

**The Evolution of the New Federal
Women's Prisons in Canada**

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Abstract

The Evolution of the New Federal Women's Prisons in Canada

This thesis explores a unique experiment in penal reform; the final, successful attempt to close the sole federal Prison for Women in Canada and its replacement by five regional prisons. A government Task Force on Federally Sentenced Women, with representatives from the voluntary sector, produced a woman-centred document on penal reform. Wanting to create a plan reflecting the specific needs of Canadian women, they found that the country's colonial history had an unanticipated impact upon their work, and that its Aboriginal (First Nations) members exerted a profound influence on the final report.

Focusing upon the first three prisons to open, this thesis traces the work of the Task Force itself, then shows how the voluntary sector was largely excluded from the project once the Correctional Service of Canada began to implement the plan. The exception was the new Aboriginal Healing Lodge, which relied heavily on Aboriginal input throughout the planning process. What this study reveals is the manner in which the language of penal reform is both incorporated and reinterpreted by correctional authorities. It shows how reformers from both the public and private sector may help to legitimise ventures, while the discipline of the prison simultaneously re-asserts itself in order to neutralise reform. The thesis assesses the way in which public and political opinion affected the entire project and analyses two major outcomes of the venture. Firstly, an enterprise intended to provide imprisoned women with greater autonomy has led to many more now living with disproportionate levels of security. Secondly, the possible consequences for Aboriginals of allowing their culture and spirituality to become part of the language of corrections. What the study demonstrates is that new forms of penal governance closely reflect those which have preceded them, irrespective of how the language and intentions might have changed.

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Abbreviations and Glossary

AWC	Aboriginal Women's Caucus
CAEFS	Canadian Association of Elizabeth Fry Societies
CCRA	<i>Corrections and Conditional Release Act 1992</i>
CD	Commissioner's Directive
cedar tipi	Spiritual Lodge at the Okimaw Ohci Healing Lodge
CET	cell extraction team
CSC	Correctional Service of Canada
C-SPAC	Corrections - Senior Policy Advisory Committee
EAC	External Advisory Committee
EIFW	Edmonton Institution for Women
EU	Enhanced Unit
ExCom	Executive Committee of the Correctional Service of Canada
HLPC	Healing Lodge Planning Circle
IERT	Institutional Emergency Response Team
Ke Kun Wem Kon A Wuk	Keepers of the Vision (at the Healing Lodge)
Kikawinaw	'Our Mother' (in Cree). The Director of the Healing Lodge.
Kikawisinaw	'Aunt' (in Cree). A more senior member of staff at the Healing Lodge.
Kimisinaw	'Older Sister' (in Cree). The Healing Lodge's equivalent of a Primary Worker.
LEAF	Women's Legal Education and Action Fund
NIC	National Implementation Committee
Nova	Nova Institution for Women
NWAC	Native Women's Association of Canada
Primary Worker	Guard / correctional officer
RPC / RTC	Regional Psychiatric Centre / Regional Treatment Centre
ranges	a series of tiered, barred cells in the Prison for Women
restraints	handcuffs
RI	Regional Instruction
SLE	Structured Living Environment
SLH / U	Structured Living House / Unit
SO	Standing Order

TFFSW Task Force on Federally Sentenced Women
WICL Women in Conflict with the Law

Acknowledgments

I have been fortunate to meet many federally sentenced women across Canada. Their individual stories, their many kindnesses, their humour and their courage have stayed with me throughout the long process of completing this thesis, which I dedicate to them.



Prof. David Downes and Prof. Paul Rock have been consistent, challenging and supportive supervisors. They provided encouragement when it was needed, patiently and sympathetically dealing with difficulties I thought unique to my own experience, but which they had probably encountered many times before. No Ph.D. candidate could have asked for more, and I am deeply grateful to them both.

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This research could only have been undertaken with the cooperation of the Correctional Service of Canada. I was freely allowed access to prisons across the country and am grateful for the Service's unconditional help. It should be emphasised that the views expressed in the finished work are entirely mine, and do not reflect those of the Correctional Service of Canada, or its employees.

Staff from the Women Offender Sector of the Correctional Service of Canada went to great lengths to facilitate my many requests. I owe a particular debt to Hilda Vanneste, who initially encouraged me to begin the task, and whose inexhaustible memory for detail frequently inspired me to pursue avenues I might otherwise have

ignored. Lisa Watson also provided invaluable aid, as did others within the Sector. In all the prisons I visited, over a period of five years, I was given considerable and unreserved help by all the Wardens and Kikawinaw, and their staff. Many often went out of their way to ensure that I met other people involved with the project in their provinces, and their assistance and welcome were greatly appreciated.

Central to the planning of these new prisons was the involvement of the voluntary sector. Kim Pate, Executive Director of the Canadian Association of E. Fry Societies, offered me great support, as have many of her E. Fry colleagues across the country. The Association is a vigilant advocate for federally sentenced women.

I have interviewed many Task Force members across Canada, from both the voluntary and public sector, as well as members of the Healing Lodge Planning Circle. I have vivid, warm memories of the time spent with them, and of their hospitality. Without their collective strenuous efforts *Creating Choices: The Report of the Task Force on Federally Sentenced Women* would not have been published and implemented.

All projects, such as the one on which I have focused, are watched with critical interest by academics, and I have indeed been fortunate to have had the encouragement and advice of a number. Dr. Margaret Shaw and Prof. Kelly Hannah-Moffat have been particularly helpful in commenting on an initial draft of this thesis and I am in their debt.

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Introduction

It was a curious conjunction of history. In April, 1990 prisoners and prison officials experienced a severe breakdown of order within the English and Welsh prison system. The disturbances, beginning with a 25-day siege at HMP Strangeways, spread to over 35 other male prisons and received wide media coverage throughout the country. The ensuing Inquiry into the events, headed by Lord Justice Woolf, produced a report in 1991 which was heralded as a blueprint for prison reform, even if much of what it contained was not new and had been foreshadowed by other criminological commentators. As was argued, what was new and radical was that the ideas should be united in a ‘unique package of reforms which Woolf insisted “need[ed] to be considered together and moved forward together” ’ (Player & Jenkins 1994: 11). The report was subsequently adopted by the Home Office and partially implemented across the entire men’s and women’s prison estate in England and Wales. Although women had played no part in the rioting and, with one exception, were not mentioned in the very lengthy report, it was assumed that their basic needs did not differ from men’s. To the Prison Service it seemed appropriate that the report’s recommendations should be applied equally to women and men.

At the same time as English and Welsh prisons were erupting, penal history was also being made in Canada. Responsibility for Canada’s correctional system is split between the provinces and the federal government, and those sentenced to imprisonment of two years or more are held in a penitentiary, rather than a prison. While there were a number of penitentiaries for men, the few women sentenced to federal terms had, since 1934, been confined in the physically inadequate Prison for Women in Kingston, Ontario. This meant that most federally sentenced women, unlike their male equivalents, were subject to immense geographic dislocation from their families and communities. Numerous attempts to close the prison failed, yet on the 20th April 1990 *Creating Choices, the Report of the Task Force on Federally Sentenced Women*, was published and hailed as the document which might finally succeed. The crux of the plan was that the Prison for Women should be closed and replaced by six new regional prisons, including an Aboriginal Healing Lodge. It was a groundbreaking report in that it focused entirely upon the needs of women prisoners, and there was no suggestion by the Correctional Service of Canada

(CSC), once the report was adopted some eight months later, that it might apply equally to the male penitentiaries. Anticipating Woolf, the Report asked that the plan should be ‘seen, assessed and implemented in its entirety’ (TFFSW 1990: 114).

Superficially, the two events in Britain and Canada are only linked by the common thread of imprisonment, and the Woolf Report was immeasurably larger and, arguably, the more influential of the two reports. Yet *Creating Choices* has a significance beyond Canada simply because of its focus solely on women. The grand project of prison reform has frequently centred on overtly improving physical conditions (which covertly reinforce the prison’s inherent discipline), rather than question the prison’s rationale and utility. All too often, women have been ignored in the ensuing plans because they are seen to be peripheral to the larger problem of controlling men; women are added on, rather than included from the outset. An exception to this was the reformatory movement which sprang up in the United States, building on work begun in England by Elizabeth Fry. The American reformatories played a significant role in the regulation of offending women and their influence was also felt in Canada (Freedman 1981; Rafter 1985; Strange 1985; Hannah-Moffat 2001). Using the language of ‘maternalism’, women’s reformatories relied on the assumption that other women (matrons) could, through example, assist in the reform of their fallen sisters. *Creating Choices*, as a woman-centred report, used the more recent language of second-wave feminism to explain its vision of a re-formed prison – and also suggested that other women (guards) could be role models for imprisoned women.

- This study notes the parallels to be drawn between the incorporation of both the ‘maternal’ and feminist discourse into the correctional agenda and the way in which the intentions of the original ‘maternal’ reformers reappeared in Canada at the end of the twentieth century.

While this is interesting, of itself, it does not sufficiently explain why we should be aware of penal developments in Canada and should specifically consider the significance of *Creating Choices*. Canada is a vast country, but one which is often ignored because of the overpowering influence of the country which shares its 5,000 mile border, the United States of America. In the United Kingdom we hear little of

Canada, unless a British politician or member of the royal family pays a brief visit or something monstrous happens, such as the 1989 murder of 14 young women at the University of Montréal. Canada is too often assumed to be a bland country, lacking the excitement and verve of its southern neighbour, yet it embraces three very distinct cultures which coexist within a somewhat uneasy confederation of provinces. Canada is a country whose history we continue to share, thanks to our colonial past, and it retains many of the institutions set up when Great Britain seized control of the nascent state from the French in 1763. Yet the French were not the original peoples of that country; they simply began the process of divesting the First Nations of Canada (the Aboriginals) of their authority over the land which had been theirs from time immemorial.

The way in which the Aboriginals, the English and the Québécois (francophones) worked together on the Task Force is important to the story I recount, because their individual perspectives intersected with the history of Canada and heavily influenced the report's outcome. Task Force members were confronted by their colonial history in a most unexpected way and found their work greatly influenced by an articulate and impassioned group of Aboriginal women, who had themselves only been invited to join the Task Force as afterthoughts. The Aboriginals captured the agenda, politicising the discussion to an extraordinary degree and finally managing to have their 'language' integrated throughout the final report. By contrast the Québécois, with significant issues of their own, exerted very little influence because they also had been largely excluded from the venture and were not subsequently included.

- These issues of inclusion and exclusion are a significant aspect of the story I relate.

Additionally, all Task Force members had to confront their individual differences in terms of how they viewed imprisonment as a sanction and, in this regard, the Task Force was indeed unique, because it brought together the voluntary sector, correctional civil servants and imprisoned women, in an unprecedented manner. A number from the voluntary sector were prison abolitionists, both by instinct and conviction. This perspective caused struggles with their consciences and principles

were often painfully compromised because of the larger enterprise of trying to provide a less damaging prison for federally sentenced women.

- This aspect of the Task Force's work has been a largely untold story, yet throws an important light on the process by which reforms are proposed and refined.

As has been suggested, individual Task Force members suspended their scepticism about the wisdom of the joint enterprise because they feared the price of failure would be paid by the federally sentenced women themselves. They allowed their conscience and empathy to over-rule their natural caution, because they could see no option, and contributed to producing a plan which allowed for the building of new prisons. The report was claimed by the civil servants once implementation began and the voluntary sector, with the exception of the Aboriginals, was eventually frozen out of the process. It might be thought, then, that the voluntary sector's 'conscience' was used by corrections to legitimate the joint enterprise and that their participation was for the ultimate convenience of the officials. But this could conceivably be too simplistic a reading of what initially happened, because many of the civil servants were as concerned as those from the voluntary sector about conditions in the Prison for Women. The effect of working together – and particularly the impact of hearing the Aboriginal members' views – bound them all in an unanticipated manner, which suggests that such reforming schemes are at their most vulnerable once the partnership dissolves and the scheme is left subject to political and public pressures. That has been the universal pattern of prison reform, with good intentions captured and then distorted by the bureaucratic enterprise.

- Rothman's (1980) thesis that benevolent intentions should be distrusted because of their unintended consequences will be examined in the light of what eventually transpired in Canada.

The initial point of my research was to ask if differential treatment of men and women might be justified in terms of its cost effectiveness, *particularly in the area of security*. The complexity of this Canadian story, and particularly its historical context, altered the thrust of my examination and I chose to dwell on the Task Force

and the issues which influenced it more than I could ever have first imagined. But that question remains valid, even if there is little consideration of the needs of men in this study, despite their having shaped ‘the prison’ as we largely know it. Part of *Creating Choices*’ importance lies in the way in which it characterised federally sentenced women as being ‘high needs’ but ‘low risk’, a characterisation heavily influenced by the Task Force’s reluctance to label women as potentially violent, for complex reasons which I shall explore. Federally sentenced women were seen to be victims, as much as victimisers, and this led to the Task Force’s failure to be prescriptive about the type of accommodation which should be provided for the five percent of women they unwillingly decided might need higher levels of security. We must see if this left *Creating Choices* with a potentially fatal flaw at its heart because the absence of such discussions subsequently allowed the Correctional Service of Canada (CSC), rather than the Task Force, to decide what should be provided.

- As the report’s explicit assumption had been that the great majority of federally sentenced women could live with relatively low levels of security, and that this should be ‘dynamic’ rather than ‘static’, provision for the ‘high risk’ women is a particularly important part of this study and something to which I shall return at various points.

