federal sentence (Johnson and Rodgers 1993). Compared with men, however, women represent a very small proportion of those sentenced to imprisonment. Provincially sentenced women comprise about 7 percent of all prison admissions, and at any given time there are some 900 women serving provincial sentences across Canada. At the federal level the discrepancy is even greater. In 1998 the total federally sentenced population was about 14,000 but only some 360, or 2.5 percent, were women. While the smallness of the female prison population has contributed to their neglect, such a small population could be seen as an advantage and an opportunity to do something unique and different. First Nations peoples are disproportionately represented in federal and provincial prisons. Up to 25 percent of the federal population in prison are Aboriginal; however, in some provincial prisons the proportion is considerably higher. There is also evidence of increasing numbers of Black women in provincial and federal prisons. For example, the tough policy on drug offending in Ontario has particularly affected the Black population, and women more than men (Commission on Systemic Racism in the Ontario Criminal Justice System 1995).

Overall, only 18 percent of all criminal code offences are committed by women. For both women and men minor property offences predominate, but women are much less likely to be convicted for serious offences and violent crimes (Johnson and Rodgers 1993; Boritch 1997). Only 12 percent of all offences classified as violent are committed by women. Women in prison are most likely to have been convicted of property crimes (theft and fraud), drug offences and “other” offences including prostitution and crimes against the person, especially at the provincial level (Trevethan and McKillop 1999). Two thirds of the small population of federally sentenced women, however, are sentenced for offences classified as violent, including murder or manslaughter, attempted murder, serious assault and robbery, and over a quarter of them for drug offences. In both federal and provincial prisons, Aboriginal women are more likely than non-Aboriginals to have been convicted for offences classified as violent, reflecting the huge disparities in socio-economic status, levels of alcohol use and systemic racism experienced by those women. In spite of popular conceptions, however, reported female crime has decreased, not increased, since 1992, while violent crime has either remained stable or decreased (Dell and Boe 1998).

There are a number of factors that women prisoners share with men in prison (Statistics Canada 1999):

- aged between 25 and 34;
- poor, often unemployed and with very limited income and resources;
- have little formal education or certified job skills—grade nine education or less;
- offences usually included high levels of involvement with alcohol and drug use;

in 1989, was unusual in that it included both voluntary sector and government members as well as representatives of Aboriginal and minority groups, and women who had themselves been in prison. Many of the members of the TFFSW used a feminist perspective, a perspective which does not favour a “sameness” approach, feeling that traditional correctional approaches based on the male population were not appropriate for women prisoners. They emphasized the extensiveness of violence in women’s lives and their unique social and economic barriers, and the need for a “women-centred” approach for new facilities, regimes and programs. The TFFSW was careful, however, to use the term *women-centred* rather than *feminist*. Aboriginal women on the TFFSW made a considerable impact, arguing for recognition of their experiences of racism and oppression as well as violence (Sugar and Fox 1989). In the end, however, the final report represented a compromise between government, voluntary groups and Aboriginal members.

The report of the TFFSW, *Creating Choices* (TFFSW 1990), recommended the closure of P4W, and the construction of five new regional facilities and a healing lodge for Aboriginal women, as well as the parallel development of a community-release strategy. The report set out five women-centred principles on which the new facilities and policies were to be based: 1) empowerment, 2) the provision of meaningful choices, 3) treating women with respect and dignity, 4) the provision of a physically and emotionally supportive environment, and 5) the sharing of responsibility for women’s welfare between institutional staff, community members and the women themselves.

The report argued for not just new buildings, but for fundamental changes in the way the new facilities should be run and staffed (Shaw 1993). The new regional facilities were to be situated on several acres of land with cottage-style houses accommodating six to ten women each. There were to be independent living areas and facilities for women to live with small children and for family visits. Staffing levels were to vary according to the needs of the women, but the emphasis was to be on high levels of staffing and support rather than on physical security measures. One cottage in each facility was to have enhanced security for women who felt the need for a more structured environment on a temporary basis, but the facility as a whole would not require a fence, unless there was a need to keep people *out*. A core area would provide educational, recreational, daycare and spiritual facilities, as well as flexible space for programs. All staff were to be carefully selected for their sensitivity to the circumstances of federally sentenced women and given mandatory training in counselling, communication and negotiation skills. To help them develop a broader understanding of the backgrounds and experiences of women prisoners, new staff would be trained in cultural differences and educated about racism and sexism.

Programs were to be *holistic*, to deal with the “interrelated nature of a woman’s experience” (TFFSW 1990:105) and to reflect the wishes and needs of individual women. Community groups and agencies, or local authorities outside the correctional system in the case of educational or health services, would provide such programming. It was envisaged that each facility would provide

## and Creating Choices

Up to the mid-1990s, there was only one penitentiary for federally sentenced women in Canada. In 1934, a single separate facility for all federal women, the Prison for Women (P4W), was opened in Kingston to replace the existing structure inside the walls of the Kingston Penitentiary. P4W was built as a maximum-security institution according to nineteenth-century penitentiary architecture—with ranges and cells, each with bars reaching from floor to ceiling. Since its opening, there have been numerous calls for its closure. Four years after its completion, the 1938 Archambault Report found conditions at P4W to be inferior to those in men’s prisons, and recommended its closure and the transfer of all women back to prisons in their home provinces under provincial authority (Cooper 1987). Since the Archambault report, numerous subsequent government and private sector reports have expressed concern that women suffer more hardship than men by being incarcerated so far from their homes and families, and that the provision of programs and facilities does not take into account the needs of women, nor match those available for men (Berzins and Hayes 1987; Cooper 1987; Biron 1992). These reports have variously recommended the replacement of P4W, its enhancement or its closure, and the dispersal of federally sentenced women back to their home provinces.

In 1980, frustration with the lack of progress led to a formal complaint to the Human Rights Commission of Canada on behalf of federally sentenced women. This complaint was launched by a group of feminist reformers called Women for Justice (Berzins and Hayes 1987). This was a turning point in Canadian women’s prison reform. The Human Rights Commission upheld their complaint and declared that “federal female offenders were discriminated against on the basis of sex and that in virtually all programs and facility areas, the treatment of federal women inmates was inferior to that of men” (Cooper 1987:139). They argued that the state had a legal and moral obligation to provide women with programs and facilities “substantively equivalent” to those provided for male inmates.

The case was sent to conciliation but resulted in little change to the programs and conditions for prisoners at P4W, and Women for Justice withdrew from the process (Berzins and Hayes 1987). In 1987, the Women’s Legal Education and Action Fund (LEAF) (Razack 1991) began a similar *Charter of Rights and Freedoms* challenge against Correctional Service of Canada. With the appointment of the Task Force on Federally Sentenced Women (TFFSW), however, the case was postponed and never reached the court.

In part because of the pressure from women’s groups such as the Canadian Association of Elizabeth Fry Societies (CAEFS), LEAF and Women for Justice, by 1988 the federal government was more receptive to the needs of federally sentenced women and was willing to re-open the issue. There had been a number of suicides at P4W, most of them by Aboriginal women, which had raised public awareness of the problems at the prison (Kershaw and Lasovich 1991). The Task Force on Federally Sentenced Women, appointed by the Solicitor General

As the implementation of the TFFSW report proceeded, events both inside and outside the Correctional Service of Canada continued to have an impact on the initial vision. Public anger emerged over the location of some of the new prisons with local residents developing powerful campaigns to prevent prisons being built near them. In part, anger was fuelled by the publicity surrounding the horrendous disclosures in the arrest and trials of Paul Bernardo and his wife Karla Homolka.<sup>9</sup> For the press and public, the case underlined the stark reality that women—as well as men—can be violent, something *Creating Choices* had largely avoided. It was also fuelled by resentment based on the public's perception that *prisoners* would be offered facilities that those living outside prisons did not have.