I chose to examine the first three of the new prisons to open: Edmonton Institution for Women; Nova Institution for Women; and the Okimaw Ohci Healing Lodge. This was not because Etablissement Joliette and Grand Valley Institution for Women were any the less important, but solely determined by the scale of this thesis. Indeed, in the light of my focus on the impact of Canada’s colonial past on the Task Force itself, a very good case could have been made for considering the Québec prison, as well. However, events at the first two prisons I mention so profoundly affected all the others, that they were almost self-selecting. The concept of the Healing Lodge was a complete departure from any other Canadian correctional norm and CSC allowed the Aboriginals a considerable input into its planning, in complete contrast to the other prisons. Its significance as a national venture should not be underestimated because it conveyed a message to the wider Canadian public that Aboriginals should have their voices heard, after centuries of

neglect and indifference, an outcome attributable almost solely to the political skills of some of the Aboriginal Task Force members. Whether the Healing Lodge was indeed the right arena for such a political intervention is a contentious issue, particularly as prisons are not an Aboriginal construct. The building of the Healing Lodge itself raises the possibility that Aboriginals might have found themselves incorporated into a state structure which they have never formally acknowledged. This is also something I explore, with the immediate caveat that Aboriginals correctly question a non-Aboriginal's understanding of their issues. In the context of what *Creating Choices* attempted to do I simply could not ignore the Healing Lodge; to do so would have been to marginalise the importance of the Aboriginals' contribution to the Task Force.

- In addressing the issues of culture and spirituality in the context of imprisonment I explore the possibility that colonialism is not necessarily relegated to the pages of history. However, there is the related question, which I also address, of whether the Aboriginals themselves might have lost the moral high ground in agreeing to work with those previously seen as their oppressors.

What cannot be avoided is that all the members of the voluntary sector – and this includes the Aboriginals – deliberately participated in the Task Force, so share responsibility for the final outcome of their plan with the civil servants, irrespective of whether they individually participated in the implementation. The voices of prison reformers are frequently heard, yet are rather less frequently acted upon. The dilemma for reformers is the extent to which they should press for change to the existing system, rather than its reduction or even abolition. In asking if their *failure* to participate in reforming ventures might lead to a worse outcome for those whom they most wish to help, the question of whether punishment may be justified does not arise. There is simply the need to act and conscience appears to prevail in most circumstances because reformers find that they cannot stand by, on a point of principle, and watch as more people are damaged by the discipline and inherent limitations of the prison.

My sidestepping of the initial question regarding differential treatment has, in some senses, left me without a neatly defined central subject. The whole Canadian

enterprise is 'the subject' because of what it shows us of the complexities of reform projects. The scale of what the Canadians undertook means that aspects of their work could well be examined in far greater depth.

- This study, by focusing on the endeavour as a whole, adds to our knowledge of the wider enterprise of prison reform and does so within the context of a plan which hoped to provide a distinctly *Canadian* solution to the problems of imprisoned *women*. Whether the Task Force was successful in achieving this is the point I now pursue.

Method

Research subjects do not always emerge neatly from a long-considered topic. I first heard of the Task Force on Federally Sentenced Women when researching the subject of shared-site detention for a comparative paper I was completing. I had been given a copy of the proceedings of a 1992 conference on woman prisoners held in the Netherlands and one of the speakers came from the Correctional Service of Canada. The brief details of the Task Force and *Creating Choices* contained in her presentation appeared relevant to my work and, fortuitously, the published papers included telephone numbers for the individual participants. I rang the given Canadian number and found myself talking not to the presenter, but to a woman deeply involved with implementing *Creating Choices*. We talked for some time and, at the end of our conversation I said that I would very much like to see just what they were doing. Her response was to say 'put a proposal together' and at that moment my research topic presented itself, despite the fact that I had no idea how I could possibly undertake it. The civil servant then sent me a copy of *Creating Choices* and the fuse was lit.

My first visit to Canada took place in 1996. It lasted seven weeks and entailed visits to all of the new prisons, two of which had had their openings delayed, yet had staff in place eagerly awaiting the arrival of the first women. I had also arranged to visit the Prison for Women, the Burnaby Correctional Centre in British Columbia, which held both federal and provincial women prisoners, and the Minnesota Correctional Facility - Shakopee, which had influenced the style of the new prisons. The size of Canada, and the cost of travel, meant that I could not afford, in any sense of the word, to do anything other than start on one side of the country and make my way to the other coast. This was not as straightforward as it might sound, because I was also intent on meeting the (mostly) women who had participated in the Task Force; civil servants, members of the voluntary sector working with federally sentenced women and academics who had been following the venture from the outset. Many of these people lived considerable distances from the new prisons. The prisons themselves were not always close to reliable sources of public transport, so a combination of cheap airfares (which meant waiting until each flight had been boarded before I knew if there would be an available seat and, on one day, doing this six times in order to reach my final destination), buses and the occasional hired car

enabled me to travel. At one particularly isolated prison which I visited during my second field trip, the local taxis – essential for the final ride from the bus depot – had all been suspended because their drivers had been caught bootlegging. These details are relevant, because it shows that I was subject to something of the geographic dislocation which many federally sentenced women and their families experienced in the move from home provinces, or as they attempted to visit, and that I also knew both the human and financial cost. I quickly realised that the scale of Canada would not necessarily be diminished for federal prisoners simply through the building of regional prisons.

Inevitably, the main focus of my journey was the prisons. The three whose stories I explore in this study had been open for little more than ten months when I first visited them. I was yet another who had come to see ‘their’ prison yet, as it turned out, I eventually became one of the very few who had seen them all and this became an important point in my subsequent journeys to Canada. My understanding of each prison changed each time I visited because of what staff and women had individually experienced and survived. My first point of reference was the staff and it was their interpretation of ‘their’ prison which immediately introduced me to some of the dynamics of each prison’s organisation. Yet the interpretations differed, depending upon the individual’s place in the staffing hierarchy. I was always given considerable freedom to make my own way around each prison and allowed to mix freely with the women, to the extent of being able to visit their houses, have coffee with them and occasionally share a meal which they had prepared. I carried no interview schedule with me, relying on both the women’s and the staff’s willingness to talk to me informally and making comprehensive daily notes. During that first visit I was simply finding my way. I did not have the luxury of being able to return to my ‘research sites’ whenever I wished and this inevitably meant that I was sometimes asking the wrong questions, because I predictably lacked the overall perspective and knowledge which might have guided me to the right ones. This was particularly apparent in the more formal, taped interviews I first conducted with key members of the project, who had an infinitely greater understanding of the subject than I. But the outcome of those interviews was that they led to others, because individuals generously suggested areas that I should explore and who the best people

to approach might be. I gradually began to know of a network of informed commentators – and my horizons expanded.

The great difficulty of prison research is that one enters an arena constructed on relations of power. I had been granted access to the prisons by civil servants who worked at CSC headquarters and within each prison I was dependent upon the staff to facilitate my access to the women. I also had to carry a dyster¹, which meant that my position vis-à-vis the women was very clearly marked out as being similar to that of a staff member. While I wanted to follow feminist practice and acknowledge the women's expertise as much as anyone else's, in a prison such aims are immediately circumscribed because of the fundamental inequality of relative positions between staff and prisoners and the researcher's relationship with the authorities. I was free and the women were not; we were never on an equal footing. Too often these women had seen researchers enter a prison to further their own aims and in that I was little different, because I was carrying out my research for the purposes of a thesis and the women had no guarantee that it would ever be of benefit to them. Some were politely sceptical, yet still keen to discuss what they had experienced since their transfer from Kingston. During my first visit many of the women showed a considerable amount of goodwill towards the new venture because they envisaged being able to work on the issues which had brought them to prison in a less restricted environment. They found the inconsistency of staff hard to tolerate, but many were also aware that the staff themselves were finding the changed style of prison challenging. When I returned to Canada and saw some of the women again, it was a complicated feeling doing so because it again highlighted the gulf between us and the fact that they had been unable to move beyond the confines of the prison. It was particularly hard to see women who had previously been optimistic, if realistic, about the new prisons so diminished by their growing belief that they did not greatly differ from the Prison for Women. It was as though the shutters had again come down and one woman encapsulated it during my third visit when she declined to talk, saying 'the vision has withered and to talk about it would be flogging a dead horse'.²

¹ An alarm to be activated in emergencies.

² Personal notes 2000

It was not only the women who were dismayed; many of the staff were desperately concerned about what was happening and took the opportunity of my visit, even as early as 1996, to unload some of their concerns, often in great distress. This meant that at the end of some days I found it very hard being on my own, in an anonymous lodging, with no-one to whom I could speak and share concerns of my own. There were times when I was grateful for the distraction and bustle provided by the late closing of the local shopping malls. Yet at other times the day could be illuminated by my being unexpectedly invited to share meals with the women, which they had cooked in their own houses. Only the new prisons could have made such gestures possible and the sharing of food seemed to be a way for the women to place themselves on a more even footing with visitors.

Having taken the early decision that my time with the women would not be based on formal interviews and that, where possible, I would respond to their questions about what I was doing before attempting to engage too deeply with them, there were periods when I was uncertain about how each day would be shaped. I was a *potential* interviewer but not always an actual one and the design of the new prisons made any inactivity on my part highly visible. Their design also made it obvious that I was talking to both sides of the prison divide, the women and the staff, which led to comments and advice from both constituencies. I might be warned about the reliability of a particular woman, or could be told that a certain member of staff was problematic. In attempting to straddle the divide I at times became anxious about how both groups viewed *me*, rather than concerned about how to further the research project. In other words, I found it impossible to divorce myself from the broader picture. I was relying on qualitative, personal responses, yet at times wanted the distance made possible by quantitative analysis of data. One of the dilemmas faced by a researcher trying to elicit information from people, is how much of the self should be extended in return. I found that I had certain points of reference which made casual talk easier: I was a mother, so had some idea of what interested young women; being a mother was also a link to those missing and worried about their own children; even being middle-aged seemed to be useful. I found that I unconsciously started referring to my husband as 'my partner' and realised that that this was because I felt awkward about having a home of my own to which I could return. Yet I made a decision that, with hindsight, I feel I cannot justify and now regret.

Although occasionally asked by certain women if I would keep in touch I generally replied that I could not, saying – and believing – that I needed to be seen as independent by CSC. Yet I maintained close and continuous contact with officials, academics and members of the voluntary sector throughout the period of research. In effect, I was favouring the knowledge and authority of one group over another and contributing to the unequal relations of power which I instinctively deplored, yet tacitly accepted.

The Healing Lodge presented particular difficulties. I was yet another ‘Euro’, if not a Euro-Canadian, venturing into Aboriginal territory and, as will become apparent, there has been a long and dishonourable history of non-Aboriginals doing just that. Coming from another colonised country myself I had grown up amongst Maori and was familiar with their traditions, many of which are not dissimilar from those of the Aboriginals. This did not mean that I could easily make the transition. During my first visit to the Healing Lodge I was told that I *must* attend the morning Spiritual Circle. I had taken advice and knew that I should bring an offering for the Elders with me, but felt uncertain about participating in the ceremony. My understanding of it was entirely superficial and I felt that, with no belief of my own, I should not be taking part. Yet the first Spiritual Circle was a very powerful experience, and one I willingly repeated, so on each of my two subsequent visits to the Lodge I made sure that I arrived early enough each morning to take part. I declined the first invitation to take part in a sweatlodge³ for the same reasons, but accepted a later opportunity and was again grateful that I had. This combination of culture and spirituality within the confines of a prison which did not look like a prison, was a perplexing and worrying one. The ‘rules’, both disciplinary and cultural, were not always clear and to ask what they were was to highlight my outsider status even more. The security was not always apparent, either, so it was a shock during my second visit to be told to wear a dyster when one of the women offered to take me down to the beaver dams while she was exercising the Lodge’s dog. It should not have been surprising, as scanning of visitors had by then been instituted, yet I painfully recall the clear message then conveyed to the woman. The messages conveyed by all the prisons were altogether confusing, especially during my first visit. They did not

³ See chapter 8 for an explanation.

look like prisons; they did not smell like prisons; the staff were not dressed like guards; there was an absence of noise. Yet at Edmonton the tannoy system routinely referred to the women as ‘offenders’ and the women were also searched whenever they moved between areas. The juxtaposition was bewildering.

The research was not always interview- or observation-based and one of the transforming moments was when I was given access to CSC’s records of the Task Force, and the work it undertook, a little over halfway through my time of research. Although I had searched CAEFS’ records for the period, they were relatively small and, for the first time, I truly became aware of the scale of what the Task Force had undertaken – and knew that another set of questions needed to be asked. Inevitably, this meant another visit to Canada as I sought out more of the key participants for their views about why certain perspectives had triumphed over others.⁴ While this certainly illuminated my own dawning conclusions, it also made my study that much more difficult because I was, with some of the interviewees, raking up a past they had buried as their connection to the venture had ultimately been too painful. An added difficulty was the relatively small pool of people involved in the whole enterprise, which complicated the problem of confidentiality at the writing-up stage.

By the time my fieldwork ended I had seen two of the units within male prisons where maximum security women were held following the decision to remove them from the new prisons. I visited Maison Tanguay in Montréal, where many francophone federally sentenced women were confined, as well as the annexe for provincially sentenced women at the Halifax Correctional Centre, which was my introduction to caged cells. I saw the Prison for Women while it was still relatively fully functioning and once more, while it was just holding ‘difficult to manage’ women. The barred ‘ranges’ at the prison, and its even worse segregation unit, were deeply shocking and provided a context for what I saw in the new prisons. To begin with, the contrast dulled my critical reaction. I ‘heard’ the women telling me that they had less freedom in their attractively designed new prisons, but filed the information away as a problem of adjustment. I similarly ‘heard’ the staff, during

⁴ In total I conducted 32 taped interviews with people who had been involved in, commented on or were affected by the work of the Task Force. Most of the interviews were approximately an hour in length.

my first visit, tell me that they found the dual role of counsellor and guard difficult to sustain and I wondered about the quality of the training, rather than about the fundamental irreconcilability of what they were expected to do. This leads me to a difficult point, which is the admission of my own naivety, coupled with the desire to remain a neutral observer. To begin with I was far from neutral. I had been entirely seduced by my uncritical reading of *Creating Choices* and by the enthusiasm of the implementers and some of those actually working in the new prisons. In academia there is sometimes a reluctance to admit that scepticism might be suspended by a researcher; that the 'hard' questions are not always asked. This occasionally happens because the researcher has a particular perspective, not publicly acknowledged, underpinning their argument. More often the researcher is relatively new in the field, as I was, anxious to do their best by all concerned, lacking 'distance' from their subject and taking documents and comments at face value. In my own case, this also included being resistant to the idea that a Canadian penal plan should be viewed through the prism of history and that other accounts of similar ventures might be a valid means of assessing the outcome of events in Canada. Perhaps one of the unspoken advantages of taking a considerable time to complete and write up a major piece of research is that the researcher is allowed time to develop their ideas. The views tentatively formed at the beginning are subject to repeated examination and do not always survive. Moreover, the field of study evolves and changes as information is gathered. Had I not been able to view records at the half-way period this study would have had a different emphasis and my conclusions would also have been different.

As I have earlier mentioned, I was in the position of being one of the few people to have seen all of the new prisons and the extra time taken to complete my research had another effect. As I spent longer in the country (and, in total, I had about twenty weeks in Canada, spread over five years) it was obvious that staff at the various prisons were not always aware of what their colleagues were doing elsewhere. There seemed to be a reluctance to pick up the phone and consult (which might have been because of financial restrictions) and there appeared to be no formal mechanism whereby people responsible for certain functions, apart from the Wardens, met with others in the same position. Despite central direction, staff were working in isolation from each other and felt excluded from the larger enterprise. I

would be asked to comment on developments – in effect, to compare and contrast – and this was something I was reluctant to do, but could not always avoid. It meant that I could not always be open in my response.

A researcher hopes to be able to blend into the scenery, to be somewhat forgotten so that observation can be less contrived. I simply had to speak for people to know that I was not a Canadian. I lacked a broad-based knowledge of the country and had hurriedly to inform myself. I could not always ‘read’ the nuances of actions and words and this was a particular difficulty in Québec and within the Aboriginal community. But there are also advantages to being an outsider because you can ask the question ‘why?’ rather more often. Strategies and plans which perhaps seem logical in the local context might not seem quite so obvious to others. With the caveat that I absorbed some of the official rhetoric too unquestioningly at the start of my research, I think that my being a foreigner was mostly an advantage. Primarily, I generally had the requisite distance to be able to observe events a little more dispassionately. However, the longer I stayed with the project the more this objectivity was under strain and that was entirely due to the fact that I now knew the participants. I wanted them to succeed because I could imagine the bitter cost of their not doing so. I wanted the civil servants to improve the lot of federally sentenced women, because I had seen the Prison for Women. I wanted the members of the voluntary sector to feel that they had succeeded, as I knew the painful compromises they had made in order to join the Task Force. I did not want to see the dying hope in the women themselves. Because I accepted the integrity which had brought all these people together I did not want to be in the position where I would finally have to commit myself and examine their project critically and sceptically. This is a dilemma which many researchers face and I would suggest that it is too often swept aside in the rush to be seen as impartial and objective. Research is a fluid and flawed process, with no absolute ‘truth’ awaiting discovery. The ‘truth’ discovered by the qualitative researcher is always a mediated truth, relying on observation, discussion and instinct. I have finally had to commit myself and the following chapter provides the gateway to the process in which I have been involved.

1. A very brief history; prelude to a task force

We are about to embark upon a journey which will unravel the story behind the closure of the infamous Prison for Women in Kingston, Canada. Why this prison should have been ‘infamous’, and why its shutting was thought necessary, provides the context for the next five chapters. It is not a story with a genesis in recent history; the Prison for Women was the focus of sustained criticism for many decades, yet it was not until 1989 that a plan was devised – and quickly accepted by the Correctional Service of Canada – which would allow for its replacement. To understand how this came about we must first look at the Prison for Women itself, and see where it fitted into, and reflected, the political history of a country which finally came to be a confederation of provinces. The prison itself was not completed until 1934. What preceded it, and successive attempts to replace it, could justifiably be the subject of a separate study, but for present purposes I offer no more than a brief sketch of that history. With that knowledge we might then be able to understand why the 1989 Task Force on Federally Sentenced Women, rather than any other, finally led to the closure of the Prison for Women.

Imprisoning women; suiting male interests

The city of Kingston stands on the edge of Lake Ontario. Its strategic position at the mouth of the St. Lawrence River ensured it an early importance amongst the first colonial towns of Ontario, and also led to its briefly being the capital of what was then Upper Canada. Today it is partly the presence of Queen’s University and the Royal Military College which ensures its continuing importance. Yet Kingston houses other institutions whose histories have also played a dominant role in the development of the social fabric of the city. Prominently sited on the shores of Lake Ontario, a mile to the west of the city centre, lies Kingston Penitentiary. Built between 1833 and 1835, its design was influenced by the ‘silent’ or ‘congregate’ system practised at New York’s Auburn Penitentiary. The building of the Provincial Penitentiary was a ‘decisive act of social control’, which recognised the importance of law to the larger social and political structures of Upper Canada (Oliver 1998: 134, 135). Yet the citizens of Kingston seemed unconcerned by the new building, apart from fearing that convict labour would depress local industries,

as they were ‘watching with pride the early beginnings of a little school called Queen’s College, and had no concern in what went on behind the grim walls of the other institution at Portsmouth’ [which is part of Kingston] (Edmison, cited in Oliver 1998: 109). It was assumed that the new prison would be financially self-supporting, thanks to the labour of the inmates, but this argument was disputed, just before construction began, by the British Consul in New York, James Buchanan, who argued that ‘[Upper Canadians] are laying an egg which will produce a monster that will absorb the taxes that we ... must pay’ (Oliver 1998: 115).

Women were imprisoned in the penitentiary almost as soon as it opened and, as Cooper observed, ‘the historical record of corrections tells us that the small female population has always been housed wherever and in whatever manner best suited the interests of the larger male population’ (Cooper 1993: 35). In 1848, what became known as the *Brown Commission*¹ was appointed by the Reform government to investigate the administration of Warden Henry Smith at Kingston Penitentiary. It has been suggested that ‘most Canadians who know anything of the penitentiary’s early years have learned of it, directly or indirectly, from this ... document’ (Oliver 1998: 140). Brown recommended that women should be kept entirely apart from the men and that a separate prison should be provided for them. Yet the women continued to be housed in various cramped locations within the prison, being moved as the needs of the men altered. They were well-nigh invisible within the infinitely larger male group, as was evident when E. C. Wines and T. W. Dwight of the New York Prison Association submitted their lengthy report on American and Canadian prisons and reformatories to the Speaker of the State Assembly of New York, in 1867. They praised the ‘beautiful and imposing structure’ of Kingston Penitentiary, severely criticised the actual location which ‘prevented the architect giving the bottom of the sewers such a declivity which would insure (*sic*) the discharge of their contents’, and discussed at length the design and size of the 840 cells. The ‘female ward’, however, was simply mentioned in passing (Wines & Dwight 1867: 102-3).

¹ Warden Smith was accused of ‘financial maladministration and profligacy’ by Brown, who thought of the penitentiary as an ‘enterprise that wasted public funds’ (Oliver 1998: 147). The prison could not earn enough from convict labour to finance it and the construction costs exceeded receipts from those sources and government.

The *British North America Act 1867*, specifically Section 91, conferred authority over the criminal law and the ‘Establishment, Maintenance and Management of Penitentiaries’ upon the new Dominion (federal) government. At that stage, not only Kingston but smaller penitentiaries in Halifax (Nova Scotia) and Saint John (New Brunswick) came under the federal umbrella and, in the following decade, a further ten joined them. The provinces became responsible for ‘Public and Reformatory Prisons’. Oliver wrote: ‘This division of authority excited much later comment ... it led, together with the 1868 statute [the *Penitentiary Act*] that defined a gaol term as two years less a day ... to a division of authority in correctional matters which would be condemned by every twentieth century commission on correctional practices, from Archambault in 1938, through Fauteux in 1956, to Ouimet in 1969, and frequently thereafter’ (Oliver 1998: 303).

Oliver took this point further. The *Penitentiary Act 1868* was the first penal statute of the new Dominion and had largely been drafted by E. A. Meredith, Chair of the Board of Inspectors of Prisons, Asylums and Public Charities. Meredith was an ardent follower of the Croftonian² system of imprisonment and in the *Penitentiary Act 1868* he ‘push[ed] forward as much of his program as he dared’ (Oliver 1998: 303). The acceptance of the two years plus a day provincial- federal divide was a recognition of the function of gaols as local institutions, whereas the penitentiaries became part of the social control network (as exemplified by the criminal law) of the Dominion. Oliver (1998: 303) believed that ‘both levels of government’ were in agreement with this decision. Ekstedt and Griffiths (1988: 46) contended that ‘federal correctional policy was designed to establish the dominance of the federal government and to create a system of penitentiaries that would assist in the task of building a nation’, a perspective that arguably still applies to present-day Canada . They also cited a Task Force on Corrections’ report (1976: 8):

² Sir Walter Crofton was an influential Irish penal reformer, whose model ‘deployed a sophisticated system of incentives and progressive development to encourage prisoners to work towards early release’ (Oliver 1998: 275). Canadian penal reformers believed that adherence to his system would sweep away ‘the cant of the rival American systems [as practised at Auburn and Philadelphia]’ prevailing in Kingston Penitentiary (Oliver 1998: 296). For a fuller explanation see Oliver 1998: 297-299.

The federal government may have been considered the only government with the resources available to establish long-term institutions, *or there may have been insufficient numbers of long-term offenders in some regions of the country to justify an institution for them in each province.* (Task Force on Corrections, 1976, cited in Ekstedt & Griffiths 1988, emphasis added)

This argument could easily have been used for the federally sentenced women's population.

Brown's wish for a separate women's prison, based on his knowledge of 'inadequate living conditions, the extreme punitiveness, the absence of penitentiary discipline and the inability to occupy women with profitable labour' (Hannah-Moffat 2001: 80), was not fulfilled until 1913, when such accommodation was provided for 34 women. However, the new quarters still remained within the walls of Kingston Penitentiary. The provision of this accommodation directly contributed to what some would later consider to be the missed opportunity provided by the recommendations of the *Report of the Royal Commission on Penitentiaries (Macdonnell Commission)*, in 1914.³ This suggested that female federal prisoners should be placed in the care of their home provinces, but the costs so recently incurred by the building of the new women's quarters in Kingston were a powerful disincentive for change. The persuasiveness of the provincial-incarceration option for federal offenders continued (and continues) to be debated decades later.

The 1921 *Nickle Commission*, notable for being the first to consider federal women prisoners separately from men, emphasised what it considered to be the inappropriateness and vulnerability of the women's situation within the Kingston Penitentiary. Nickle believed that there should be 'adequate segregation of female convicts from male convicts and male staff', citing his concern that 'the disclosures of the past year have shown how unscrupulous officers have taken unfair advantage of the opportunities for flirtations, improprieties and indecencies that presented themselves ...' (Nickle 1921a: 4-5, cited in Hannah-Moffat 2001: 83). Nickle reflected on the inadequacies of the women's quarters and the lack of work

³ Unless otherwise indicated, I have relied on Margaret Shaw's *The Federal Female Offender* (1991a), Companion Vol. 3 to *Creating Choices* (TFFSW) for much of the historical background.

opportunities for them. The logic of his argument for closure led directly to the beginning of construction, in 1925, of what is now known as the Prison for Women. When this was finally completed in 1932 one hundred men, rather than women, were its first occupants. Rioting within nearby Kingston Penitentiary had damaged the men's accommodation, causing the women to wait to move to their new prison (Hannah-Moffat 2001: 87). The rioting had been widespread, and not only confined to Kingston. Between 1932 and 1935 there were outbreaks at other penitentiaries across the Dominion and, for the first time, the public began to hear informed critical comment on penal affairs, with the riots providing 'a sort of climax in the efforts of prison and penal reform bodies to obtain light upon conditions in the penitentiaries' (Kidman 1947: 41).

An inadequate prison for women

The Prison for Women formally opened to women in 1934. Within the short space of four years the *Archambault Commission* (1938) had recommended that the prison should be closed and the women transferred to the provincial authorities, saying: 'Your Commissioners are strongly of the opinion that the number of female prisoners confined in Kingston Penitentiary did not justify the erection of the new women's prison and the further continuance is unjustified ...' (40 were initially transferred to the prison). It was assumed that women held provincially would be detained, separately, within men's prisons. The *Archambault Commission* was one of the first 'to acknowledge the rights of women prisoners to equal treatment' (Archambault, cited in Cooper 1993: 43). Archambault had been prompted by revelations during the trials of the men who had rioted in Kingston and elsewhere, and the subsequent fierce parliamentary debates led by the redoubtable parliamentarian, Agnes Macphail.⁴ Women were not permitted to visit the penitentiaries, but legislators – irrespective of sex – were, so Miss Macphail made it her business to inspect them 'from dome to dungeon', leading Kidman to observe further that 'on visitation committees of prisons there should be a woman [as they]

⁴ Agnes Macphail was the first woman to be elected to the Canadian House of Commons and is credited by Kidman (1947:48) with being instrumental in achieving the establishment of the *Archambault Commission*. Hannah-Moffat (1997: 110) gives a fuller description of Macphail's developing interest in penal affairs, which changed from being primarily concerned with male prisoners, to her encouraging the formation of the Toronto branch of the E. Fry Society, in the 1950s.

invariably see something that mere man overlooks' (Kidman 1947: 48). Archambault's implementation was derailed by the intervention of war, but Kidman still felt able to hail it 'as the most challenging document that has been put forth on Canada's penal problems. Some commissions deal with grain, harbours, fisheries, forestry and minerals, but this deals with human beings, not all of whom are inhuman because they are found in prisons' (Kidman 1947: 51). *Archambault's* closure recommendation could not withstand the fiscal reality of the recent building of the Prison for Women, but in 1938 the provinces were at last prepared to consider the idea of assuming responsibility for federally sentenced women. By 1946, however, when the Commissioner of Penitentiaries and the Minister of Justice finally decided to ask the provinces if they would house federal women, it was made clear that, without heavy financial assistance, they would be unable to do so. Federal assistance was not forthcoming.