In April 1994, an event inside P4W heightened this change in attitude. This incident involved a fight between six prisoners and a number of guards, six of whom were injured, which resulted in a consequential chain of actions: segregation of the inmates; continued disturbances by those women; well-publicized strip-searching and shackling of the women by a male emergency response team; the removal of these women into isolation for up to eight months; eventual disciplinary hearings; and further punishment on their release back into the population of the penitentiary (Faith 1995; Arbour 1996). In 1996, a series of slashings, escapes, a suicide (now an alleged murder) and a cell-smashing occurring in two of the newly opened prisons put to rest any notion that the new regimes and institutions *in themselves* would eliminate most of the difficulties experienced in the old penitentiary.

The public responded to these various events with increasing fear and outrage. They demanded fences (or higher fences), cameras and tougher security measures in the new institutions—now perceived as places which would not house passive victims of abuse, but violent and dangerous women from whom society must be protected. The Correctional Service of Canada (csc) responded by increasing security measures and doubling the provision for secure accommodation in the new prisons. The mother and child program was put on hold. On the recommendation of the internal report about the April 1994 incident, and in spite of the planned closure of P4W in 1996, additional segregation cells were built at the prison at a cost of some \$500,000. In September 1996, a decision was made to exclude all women classified as maximum security from the new prisons. Instead, they were to be housed in men's maximum-security institutions, including Kingston Penitentiary, from where they had been removed early in the century. Within the csc, there were more frequent discussions about separating the “difficult” women (those designated as “violent and disruptive” or “difficult to manage,” or those thought to have “borderline personalities” or to suffer from “identity disturbance” or “personality disorders”) from others.

### The Arbour Commission of Inquiry

In the midst of these development, however, was a further event with wide-reaching implications. Claims of injustices, relating to the April 1994 event and

core programming which included individual and group counselling for family violence and incest survivors, as well as training in living skills, stress reduction and relaxation. Health care, mental-health services, addiction programs, education, vocational training and recreational, spiritual and cultural programs were all to be provided. Each of these programs was to be designed specifically for women prisoners.

The healing lodge was to be built in the prairies to serve Aboriginal women from across Canada. It was to be developed, staffed and run (primarily) by Aboriginal peoples, governed by an Elder Council and linked to a nearby native community.

The second part of the TFFSW plan was the development of a range of community-based resources for women that would provide them with continuity of programs and support on their return to the community. These were to include halfway houses, satellite apartments and supported accommodation, residential addiction centres for women and community-release centres.

### Initial Implementation of *Creating Choices*

The recommendations of *Creating Choices* were accepted by the federal government and fifty million dollars allocated for their implementation. But while accepting the main recommendations, the Solicitor General rejected the proposed implementation process. The volunteer sector, most notably CAEFS, which had a role on an external advisory committee to oversee the implementation, felt it was not consulted or informed about crucial decisions until they were a *fait accompli*. Such decisions included the selection of sites for the new institutions and the appointment of wardens. These events effectively, in the eyes of CAEFS, excluded those outside government from the process (Shaw 1993) and eventually led to the withdrawal of CAEFS support.

Furthermore, the government failed to provide funds for the development of community services, seen by *Creating Choices* as a crucial aspect of the new regional facilities. Other subsequent changes included alterations in the architectural plans for the facilities themselves, with the development of secure facilities, the erection of fences and, in at least one prison, the elimination of certain key components, such as the daycare centre or the gymnasium. These decisions were made by the government on a variety of grounds including cost, public pressure from local citizens living near the proposed sites, considerations of employment and job creation, and perhaps, in the aftermath of the withdrawal of CAEFS, the desire to locate far away from local Elizabeth Fry Societies who might prove too critical (Hannah-Moffat 1995). The new prisons in Truro, Nova Scotia; Kitchener, Ontario; Edmonton, Alberta; Joliette, Quebec; and the Okimaw Ochi Healing Lodge at Maple Creek, Saskatchewan, were finally opened between the end of 1995 and the spring of 1997.<sup>8</sup>

### The Context: Parallel Events and the Responses