The question of what should be done with the Prison for Women continued to occupy various committees in successive years, with the *Fauteux Committee* (1956) recommending that a central facility should be retained, and the *Ouimet Committee* (1969) suggesting a unified prison service. The *Royal Commission on the Status of Women* (1970) returned to the theme of equality and was the first such body to make specific 'recommendations for the provision of appropriate and relevant services and programs for Aboriginal and Francophone women' (Arbour 1996: 243). Throughout the sixties there had been a gradually increasing focus on women's rights, building on work begun by the tiny American-inspired Women's Bureau, which was established in 1954 as part of the Department of Labour.

The 1977 *MacGuigan Report* was a major government report and, like others, focused on male federal offenders, but also roundly damned conditions at the Prison for Women. It is now largely remembered for the aptness of one of its phrases, that the prison was 'unfit for bears, much less women' (*MacGuigan* 1977: 135, cited in Shaw 1991a: 17; Cooper 1993: 45). The *National Advisory Committee on the Female Offender* (*Clark Report*, 1977), was 'only the second major committee set up specifically to consider the future of the federal female offender' (Shaw 1991a: 16). It took three years to produce its report, and also

recommended the closure of the Prison for Women, citing the specific inequities experienced by female federal offenders, such as: geographic dislocation; the lack of adequate programmes and services; undue classification. Unusually for the time, this Committee included three members from the voluntary sector. The *Clark Report* prompted the formation of the *National Planning Committee on the Female Offender*, which was asked to respond to the points raised by *Clark*, particularly the two alternative plans *Clark* had formulated. These suggested that: the federal government should continue to be responsible for federal women, but should house them in small regional facilities; or the provinces should take charge of these women. The *Needham Report* (1978) was the result of the National Planning Committee's deliberations and it opted for closure of the Prison for Women, and the building of two replacement facilities in the east and west of Canada, which would remain in federal control. As with the two previous Committees, Needham supported the idea of more community-based facilities and raised the possibility of a 'co-correctional' institution (Ekstedt & Griffiths 1988: 337). The *Chinnery Committee* had simultaneously been charged with assessing the viability of the regional facilities and, in its report, also rejected the notion of keeping open the Prison for Women. By 1981 the Canadian Association of E. Fry Societies (CAEFS) had presented a brief to the Solicitor-General advocating closure and suggesting that a Sixth Region, responsible for federal women, should be created within Corrections.⁵ This last was echoed by the Canadian Bar Association, which added its weight to the debate in 1988 by producing *Justice Behind the Walls* (Jackson). It bluntly said that legislation should be introduced to compel closure of the prison. This overwhelming pressure for change culminated in the *Daubney Committee* recommending that the Prison for Women should close within five years, and that a Task Force should be instituted to decide on the best way of facilitating it. The Task Force which finally emerged insisted that it 'was not a government response to the *Daubney Report*' and was 'not premised on the closure of the Prison for Women' (TFFSW 1990: 70.) While it should be recognised that 'every major correctional inquiry in Canada [at least until 1988] has commented on

⁵ CAEFS is a 'federation of autonomous societies which works with, and on behalf of, women involved with the justice system, particularly women in conflict with the law'. (Taken from the CAEFS' Mission Statement). CAEFS is recognised within Canada as being the pre-eminent advocacy organisation for imprisoned women.

the Prison for Women' (Ekstedt & Griffiths 1988: 336), it should also be acknowledged that many did so in the context of discussing federal imprisonment as a whole, rather than focusing solely on women.

The unifying theme of these reports was the inequity of a system which: imprisoned most federally sentenced women far from their families and home communities; confined them in conditions of security disproportionate to their needs; allowed no possibility of transfer to a less secure environment during the course of their sentence; offered relatively few programme opportunities; operated within a building totally inadequate for its purpose. Some provincial inquiries, such as the *Report of the British Columbia Royal Commission on the Incarceration of Female Offenders* (Proudfoot 1978), further echoed concerns about imprisoned women. Yet, as each report was published, there was little political will to implement them.

In all of the foregoing I have made no mention of the reformatory movement and the legacy of the Andrew Mercer Reformatory in Toronto, which was the first separate prison for women in Canada (Strange 1995: 83). As Hannah-Moffat makes clear, it played a crucial, if largely unacknowledged, part in the history of the governance of imprisoned women in Canada, primarily through its use of 'maternal discipline [of the sort] most often associated with middle-class nuclear families' (Hannah-Moffat 2001: 52). In North America it was in the United States, rather than in Canada, that 'middle class women who had been abolitionists and health care workers during the Civil War' in the late 1860s first began to take an interest in penal affairs and, specifically, in the situation of imprisoned women (Rafter 1985: xxi). They concluded that conventional, congregate prison design was inappropriate for women, 'whose milder, more passive nature required a gentler environment', and their preference was for 'cottages' in rural settings which would house relatively small groups of women (Rafter 1985: xxi). (As Rafter (1985: 33) made clear, these 'cottages' were not on the small scale associated with English usage of the word; rather, they duplicated the 'cottages' of wealthy Americans and were 'large, substantial houses' wherein the women would live

under the guidance of a matron.)⁶ The initial vision of these reformatories was predicated on the ideal of the ‘reformable’ woman and ‘common womanhood’, (Freedman 1981: 63) whereby ‘virtuous women could uplift their fallen sisters’ (Hannah-Moffat 2001: 56). But not all ‘fallen sisters’ were included, because the original reformatory ideal was selective in its range and excluded those most commonly confined in custodial prisons. The first American reformatories concentrated on a group not previously brought within reach of ‘state punishment – vagrants, unwed mothers, prostitutes and other “fallen” women who seemed more promising material for their attempts to uplift and train’ (Rafter 1985: xxi). Freedman contended that these first, visionary female reformers, while attempting to further the *rights* of women prisoners, believed in an ‘innate sexual difference’ which enabled women to ‘control women’s prisons’; the reformers were not attempting to press for ‘sexual equality’ (Freedman 1981: 47). Moreover, the reformers’ femininity enabled them to encourage similar feminine behaviour in imprisoned women, simultaneously projecting their own middle-class values onto women who had not previously experienced them (Freedman 1981: 54).

The Andrew Mercer Reformatory was the direct result of energetic lobbying by J. W. Langmuir, an Ontario Prison Inspector, who was also convinced of the need to imprison women separately from men. A timely legacy of \$100,000 to the Ontario province secured the possibility of Langmuir’s dream being realised, and he encouraged the province’s Premier to allow construction by telling him that ‘women’s prisons, both in construction and administration, were “of a far less costly character” than men’s prisons’ (Oliver 1998: 428). Canada differed from the first American reformatories in that the Mercer had to take ‘frequent offenders’ and had ‘very modest expectations as to rehabilitation’ (Oliver 1998: 459). Further, at Langmuir’s instigation the Mercer was based on the congregate system, yet its design allowed for ‘distinct and separate accommodation for four grades of

⁶ Freedman (1981: 68) expanded on their design. Writing of the Massachusetts Reformatory Prison for Women, she wrote: ‘Instead of cells, the reformatory had “private rooms” which ranged from 50 to 90 square feet, slightly larger than most men’s prison quarters. Iron bedsteads and white linen, not the typical bare cot, adorned each room. Well behaved inmates could decorate their quarters, enjoy unbarred windows and have wood slats instead of gratings on their doors. Room size and location was determined by a merit system’ Similarly, the Hudson House in New York state had ‘cottages fitted up as nearly as possible like an average family house’.

prisoners' (Oliver 1998: 429), a hoped-for system of classification which does not appear to have survived the Mercer's opening in 1874. The logic and means of maternal governance applied at the Mercer outlasted its closure and, as has been contended by Hannah-Moffat (2001) and others, reappeared in the 1990s, as the discourse again moved towards 'women-centred' prisons. In a curious twist, the influence of the original American reformatory movement became manifest in Canada during the 1990s, when the Minnesota State Reformatory for Women, now known as the Minnesota Correctional Facility - Shakopee, emerged as the exemplar for Canadian planners.

Feminism

It was not only the various Commissions of Inquiry which suggested change at the Prison for Women. Legal challenges were mounted, one of the most important being that of sexual discrimination, filed in 1981 with the Canadian Human Rights' Commission, against the federal government, by Women for Justice. The Commission found for Women for Justice in their allegations of 'discrimination in the provision of goods, services and facilities' (for federally sentenced women), upholding nine of their eleven complaints (see Berzins & Hayes 1993).⁷ The founding of Women for Justice was a 'turning point in Canadian women's prison reform [being] the first time that women outside the field of corrections came together to fight for the rights of federally sentenced women ... [seeking] to politicise and contextualise the discrimination faced by women' (Hannah-Moffat 2001: 135).

The patriation of the Constitution had united women across the country in their efforts to ensure that the equality provisions in the *Charter*, (which is Part 1, of the *Constitution Act 1982*) differed from those in the *Canadian Bill of Rights*. It is debatable whether the women's efforts would have been quite so vociferous had the

⁷ Berzins and Hayes detailed their sacking, after being hired by the Ministry of the Solicitor General to follow up the recommendations of the *Clark Committee* (1977). They were the first to work 'exclusively on the needs of women', and prepared a review of programmes for women offenders which incurred the 'wrath' of the then Commissioner of Corrections. Shortly thereafter they were told that their contracts would be terminated. In a telling section, echoing Rothman (1980), they wrote: 'it appears that a powerful system which did not hesitate to compromise the interests of women in its charge for convenience's sake, also dealt unscrupulously with women hired to correct those inequities' (Berzins & Hayes 1987: 169).

Government not urged the cancellation of a conference planned by the Canadian Advisory Council on the Status of Women (CACSW), scheduled for February 1981, which was to be the culmination of CACSW's campaign to ensure that women's rights would be protected under the proposed *Charter* (Razack 1991: 33-34). The conference was to coincide with parliamentary debates about the *Charter*, a clash which the government wished to avoid (Geller-Schwartz 1995: 53).

Members of CACSW were Government appointees and all, with the exception of their president, caved in to the Government. As Brodsky and Day noted, 'men were negotiating a new Constitution, which would be very difficult to amend. It contained entrenched rights clauses that would affect women in Canada for decades to come. ... Though outsiders to the process, women injected themselves forcefully into the constitutional debates, arguing with one voice for ... guarantees that could bring real change to the lives of women in Canada' (Brodsky & Day 1989: 17). The CACSW conference would have highlighted those sections of the proposed *Charter* which the government wished to deal with in its own way, and this heavy-handed approach inspired women from across the country to attend an alternative conference in Ottawa, and continue campaigning until their message had been heard and reflected in the *Charter* (Geller-Schwartz 1995).

Section 15 of the *Charter of Rights and Freedoms* covers equality, thus:

- (1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.
- (2) Subsection (1) does not preclude any law, program or activity that has as its object the amelioration of conditions of disadvantaged individuals or groups including those that are disadvantaged because of race, ... [as above]

Section 28 continued:

Notwithstanding anything in this Charter, the rights and freedoms referred to in it are guaranteed equally to male and female persons.⁸

⁸ As later becomes evident, when we move to discussing the role played by Aboriginal women in the Task Force, the debates centred on the patriation of the Constitution and the *Canadian Charter of Rights and Freedoms* were of fundamental importance to culturally-distinct groups as well. A meeting of First Ministers in 1981 agreed (without the assent of the Premier of Québec) to the

These powerful Sections were to have been the basis of a class action by LEAF under the *Canadian Charter of Rights and Freedoms (1982)*.⁹ LEAF intended to challenge CSC to prove that federal women were *not* actively discriminated against by the location of the Prison for Women. They intended to show that having just one federal facility for women precluded their moving to less secure accommodation as their security classification changed, and that the women were disadvantaged by the programmes offered to them. This action was not pursued when the government committed itself to the closure of the Prison for Women in 1990. Earlier, it had been argued, in *Horii v. Canada Commissioner of Corrections (1987) 17 F.T.R. 190*, that women were discriminated against by being forced to serve a federal sentence in Kingston, rather than in their home province. Although 'Horii was unsuccessful in the first stage of her challenge to sex discrimination in the federal penitentiary system' (Brodsky and Day, 1989),¹⁰ her case helped underpin the on-going construction of an argument which forced CSC to rethink the policy for federally sentenced women.

All of these latter actions had been taking place against a backdrop of increasing feminist interventions in the criminal justice arena and, as Shaw (1996b: 179) suggested, 'nowhere else had feminism made such marked inroads into official

insertion of Section 33 in the Charter, which gave any provincial government the right to ignore sections of the Charter (including those deemed so important by women, Sections 15 and 28) if they were thought to be in conflict with provincial interests. Additionally, Section 27 protected multiculturalism within Canada. Interpretations of the meaning of 'culture' had been used within Canada (and elsewhere) as a means of defining and restricting the freedom and autonomy of women. Some Aboriginal women believed that some Aboriginal men might claim that cultural practices and traditions required that women should be treated differently from men. Aboriginal women needed the reassurance that Section 28 would be applied equally to themselves, and other culturally-distinct groups, because they had been signally failed by the law when seeking redress under the *Canadian Bill of Rights*. The 'notwithstanding' clause, Section 33, caused women to protest vehemently, because it was feared that it could adversely be applied to Section 28, which guaranteed rights and freedoms equally to men and women. This was finally acknowledged when Section 28 was specifically made exempt from the 'notwithstanding' clause of Section 33. See Krosenbrink-Gelissen 1993; Brodsky and Day, 1989; Razack, 1991.

⁹ The Women's Legal Education and Action Fund (LEAF) was founded in 1984, by 'a small group of influential Canadian women, almost all lawyers ...' (Hannah-Moffat 2001:136). LEAF had been 'impressed by the record of the ... National Association for the Advancement of Coloured People (NAACP), in particular their strategy of pursuing incremental gains in specific areas [and had] concluded that Canadian women could best secure their legal rights in a similar way' (Razack, 1991: 52). For a fuller discussion of the importance of LEAF see Razack, 1991.

discourse than Canada'. Whilst imprisonment was not at the top of the agenda, considerable progress had been made in recognising the prevalence of violence against women. The victims' movement was becoming entrenched and changing attitudes to sexual mores had led to the wider definition of sexual assault replacing rape on the statute book in 1983. Within government, there had been a Women's Bureau established since 1954, but it took a larger 'coalition of 32 women's organisations, calling themselves the Committee for the Equality of Women in Canada (CEWC)' (Geller-Schwartz 1995: 43), to persuade the Canadian government to follow President Kennedy's lead, in appointing a Commission of the Status of Women, and appoint its own Royal Commission on the Status of Women. The resultant Commission led directly to the appointment of an eponymous minister in 197. In this case, though, there was no specific department for which the minister was responsible, and the position continues to be that of a junior minister within the Cabinet. A further coalition of women's groups, the National Advisory Committee (NAC), campaigned specifically for the full implementation of the Royal Commission recommendations, and the Canadian Advisory Council for the Status of Women (CACSW) finally emerged in 1973. While this was mandated to highlight the interests of women, it was not independent of the executive, as the Royal Commission had recommended, and women's groups eventually shunned it (Geller-Schwartz, 1995). Encouraged by the United Nations' International Women's Year, the government established Status of Women Canada in 1976, which had specific responsibilities for scrutinising legislation and policies for their impact on women. As Geller-Schwartz (1995: 48) observes, 'once established, women's policy agencies in Canada do not fade away. Successive Governments may reorganise structures ... but the institutions themselves seldom disappear'. This institutionalisation of women's influence paralleled the growing influence of a number of non-state women's organisations, many of whom were represented in the NAC, which was at the height of its influence in the mid 1980s.

This by no means exhaustive examination of the Inquiries, Commissions, submissions and legal challenges provides some explanation of why CSC was

¹⁰ The challenge remained dormant until 2002, when it was finally settled. Details remain confidential.

under such pressure to do something about the Prison for Women. But it would be wrong to suggest that much importance was attached to the Prison for Women by other government departments, let alone the public at large, for whom it had little or no significance. Employment, education and adequate health care were of far greater public concern than the welfare of a tiny group of women incarcerated in Kingston. So what made *this* prison such an icon for campaigning groups? And why did campaigners think it so particularly unsuitable for imprisoned women? To be, in MacGuigan's phrase, 'unfit for bears, much less women'? The answer to this lies in its design and location, as we shall later see. But there was also an increasingly feminist questioning of the subordinate role of women within Canadian society, which became centred on the fight to amend the wording of the *Charter of Rights and Freedoms*. The Prison for Women represented many of the larger inequities against which women were campaigning; on every score the prison failed the equality-with-men test. It was a microcosm of the wider discrimination women faced within Canadian society, as had been made so abundantly clear during the 1970s, with the wide publicity accorded both the *Lavell* and *Bedard* case (see chapter 2) and the *Bliss* case (see Krosenbrink-Gelissen 1993; Brodsky and Day, 1989; Razack, 1991). These legal challenges had separately highlighted the ways in which the law discriminated against women on the basis of their gender. CAEFS, as the national advocacy organisation for imprisoned women, had women within its own membership who were actively agitating for change in the legal arena. As I later make clear, women's expertise was co-opted for a variety of purposes by individual groups and there was a nation-wide network of women, familiar with each other's interests and prepared to campaign on specific issues. The power of that informal network was apparent in the consistent way in which CAEFS continued to highlight the necessity for change at the Prison for Women, and press for a Royal Commission. Together, these women were able to reach key civil service personnel and focus on the inequities faced by federally sentenced women.

However, upon reading this list of Inquiries and Commissions it might be tempting to assume that the Correctional Service of Canada (CSC) relied on successive conflicting reports as a means of avoiding action. Such assumptions would be to

ignore the scale of the problems to be surmounted in a country the size of Canada, with its complex federal-provincial relationships, the difficulties of which have been well documented. With regard to the criminal justice arena Rock had pertinent comments to make regarding the Ministry of the Solicitor General, which are entirely relevant here: 'on occasion it is as if ... dealings with the provinces map out a Balkans of the Canadian criminal justice system: one maladroit move always promising to lead to a much wider disturbance' (Rock 1986: 169). Indeed one senior official interviewed during the course of my research, upon being asked whether there had been any consideration of the federal-provincial responsibilities being merged for imprisoned women, responded: ... *the task was onerous enough, so to start the Third World War by discussing provincial-federal jurisdiction just wasn't an option.*¹¹ As Rock continued: 'in every (official) paper will be found a routine reference to the preservation of amicable federal-provincial relations' (Rock 1986: 169) and this delicate partnership frequently leads both to increased numbers and membership of committees. It is of paramount importance that the provinces should feel fully consulted about initiatives affecting them.

In a wider sense, dealing with the Prison for Women was also 'do-able' for the civil service. In much the same way that Her Majesty's Prison Service was able to set about replacing Holloway Prison in London because imprisoned women were a 'safer', less contentious group than imprisoned men (see Rock, 1996), CSC believed that it could tackle the Prison for Women without attracting huge public debate. As a senior civil servant noted: *If you looked at treating men and women equally, this was not equal ... How long can you continue such unequal treatment of people before the public becomes sympathetic and begins to demand action?*¹²

MacGuigan's 'unfit' prison

How should we envisage the Prison for Women? The following description reflects what prevailed until at least the mid-nineties.

The Prison for Women provided puzzling and confusing images. If a bystander were to ignore the massive walls to which the prison was attached, the four-storey

¹¹ Interview 18

stone building, crowned by a copper-wrapped cupola, looked as though it could be a civic building. At first glance the Prison's neatly manicured, colourful front garden suggested a place of order and structure. The reality, however, was that the prison was a confusing mixture of narrow passages, myriad stairs and inadequate communal spaces; for many it engendered a feeling of claustrophobia, heightened by the inadequacy of its living accommodation. The Prison for Women became infamous for its double-tiered A and B 'ranges', which consisted of small cells fronted by bars stretching from floor to ceiling, which afforded the women little privacy, and even less quiet. The cells looked like – and were – cages. A Range contained fifty cells, half at floor level with the rest arranged above at mezzanine level. B Range, while identical, was split in two, with half used for protective custody and dissociation, and the remainder accommodating women whose institutional (mis)behaviour had led to their being assigned to this range. Some women remained on these ranges for years, never qualifying for the next step, which was the 'wing'. This provided accommodation for the rest of the women and contained fifty unbarred, largely single, cells which offered the women a modicum of privacy and the possibility of creating a space which was more distinctly 'theirs'. As Arbour (1996: 9) was to comment, the prison was 'inadequate for living, working, eating, programming, recreation and administration'. The prison was enclosed by a huge wall, 'half a mile long ... bolted into solid bedrock', erected at a cost of \$1.4 million in 1980 when the previous wall was replaced (Johnson, cited in Cooper 1987: 140; TFFSW 1990: 63). This wall was the hallmark of a maximum security prison, although the prison was actually a multi-level one. The only respite from this level of security was provided by Isabel McNeil House, directly across the road from the prison, which provided minimum security accommodation for eleven women.

¹² Interview 27



The Prison for Women, Kingston, Ontario.
photo: S. Hayman

In 1932, for reasons of economy, the authorities had built a ‘congregate-style prison, as opposed to a cottage-style [prison] (more associated with maternal discipline)’ (Hannah-Moffat 2001: 86). But even so, in an uncanny replication of what happened in England when Holloway Prison was being redeveloped (see Rock, 1996), the building of the Prison for Women was delayed by architectural changes which added considerably to its cost. The prison contained neither an exercise yard nor educational facilities. Although there was a ‘supervising matron’, the prison was administered by both Kingston Penitentiary and the Collins Bay Penitentiary and it was not until 1960 that this link was severed and a separate warden, Isabel McNeil, appointed (Hannah-Moffat 2001: 99). The Prison for Women was administered by the Correctional Service of Canada, which is part of the Ministry of the Solicitor General. It was a federal facility, which meant that it received women sentenced to two years or more in custody. The prison took federally sentenced women from across Canada, but the development of Exchange of Service Agreements (ESAs) meant that by December 1988, forty percent of federal women remained in their own provinces, although largely in Québec and British Columbia (Shaw 1991a: 4).¹³ While provincial incarceration allowed these women to remain closer to their home communities, it also meant that they were disadvantaged in other ways, particularly in the paucity of available programmes. Provincially sentenced women could be transferred to the Prison for Women when their behaviour became, in provincial corrections’ eyes, difficult to manage. Because the prison was the only federal facility for women, those who were sent there could be, quite literally, thousands of miles from their homes. A woman from Edmonton, for example, would be 1,800 miles from her home, and a woman from Vancouver, 2,200 miles from hers. To put that last figure in a more immediately accessible English context, it would be akin to sending a woman from London almost twice the distance to Moscow to serve her sentence. This geographic dislocation generally only applied to women. The far larger number of federally sentenced men had a greater number of penitentiaries to which they could be sent,

¹³ Exchange of Service Agreements (ESAs) were first negotiated in 1973, and enabled provinces to assume responsibility for some federally sentenced women, especially Francophones. By this means, some women were able to be imprisoned closer to their homes, but there were significant penalties. ‘An offender transferred to another Canadian jurisdiction is subject to all the statutes, regulations and rules applicable in the receiving jurisdiction. In other words, a federal inmate transferred to a provincial jurisdiction becomes a “provincial prisoner” ’ (TFFSW 1991: 63).

and these were not all at the same security level. Men had the possibility of ‘cascading’ through the system, whereas federal women had no such choice and could spend their entire sentence in conditions of security entirely disproportionate to the risk they posed.

Conclusion and looking ahead

As has been shown, the Prison for Women attracted adverse attention and criticism from the moment of its opening. Yet, although the prison’s design was considered inadequate and unsuitable, this was not seen as the major issue. Even during the decades when ‘equality’ of treatment for men and women was rarely part of public discourse, the Prison for Women was seen to be unfair. To confine women so far from their home communities was to compound their punishment in a way that became increasingly difficult to justify, especially by the 1980s, when the country had observed women fighting to achieve the legal changes thought so essential to the efficacy of the *Charter of Rights and Freedoms*. Even so, the Prison for Women was not subject to large-scale campaigning, and criticism generally came from well-informed sources, rather than from the wider public. It was the accumulation of these criticisms, against a backdrop of increasing feminist engagement both within and against state agencies, that finally encouraged CSC to grapple with the problem once more. By the late 1980s, CSC hoped for the successful resolution of one of its most intractable, yet increasingly ‘do-able’, problems.

Yet the history of penal reform tells us that change is often achieved at a cost. As Cohen (1983: 115) warns us, ‘we must be wary of good intentions [as] benevolence might do more harm than good’. A closer examination of the history of women’s reformatories in America demonstrates that, once women were engaged in the management of separate female prisons, ‘power triumphed over sisterhood not because these were single-sex institutions, *but because they were prisons*’ (Freedman 1981: 105, emphasis added). The innate discipline attached to any prison ensured that the initial benevolence was absorbed and subverted, simply because the prison could never be anything other than a place of involuntary confinement; prisoners could not see their imprisonment as a benevolent act,

executed by a benevolent state. Similar good intentions failed spectacularly and tragically in the rebuilt HMP Holloway (see Rock, 1996). The Prison for Women itself had originally been built as an act of benevolence towards women who were, rightly, seen to be disadvantaged compared to male federal prisoners. Yet it, too, had failed. However, it can equally be said that history should not be the reason for refusing to contemplate change; rather, that we should learn its lessons, act upon them and accept that benevolence can play a crucial role in effecting change. The Canadians were faced with a uniquely Canadian problem, occasioned by the federal-provincial split in jurisdiction and the vast scale of the country itself. While they were also aware of the lessons of history, they felt that their circumstances impelled them towards doing something distinctively Canadian, rather than a simple replication of other jurisdictions' solutions. They needed a catalyst, and the appointment of a new Commissioner of Corrections proved to be just that, as the next chapter will begin by illustrating.

2. A journey begins; creating a task force

Throughout its colonial history, Canada relied on imported skills to develop its vast hinterland, pursuing expansionist policies despite the initial presence of large numbers of Aboriginals. Varying migratory patterns are evident in the very diverse nature of its present population, reflecting the results of social and economic upheavals throughout the world. Canada has also resorted to soliciting the help of specific individuals as needs have arisen both within and outside government. The appointment in 1988 of a new Commissioner of Corrections, Ole Ingstrup, proved crucial to the continuing endeavour of closing the Prison for Women. While much of his correctional background lay in his native Denmark, he came to Canada in 1983 as Special Adviser to the then Commissioner of Corrections. Following that appointment he was briefly Chairman of the National Parole Board, so was not unknown to Corrections, nor seen as a complete outsider, by the time he assumed the role of Commissioner himself. He brought with him a Scandinavian perspective on prisons and punishment and was known as someone with a specific interest in programming (for which we should read ‘regimes’), wanting to focus on the prisoners themselves, rather than strictly their security management as had more generally prevailed. He wanted change throughout CSC and within a very short time had established a number of Task Forces and brought in a new Mission Statement for the Service. As Adelburgh and Currie observed, when reflecting upon his rethinking of the Mission Statement: ‘for those of us who had worked with women in the federal correctional system before Ingstrup’s appointment, this sort of commitment from the Commissioner represented a radical departure from that of his predecessors – who generally dismissed female offenders as insignificant or beyond rehabilitation’ (Adelburgh and Currie 1993: 19).

Involving the voluntary sector; a partnership with CAEFS

On the 1st September 1988 Mr. Ingstrup distributed to the members of Corrections - Senior Policy Advisory Committee (C-SPAC) an outline proposal for the creation of a Task Force on Female Offenders. This proposal had already been discussed informally with the Canadian Association of Elizabeth Fry Societies (CAEFS) during an August meeting and both the Commissioner and CAEFS had acknowledged their

similar goals regarding the need 'co-operatively [to] design a new plan to provide an integrated system of programs and services for federally sentenced women'.¹ At their meeting on the 16th September C-SPAC agreed that a Task Force should proceed and soon afterwards a formal approach was made to CAEFS, inviting their participation. CAEFS' Executive Director, Bonnie Diamond, told CAEFS' members in November that she had already met with the Deputy Commissioner of Corrections, James Phelps, and the Director of Native and Female Offender Programs, Jane Miller-Ashton, to discuss the proposals.² It is perhaps indicative of the importance then accorded women and Aboriginals that in 1989 these two constituencies did not have separate Directors. Both were seen as 'minorities', despite Aboriginal incarceration rates for males, and particularly females, being entirely disproportionate to their numbers in the larger Canadian population.³ Even at that early stage it was clear that a partnership approach was envisaged for the Task Force, with representatives of CAEFS and the Correctional Services of Canada (CSC) being proposed as joint chairs of the Steering Committee and, by October, as joint chairs of the Working Group as well. Ms Diamond wrote:

I really want us to work quickly in having the task force up and moving. Time goes so quickly and I do think that Ole Ingstrup is very open to alternative ideas. The average term for a Commissioner of Corrections is three years and he has already been in the position for six months.⁴

(Ms Diamond was correct; Mr. Ingstrup was to move to another federal position in 1992).

This willingness to accept a Task Force represented a compromise on the part of CAEFS, because for some time it had been pushing for a Royal Commission on female offenders. As has been noted, 'a favourite way in Canada to induce

¹ Letter from Bonnie Diamond to Joseph Stanford, Dep. Solicitor General, 13th February, 1989

² October / November, 1988 CAEFS' Executive Director's Report

³ The closest comparison is derived from figures for 'on register' prisoners (federal prisoners in provincial or federal prisons, and provincial prisoners in federal prisons, including those on day parole) in 1990/1991. Aboriginal men comprised nearly 13 percent of 'on register' male prisoners. Figures presented in the same table showed women to be 2 percent of the *total* 'on register' prisoners, but do not give a breakdown for Aboriginal women (Boe 1992: 14). We know from Shaw et al (1991b) that Aboriginal women comprised 23 percent of the federally sentenced women's population, but there is not an exact correlation because those figures do not include all 'on register' Aboriginal women or provincial women serving sentences in federal prisons.

⁴ October / November, 1988 CAEFS' Executive Director's Report

legislative change is through a more elaborate form of research and education, namely the public commission of enquiry. Governments find commissions a handy response to pressure from women's groups to do something' (Geller-Schwartz 1995: 51). Or, as Bruckert (1993: 4) wrote, 'establishing a Task Force or special committee to examine an issue that has successfully been defined in the public forum as a social problem has historically been a common strategy by the state to quiet the voices of opposition'. Perhaps something of the truth straddles these two views. The Task Force concept was imported into Canada following the Kennedy administration's successful use of them in the United States. They are seen 'as an instrument of policy making, combining intellectuals, aware of the practical constraints of government, with civil servants and other knowledgeable private citizens' and are used to 'facilitate both long-range planning and the control of government by the political executive' (Wilson 1971: 122, 123). Royal Commissions are struck under the *Inquiries Act 1985* and are established by the 'Governor [General] in Council'. Such Commissions 'have the power of summoning before them any witnesses, and of requiring them to: (a) give evidence, orally or in writing ... and (b) produce such documents ... as Commissioners deem requisite' (Section 4). Royal Commissions are independent of government, with members being appointed from outside the sphere to be investigated. Task forces, by contrast, are 'informal administrative aids to the executive' (Wilson 1971: 124) and for Mr. Ingstrup's purposes it was important that civil servants from CSC should be included, as they would enable him to maintain more control of the time-frame and personnel involved. He could also incorporate others from the various criminal justice departments, such as the Office of the Solicitor General and the National Parole Board, whose support would be needed should a workable solution be provided by the Task Force. CAEFS recognised that Mr. Ingstrup's preferred way of focusing on various issues was through such task forces, and pragmatically accepted that this was the only route for change available. In her December report their Executive Director, Bonnie Diamond, was to write:

It looks like the Task Force will be a go but CSC is quite nervous entering into such an undertaking with us. If we can pull it off it will be a new model in co-operation.

The means of ‘pulling it off’ required protracted negotiations between CSC and CAEFS. The CAEFS’ Executive Committee met at the beginning of December to discuss the basis of a partnership with CSC and on the 6th December formally sent their proposals to James Phelps, who was then to negotiate the various points personally with Bonnie Diamond. CAEFS’ view of the purpose of the Task Force was that it should ‘comprehensively study the circumstances of federally sentenced women and ... recommend an integrated national system of services that is based on meeting the needs of these women. The task force will produce a blueprint for action *complete with an implementation schedule*’ (emphasis added). CAEFS outlined nineteen ‘important elements’ and at that meeting Bonnie Diamond was able to obtain agreement on all but three: the financing of CAEFS’ Task Force representatives; co-chairmanship; financing of the regional consultations. The gist of these discussions was conveyed to Mr. Ingstrup, who expressed reservations about some of the conclusions reached. Co-chairmanship was an essential prerequisite to CAEFS’ participation and Mr. Phelps was able to point out to the Commissioner that there had been a precedent set, when the Secretariat worked jointly with the private sector during the Women in Conflict with the Law initiative. There were concerns that the ‘co-chairmanship would make accountability for the Task Force unclear and would be inconsistent with the development of a policy framework for the Correctional Service of Canada’⁵, but CSC still wanted to involve the voluntary sector.

Canada was adopting an unusual approach. At that time most jurisdictions jealously guarded the right to produce their own reports and, while they might have consulted outside agencies, did not share the writing of the final report with them, nor necessarily disclose the consultations, as exemplified by HM Prison Service’s *Regimes for Women* (1992). A rare European exception was the Dutch initiative, *Women in Detention* (Ministry of Justice, 1992), which involved external specialists in the Working Group. Stern, commenting on the role of the voluntary sector and pressure groups working in the criminal justice arena in the United Kingdom, cites their importance in being ‘free to argue for a better and more humane [penal] system’ in that ‘they do not have the dual and sometimes conflicting, responsibilities of many

⁵ Memorandum 1st February, 1989

of the statutory bodies'. She then highlights the difficulties such groups face when dependent upon government for some of their funding and the fact that 'grants are given ... on condition they are used to meet needs as defined by the Government or by statutory bodies. The effect of this is to erode the independence of voluntary organisations ...' (Stern 1994: 244; see also Ryan, 1983). When there is a financial relationship between an organisation and government, such as with NACRO in the United Kingdom, there is an inevitable dulling of the critical edge, with 'consensual limits and both sides know[ing] the boundaries' (Ryan 1983: 109). Independence is an ever-present worry for most campaigning groups and in Britain, for example, there has been little inclination for government departments and voluntary organisations to view each other as partners until relatively recently. Indeed, the voluntary sector has cherished its independence, largely (in the penal sphere) because of fears of incorporation and being used to legitimate government policies.

The Canadian decision to opt for joint participation in such an important policy venture had wide ramifications because the involvement of a national umbrella organisation, CAEFS, and eventually the Native Women's Association of Canada (NWAC), signalled to the provinces that women's imprisonment was firmly on the national correctional agenda. What was being undertaken by the federal authorities could not fail to have an impact upon the provinces, which in turn might conceivably find it harder to ignore the regional branches of the national voluntary organisations. But there was also an underlying pragmatism in CSC's approach, as acknowledged by a senior civil servant: *It was better that they [voluntary sector groups] participate because then you have a solution that satisfied them as well as the government – and, ideally, they would stop criticising the Minister at every turn!*⁶ Such pragmatism, if indeed it was that, could also be viewed as a means of neutralising and incorporating the voluntary sector. To have both CAEFS and NWAC involved made it harder for each organisation to exercise its more usual function of informed – and often critical – observer. CAEFS, in particular, was such a consistent and vocal critic of CSC that some officials thought the organisation compromised its

⁶ Interview 27

effectiveness because of its ubiquity, while outside observers of the organisation thought that its prime function was ‘to be the burr in the government saddle’.⁷

To begin with, the larger unresolved question was that of funding. CAEFS received sustaining funding from the Secretariat ‘to ensure the maintenance of the Association’s national structure and to cover the core operating expenses necessary to fulfil their objectives’,⁸ but it was insufficient to cover the additional cost of participating in the Task Force. CAEFS relied heavily on volunteers to pursue its work and it was felt that those asked to join the Task Force could not be expected to do so without recompense for the time involved, particularly as the civil servants would continue to be paid by their individual departments. Pressure to conclude the negotiations was compounded by the need to satisfy the Treasury Board which, during the negotiations to finalise the Burnaby Agreement⁹, had made it clear that it thought the ad hoc agreements for federally sentenced women unsatisfactory and was not prepared to finance more of them. Throughout the month of January James Phelps continued to press Ole Ingstrup for a decision, and it was finally agreed that the Commissioner would meet with Bonnie Diamond and Felicity Hawthorne, the President of CAEFS, in February. The meeting was an uncomfortable one (‘in retrospect, we find the tenor of the meeting was disturbing’¹⁰) and the CAEFS’ representatives failed to resolve the three outstanding matters. An angry CAEFS’ Board, upon hearing that the Commissioner considered the proposed Task Force an ‘internal operational review’ passed the following resolution:

Whereas CAEFS is a member of the voluntary sector it has no part to play in an internal CSC review of the Federal Female Offender except in an advisory capacity as consultants.¹¹

⁷ Personal notes 1996

⁸ The fact that sustaining grants are funded by the Secretariat means that there is a degree of independence between CSC and the Secretariat. Even if CSC were to cancel service contracts with organisations such as CAEFS, the sustaining grants would not be affected. CAEFS currently receives a grant of approximately \$500,000 annually.

⁹ An Exchange of Service Agreement, concluded in 1988, covering federally sentenced women in British Columbia.

¹⁰ Letter from Bonnie Diamond to Joseph Stanford, 13th February, 1989

¹¹ Ibid

A few days later Bonnie Diamond, together with the Executive Director of the Ottawa E. Fry Society, once again met with Mr. Ingstrup. This meeting and a subsequent one resulted in agreement being reached on all substantive matters. The financial questions were settled, with per diems being accepted for CAEFS' Working Group members and extra money provided for CAEFS to organise regional consultations with interested groups and individuals. Co-chairmanship was also agreed, with the proviso that Commissioner Ingstrup would retain certain 'accountabilities' because of the 'government structure within which the Task Force will operate'. Mr. Ingstrup's retention of financial accountability was an indication to Task Force members – if they considered it – of the structural reality of the enterprise they were joining.¹²

A Task Force, comprising a Working Group and a Steering Committee, was agreed and both of these committees were to be co-chaired by CAEFS' and CSC representatives. The Working Group would carry out the bulk of the work, while the Steering Committee would 'monitor, review and approve the activities and output of the Working Group'¹³ and offer a 'broad context for the work of the Task Force'.¹⁴ CAEFS formally agreed to participate in the Task Force on the 14th March and at the same time nominated their members of the Working Group. CAEFS' March Executive Report commented on recent developments, and the Board's action in reversing their earlier decision, saying: 'Most of us approach such a joint venture with healthy awareness but also with optimism that any system reform will be better for our participation. We will however have to remain very alert'.

CSC's wish to have CAEFS on board as a partner was recognition of its pre-eminence as an advocacy organisation for imprisoned women, as well as the fact that CAEFS had long been pressing for a Royal Commission. This partially explains why the Service went to such lengths to accommodate the Association's various demands. CSC's tactic was a particularly *Canadian* approach, rather than one which might be replicated within other correctional services. A possible explanation can be

¹² All government departments are subject to the *Financial Administration Act 1985* and Mr. Ingstrup would have been unable to delegate any authority for financial matters.

¹³ Memorandum 23rd March, 1989

¹⁴ Proposal for a Task Force on Federally Sentenced Women (unamended version)

found in the complex relationship between provincial and federal sensibilities, the curious dance each side engages in whilst delineating the boundaries which each may not exceed. The consequence of this sometimes fraught relationship is the need to consult widely before decisions are reached. Every avenue must be explored and in Canada these avenues frequently lead to the voluntary sector, where alternative voices are most likely to be heard and add legitimacy to the public debate. With respect to CAEFS such a joint initiative also had the effect, as I have earlier suggested, of neutralising them for the period of the Task Force and beyond, because CAEFS would be intimately linked to and sharing responsibility for the eventual report. The risk of incorporation by government is a constant one for voluntary-sector organisations and CAEFS understood the twin possibilities of both compromising their reputation as an independent organisation and alienating their own membership. As a CAEFS' representative, looking back, said: *We had to accept one really difficult thing, which was that we had to operate within the law as it was then, because we thought it [the situation at the Prison for Women] was urgent enough to have to do that, so we knew that whatever we recommended would be prison of some sort ... and we had to know that we could live with that bottom line.*¹⁵

The urgency of the need to do something about the Prison for Women underpinned CAEFS' decision to enter into partnership with CSC, but the relationship with CSC had never been clear-cut. As well as the sustaining funding received by CAEFS, which enabled it to carry out its advocacy work, CAEFS also received Government funding for the many community programmes it managed across the country under the auspices of its various branches. CAEFS was involved in supervising women in the community on behalf of Corrections¹⁶ and this reliance on government money led to an uneasy tension between its independence as an advocacy organisation and its status as a paid agent of the state. As Rock wrote: 'Private bodies cherish their privacy. A paradoxical consequence has been that the private sector periodically petitions federal departments for money to support its independence' (Rock 1996: 23). This paradox lay at the heart of CAEFS' relationship with government. At the time of the Task Force CAEFS would have been astonished had CSC considered any

¹⁵ Interview 19

¹⁶ Some of this work, such as parole supervision, has now been reclaimed by CSC.

organisation other than theirs as the major partner. When the *Corrections and Conditional Release Act* (CCRA) was subsequently passed in 1992, they interpreted Section 77: ... *the Service shall ... (b) consult regularly about programs for female offenders with (i) appropriate women's groups ...* as applying particularly to them. It also tends to be forgotten that CAEFS, whilst then displaying many of the sensibilities of prison abolitionists, did not formally adopt an abolitionist stance until June, 1993.¹⁷ Consequently, many of its members questioned the wisdom of being involved in a government project which might conceivably lead to the building of new prisons.

In many voluntary groups, there is often a considerable overlapping of key personnel and, although Canada is a vast country, the need for provincial branches of national organisations frequently means that those operating in specific spheres are in close contact with representatives many thousands of miles away. The pool in which they are operating is often quite small. As Shaw later wrote, in connection with groups operating in Nova Scotia, women frequently 'sat on each other's boards, made representations to authorities in support of member organisations in trouble ...' (Shaw 1998: 108). There was a thread uniting women's groups with other women's groups; violence, victimisation and inequality before the law. It was unsurprising that the boundaries should have been permeable and that a woman's expertise in a specific area was valuable to more than one group. CAEFS was no exception, in that members often had broad connections. As their Mission Statement notes, they are 'community based agencies dedicated to offering services and programs to marginalised women, advocating for legislative and administrative reform', with 'volunteerism ... an essential part of [their] work'. As an umbrella group for local societies, CAEFS' Board of Directors includes a representative from each and the national agenda is determined following intensive consultations with all members.

Helping each other campaign, often against government agencies, was not uncommon amongst these various organisations, but there was a fundamental

¹⁷ Ryan (1983) details similar dilemmas faced by a British abolitionist group, Radical Alternatives to Prison (RAP), whose very outspoken view that prisons 'could not rehabilitate' antagonised the Home Office, leaving RAP unable to influence official policy in the way that more pragmatic organisations,

dilemma as to how far women in the voluntary sector should co-operate with government in order to achieve change. There was a history of government involvement with women's umbrella groups and their subsequent neutralisation or marginalisation. For example, the high profile of the government-funded National Action Committee (NAC) during the 1970s diminished following the election of a Conservative government and individual women's groups were ignored because they did not reflect the prevailing political ideology. Some women's groups were no longer always national in their scope, as in Québec, where the women's movement became identified with the independence movement and was reluctant to be publicly linked to pan-Canada women's organisations (see Geller-Schwartz, 1995). CAEFS knew of this collective history – because some of its members were personally involved – and a number within the organisation feared similar incorporation by government, remaining sceptical of any requests to advance specific causes collectively. Then there were those whose pragmatism about the means was largely occasioned by the worsening situation within the Prison for Women. Carlen, with respect to prisons, has long advocated that 'campaigners [should] continue to engage in democratic discussion and co-operative enterprise with prisoners, prison staff, prison administrators and opinion leaders ... [because] it is essential to keep open to public view the inner workings of the whole carceral machinery so that its endemic secrecy can be held in check' (Carlen 1998: 167). How far this co-operation should be extended was the crux of the problem for many within CAEFS. Its members were aware of the historic failure of many benevolent penal enterprises, the record being characterised as one of 'not just good intentions going wrong now and then, but of continued and disastrous failure' (Cohen 1985: 19). However, the worsening situation at the Prison for Women convinced the Board of the need to risk the possibility of further failure.

Their ambivalence would have been shared by some of the civil servants because they, privately, would also have thought of themselves as feminists. This was an uncomfortable label to wear while employed by the state. Some were already ghettoised by virtue of working in fields focused on women and their future careers

such as the Howard League and NACRO, did. CAEFS had always taken a less confrontational path, partly, it might be suggested, because of its financial relationship with government.

were dependent upon not being seen as devoted to one particular area. Geller-Schwartz (1995) noted that as ‘femocrats’¹⁸ they were ‘suspect’ in the wider bureaucracy. Increasingly, the term feminism came to be used derogatively and supposedly neutral civil servants would have been wary of being too closely identified with women’s issues.

This emphasis on the role of CAEFS is necessary because the Association, mainly through its Executive Director, Bonnie Diamond, played a fundamental role in shaping the Task Force and in suggesting who the various non-government members might be. CAEFS’ success in securing voluntary sector parity with CSC representatives ensured that neither faction was publicly paramount during the life of the Task Force (although there were undoubted power differentials between individuals behind the scenes). The composition of the Working Group, which was to undertake the bulk of the work, illustrates the balance achieved, even though a look at the names published in the Task Force’s report, where there are four government appointees alongside six voluntary sector ones, would indicate an imbalance in favour of the voluntary sector. (There were actually five civil servants, but one withheld her name from the final report, a circumstance discussed in chapter 5). Initially, the Working Group was to have equal government and CAEFS’ representation. During preliminary discussions within Corrections, at the time when C-SPAC approved the launch of a Task Force, it was suggested by the Chairman of the Parole Board, Mr. Gibson, that a ‘*native [Aboriginal] person should be on the Task Force*’, as well as ‘*two provincial representatives*’ (emphasis added). That decision was made in September 1988 and the wording of the minutes suggests that both these constituencies, possibly through oversight, had been omitted from Mr. Ingstrup’s original proposal. By the end of September it was already clear that the preferred format of the Task Force was for it to consist of a Working Group and a Steering Committee and, following Mr. Gibson’s suggestion, it was then assumed that an Aboriginal representative would sit on the (arguably less influential) Steering Committee. Even CAEFS, when suggesting in its December letter to James Phelps

¹⁸ A term coined by Australian feminists to cover feminists working in a government bureaucracy (see Stetson, 1995)

that the ‘particular needs of native women must be highlighted’, only requested Aboriginal representation on the Steering Committee.

What significance did Mr. Gibson’s suggestion have? And what was its importance to the Task Force? The answers lie in the history of Canada as a colonised country, a country which eventually came to be a confederation of provinces. The provincial aspect of this story is also important and will shortly be explored more fully. For the moment, we need to reflect on the history of the First Nations of Canada, those Aboriginal nations which were displaced and dispossessed by waves of European immigration. We need this knowledge in order to understand why Aboriginals came to be so disproportionately represented in Canadian prisons – and why their participation in the Task Force came to be so important.

Dispossession and attempted assimilation; the First Nations of Canada

The first peoples of Canada were the Aboriginals. They were there, in their many nations, at the time of Canada’s ‘discovery’ by Europeans. The nations were self-governing and had no concept of the European principles of ‘ownership’. This is best summarised by the Royal Commission on Aboriginal Peoples (RCAP):

In general, the European understanding – or at least the one that was committed to paper – was that the monarch had, or acquired through treaty or alliance, sovereignty over the land and the people on it. The Aboriginal understanding, however, recognised neither European title to the land nor Aboriginal submission to a European monarch. ... the Aboriginal concept of land and its relationship with human beings was based on the concept of communal ownership of land and ... while people could control and exercise stewardship over a territory, ultimately the land belonged to the Creator. (RCAP 1996 Vol. 1: 5).

The term Aboriginal is often used loosely. In Canada there are three distinct groups which can accurately claim to be part of this larger group: those known as First Nations; those known as Métis and those now known as Inuit (but formerly known as Eskimo). In reality, the groups are distinct, even if it has sometimes been politically expedient for them to be seen as homogeneous. The groups were further divided by whether or not they were considered to be ‘status’ (registered) or ‘non-status’ Indians; the legislative aegis of the original *British North America Act 1867* only included registered Indians. The relatively recent *Constitution Act 1982* defined

Aboriginal peoples, in Section 35(2), as including ‘the Indian, Inuit and Métis people of Canada’, which was the first time that the Métis had been officially recognised as a distinct group (see Frideres, 1993)¹⁹. The Métis emerged as a separate entity following the first contact with Europeans and are of ‘mixed heritage, [being] First Nations, or Inuit in the case of the Labrador Métis, and European’ (RCAP 1996, Vol. 1). Following the example of the constitution, and that of RCAP itself, the term Aboriginal will generally be used in this work and the word ‘Indian’ will only be used when it is being quoted from another source. In correctional terms, however, Aboriginals are not treated as three separate groups, but as a single entity.

The very first contact between Aboriginals and Europeans was mutually beneficial; trading links were established and there was little encroachment on the land. Indeed, without Aboriginal assistance, the first European settlers would have found it difficult to survive. However, as Europeans arrived in increasing numbers, believing that they had found a land to which they could freely lay claim, the situation quickly changed – and it was not just the question of land occupation which was to have an impact. A devastating consequence of contact with Europeans was the exposure of Aboriginals to foreign diseases and illnesses which they could not withstand. Consequently, during the first 300 years of European immigration the Aboriginal population declined by 50 percent and towards the end of the 18th century it was estimated that the numbers of Aboriginals and non-Aboriginals had become, in an astonishingly short period, approximately equal (RCAP 1996, Vol. 1: 5). Another consequence of contact with Europeans was the proselytising of missionaries, which undermined the belief systems underpinning the social organisation of Aboriginal nations, caused divisions amongst Aboriginals and encouraged them to adopt a way of life far removed from their traditional ones. Those missionaries also became highly involved in the education of Aboriginals.

Loss of land and sovereignty is the continuous thread of Aboriginal history. As we shall see the Royal Proclamation of 1763 had a particular application to Québec, but it was also a statement of intent towards Aboriginal nations living within the newly

¹⁹ The Task Force on Federally Sentenced Women chose to adopt the word Aboriginal for their report because it was the term used in the *Constitution Act 1982*.

conquered land. Those nations were seen to be autonomous and ones with whom treaties could be concluded but, as RCAP earlier indicated, the Aboriginals' understanding of what these treaties meant was fundamentally different from the Europeans' (also, see Miller 2000). As European immigration increased and, with it, the illegal occupation of Aboriginal land and its clearing for European-style agriculture, the Aboriginals were further displaced and left without a traditional means of supporting themselves. They then became increasingly reliant on the state for treaty payments as a means of survival.²⁰ The notion of Aboriginals as autonomous nations abated as immigration increased and the treaties became 'little more than real estate transactions designed to free Aboriginal lands for settlement and resource development' (RCAP 1996, Vol. 1: 6). Moreover, there was a concerted effort to increase the conversion of Aboriginals and thus 'civilise' them through the added benefits of European-style education, whilst ceremonies such as the potlatch and Sun Dance, which were of spiritual significance to various nations, were proscribed. Such proscriptions were 'analogous to passing a Catholic Act to regulate the lives of Canadian Catholics that prohibits them from attending mass ...' (Morrison and Wilson, 1995: 608).

The *Gradual Civilisation Act 1857* first introduced the idea of voluntary enfranchisement as a means of assimilating Aboriginals into European Canada, but the consequence of enfranchisement was the loss of legal Indian 'status'.²¹ Providing that Aboriginals could prove they 'were debt-free and of good moral character' they could apply for enfranchisement and become a citizen of the country that was already theirs. The bait used was land. Any Aboriginal accepted for

²⁰ Treaties were originally made through the Crown but, post-Confederation, were made through the Canadian Government. The treaties, in taking control of Aboriginal-held land to facilitate European immigration, created reserves and provided small annuities for individual Aboriginals. At the time these treaties were signed by the Aboriginals various verbal assurances (such as assistance with agriculture) were given by those negotiating on behalf of the government. Aboriginals, being accustomed to oral transactions, assumed that the Government would honour them and the failure to do so, and to clarify entitlement to land, has led to protracted claims from individual Bands. (See Frideres, 1983: RCAP, 1996)

²¹ 'Status', in this context, refers to those who were legally entitled to call themselves Indian. 'The terms 'legal', 'registered' and 'status' are generally used interchangeably to denote an Indian who is of federal concern ... "Indian" refers to a person who, pursuant to the *Indian Act*, is registered as an Indian, or is entitled to be registered as an Indian' (Frideres, 1993: 28). At no time were Aboriginals permitted to self-identify as Indians. For a fuller discussion of the many ways in which the *Indian Act* determined who might be classified as a 'status' Indian – and those whom the Act excluded – see RCAP, 1996 and Frideres, 1993.

enfranchisement would receive 20 hectares of land – and this would be taken by the colonial government from reserve lands which, under the Royal Proclamation, the government had no power to touch. Land that had previously been held in common ownership by nations could, by this means, be sub-divided and held in private ownership by a man who was no longer legally Aboriginal (Miller, 2000). By this means the Aboriginals' claim to land would be weakened. (It was only in 1960 that unqualified enfranchisement was extended to all Aboriginals (RCAP, Vol. 1: 9.12).

The policy initially failed – only one Indian asked to be enfranchised – but the idea re-emerged in the *Gradual Enfranchisement Act 1869* and women were singularly targeted by many of its provisions. Those who married non-Aboriginal men lost their Indian status, as did their children. Conversely, if a woman married an Aboriginal man who elected to be franchised she also lost status as a consequence of his decision. The main means of regulating Aboriginals was, however, the *Indian Act 1876* and, although amended at regular intervals, this continued to be the pre-eminent legislation concerning Aboriginals until the *Constitution Act 1982*. Under the 1876 Act Aboriginals were seen as being in a state of 'wardship' in relation to the state, no longer competent to administer their own affairs. Federal control over Aboriginals' governance, land, resources and education completed the means of assimilation of once-independent nations.

Land loss did not only occur as a result of failure to honour treaties. In the 20th century there were enforced relocations of whole Aboriginal communities. Some, such as the Mi'kmaq in Nova Scotia, were moved because it was administratively easier to have them in one area, rather than scattered across various reserves and others were moved because their land was needed for development purposes. Many of the relocations were undertaken without adequate consultation and informed consent did not appear to have been obtained from those moved. Removal was often to areas with which they had no previous links and the host communities had not been consulted to see if they agreed to an influx of newcomers. The new accommodation was usually inadequate – and sometimes non-existent – and there were insufficient jobs to provide an income for all families. RCAP details the case of the Gwa'Sala and 'Nakwaxda'xw, two fishing communities on Vancouver island,

who were forced to move in 1964 when the government threatened to withdraw all funding for housing, school and services if they refused. Promised moorings for their boats never materialised and new houses were not ready:

When boats were used for homes because the promised houses were not built, fishing licences were revoked because the boats were no longer defined as fishing vessels. Most of these boats, as well as others used for fishing, had to be moored in the river or on the beach, where they were eventually destroyed by high winds, waves and rain. This deprived the bands of access to marine resources, formerly a mainstay of their economy. (1996 Vol. 1, 11: 4.2)

Aboriginals' living conditions were sometimes so scandalous that many developed tuberculosis and the mortality rate of these relocated communities accelerated. Their old homes were often burned to discourage any possibility of return and the consequence was a drift to the cities so that they had more chance of paid employment. In turn, this drift led to more social and economic problems and an increasing dependency on state welfare. The end result of these enforced relocations was the further destruction of the Aboriginals' relationship with the land and their cultural identity.²²

While Aboriginals were being displaced from their communities, whether through losing the right to live on a reserve, through enforced relocation or the need to move elsewhere in order to obtain work, yet another piece of the grand project to 'civilise and assimilate' them was undermining their communities. Education was the means. Early on it had been recognised that, through education, the colonial government would be able to reach the most easily influenced group of Aboriginals, the children. Their parents were believed to be beyond reach because they had already been exposed to the traditions and beliefs which were so inimical to the tenets of Christianity. Although some Aboriginals had requested that education should be provided for their children, it was in the belief that they needed the skills of the dominant culture, such as literacy and numeracy, in order to be able to compete with Europeans in the workplace. At no stage in those early years of colonisation did the majority of Aboriginals wish this new knowledge to be a replacement for traditional

²² Chapter 11 of RCAP, Volume 1, provides an extensive review of many of these relocations and the consequences for the communities involved. These relocations continued until well into the 1960s.

skills; rather, it was to be complementary. The state thought otherwise and, in collaboration with the four main churches – Anglican, Catholic, Methodist and Presbyterian – established, in the 19th century, a mix of industrial and boarding schools. As RCAP shows, the system was driven by ‘missionary efforts’ and the ‘considerable force of the churches’ political influence in Ottawa by which they secured funds to operate the schools’ (1996 Vol. 1: 10). Over time the schools came to be known simply as residential schools but, whatever their original name, the intention behind each was identical; the obliteration of all that made the children self-identify as Aboriginals and the creation of new Canadians. In this scheme, parents had no part to play because they were part of the perceived problem. As RCAP said, ‘while they [parents] could not learn, they could, as parents, teach their children. Through them to their children and on through successive generations ran the influence of the “wigwam”.’²³ If the children’s potential was to be realised, it could only be outside the family. ... A wedge had to be driven not only physically between parent and child but also culturally and spiritually’ (RCAP 1996 Vol. 1: 10). As the system developed it was hoped that the children would act as civilising forces in their own right and would return to the reserves to influence others. The reality was that most ‘graduates’, thanks to innate racism within Euro-Canadian communities, could not gain employment after leaving the schools, yet no longer fitted into the reserves and way of life they had been forced to abandon.

The schools – where the children were forbidden to speak their own languages – were under-resourced, with poorly paid and often ill-trained teachers. The children were used as unpaid labour to offset the cost of their care and they worked long hours with, until the end of the Second World War, no more than half of each day actually being spent doing school work. The emphasis was on their acquiring practical skills, which would enable them to find employment in manual occupations. They were inadequately clothed and fed and the physical conditions in which they lived were particularly bad, with the insanitary conditions leading to high incidences of disease, particularly tuberculosis. This was well-known to the Department of Indian Affairs and the churches. Indeed, in the early 1900s the

²³ This is a reference to an 1879 report compiled by Nicholas Flood Davin, MP, who had been asked to report on the industrial schools.

Deputy Superintendent General of Indian Affairs, Duncan Campbell Scott, freely admitted that ‘it is quite within the mark to say that fifty percent of the children who passed through these schools did not live to benefit from the education which they had received therein’ (Miller 1996: 133). Children ran away from the schools and some were to die while attempting to find their way home in the depths of winter. The horrors of the schools did not end there, but it was only in the 1980s that public attention was focused on the physical and sexual abuse to which children had systematically been subjected. The relationship between churches and state, and the governance of these schools, ended in 1969 and government policy was eventually pushed in the direction of ‘Indian control of Indian Education’ by the National Indian Brotherhood, which led to some of the original schools being transferred to the control of Aboriginal organisations (Miller 1996: 405).

Although Miller (1996) estimates that no more than one third of Aboriginal children attended such schools, RCAP suggests that any figures should be treated cautiously. RCAP contends that the full ‘impact of the system was felt not only by the children who attended schools but by the families and communities that were deprived of their children and had to deal subsequently with children who returned damaged ... In that sense, communities, parents and, indeed, children later born to former students of the residential schools were all “enroled” (sic) (1996 Vol. 1: 10).²⁴ Although the policy ceased, it was replaced by the ‘Sixties’ Scoop’²⁵, whereby children avoided residential school, but were instead taken into care and fostered (see Fournier and Crey, 1998).

²⁴ There is a growing literature on the history of the residential schools. RCAP (1996) received extensive testimony in both written and oral form, some of which found its way into the final report. Miller (1996) gives a particularly broad view of the history and the consequences of the residential school experiment. As well as singling out the various churches for their roles in running the schools, Miller also makes it clear that the federal government had – and continues to have – responsibility for what happened. Chrisjohn and Young take issue with what they term the ‘standard account’ of the rationale for residential schools and offer an alternative ‘irregular account’, which begins “residential schools were one of many attempts at the genocide of the Aboriginal people” (Chrisjohn & Young 1997: 3).

²⁵ A phrase coined by Patrick Johnston to cover the period, which began in 1959, when large numbers of Aboriginal children were removed from their homes and placed in (frequently non-Aboriginal) foster care on the grounds of ‘child protection’. The phrase is cited in Fournier and Crey’s *Stolen from our Embrace*, wherein they describe the period as being ‘damage done to the generations of people who narrowly escaped residential schools only to wind up in foster homes’.

As our focus is on Aboriginal women, irrespective of the fact that Aboriginal men were also highly discriminated against and regulated, at this point we must briefly return to the legislative arena. It should be remembered that women were particularly disadvantaged by the *Indian Act 1876*, specifically by sections 12 (1) (a) and 12 (1) (b), as amended in 1951. Any Aboriginal woman who ‘married out’:

lost any claim to Indian status ... [and] was not entitled to registration. Like generations of women ... who had married out, loss of status meant loss of the right under Canadian law to hold land on the reserve and loss of status for any children of the marriage. With the loss of status and membership came the forced sale or disposal of any reserve lands she may have held ... [and] she was also struck off the band list and was no longer entitled to distributions of band moneys’ (RCAP 1996, Vol. IV: 2).

This inability to return to reserves should a marriage fail, and to protect the status of their children, contributed to the growing number of Aboriginal women in the urban Diaspora where, despite having marginally better education than male Aboriginals, they found it harder to gain work. They were disadvantaged relative both to Aboriginal men and other Canadian women. In 1970 the *Royal Commission on the Status of Women* recommended that ‘the [*Indian*] act be amended “to allow an Indian woman upon marriage to a non-Indian to (a) retain her Indian status and (b) transmit her status to her children” ’ (RCAP 1996, Vol. IV: 1.5). The 1985 *Bill C-31* partially restored women’s rights in this regard, but anomalies remained and are a continuing source of concern and grievance.

Aboriginal history cannot be covered in a few short paragraphs and the foregoing has given the barest glimpse of a colonial process which began with the intention of offering protection and ended with coercion. The results of Euro-Canadian policies of assimilation can be found within Canada’s prisons in the disproportionate numbers of imprisoned Aboriginals. While the residential schools may have ended thirty years ago, the generations of lost parenting are evident in those who failed to find a way back to a heritage which had been removed from them – and which had also been displaced from the reserves to which they returned. The Aboriginal ‘graduates’ of the residential schools emerged stripped of their cultural identities into a society which did not recognise them as ‘proper Canadians’ and failed to offer them work. Their own families had often been destroyed by the removal of the

children and the ravaging effects of alcohol and violence on the reserves (see Maracle, 1993). More recently, drug addiction has added to the difficulties of Aboriginal communities. When attempting to create their own family units, Aboriginals resorted to what they experienced in the schools, having seen no other models. Consequently, the physical and sexual abuse which many had experienced was often meted out to their own children. While enforced relocations for purposes of economic development may now largely have ceased, the consequences of those policies remain manifest. Some communities have found it impossible to recover their previous independence and their children have been obliged to leave in order to obtain work. Canada's prisons are disproportionately filled with Aboriginals, as a direct consequence of colonial policies which, although amended, continue to affect all First Nations' peoples. In chapter 8 this particular strand will be pursued in much greater detail.

The provincial dimension; Québec

The Aboriginals, however, were not the only culturally-distinct group deserving of inclusion in – or at least consideration by – the Task Force and it is at this point that we need to reflect on the first colonisers of Canada, the Québécois.

The original C-SPAC recommendation that two provincial representatives should be on the Task Force was reconfirmed on the 6th February 1989, but the decision created problems. There were 'difficulties involved in selecting two individuals to represent *all* provincial and territorial governments' (emphasis added).²⁶ Eventually, there were to be representatives from all five *correctional* regions on the Steering Committee²⁷. However, the decision to opt for the correctional regions – as a means of avoiding offending provinces which might otherwise have been omitted – has subsequently been cited by CSC as the original reason for being unable to include Québec on the Working Group, as it would have been impolitic to include one province, ahead of others, on the most important of the Task Force's two

²⁶ Memorandum 14th March 1989

²⁷ For administrative convenience CSC has five correctional regions: *Atlantic*, covering the Maritimes and Newfoundland; *Québec*; *Ontario*; *Prairies*, covering Manitoba, Saskatchewan, Alberta and the Northern Territories; *Pacific*, covering British Columbia. As has been discussed in chapter 1, the federal government is responsible for those sentenced to terms of more than two years' imprisonment.

committees. Yet during those first discussions about forming a Task Force that concern did not appear to be an issue.

As has already been shown, assembling the Task Force was no easy matter. CSC had taken great pains to ensure that CAEFS was highly involved in the project and had made considerable concessions, such as joint chairmanship, in order to ensure their participation. On that point alone, the Task Force was already breaking new ground, but Corrections had gone further when it belatedly invited NWAC to join the deliberations, to speak for Aboriginal women. Federally sentenced women, as personified by their 'representatives' on the Task Force, immediately became two distinct groups; Euro-Canadians and Aboriginals. The addition of the Aboriginals also meant that the composition of the most influential part of the Task Force, the Working Group, was then balanced in favour of the voluntary sector. As we already know, the Commissioner preferred a Task Force because this allowed him to exercise some control over its direction, precisely because civil servants could be appointed to it. The addition of NWAC meant that the civil servants ended up as an unexpected minority on the very Group they were unofficially expected to guide through force of administrative expertise. In Canada, however, there are other considerations when creating representative bodies and the reasons for these are firmly bedded in the political structure of the country itself. The federal government is constantly aware of provincial sensibilities whenever it plans new ventures. It can never be assumed that provinces will share the same perspectives; they are as much formed by their individual histories as is the single entity of Canada. Nowhere is this more apparent than in the French-founded province of Québec, where the question of political and cultural identity has been of profound importance since it was 'conquered' by the English and incorporated into an anglophone Canada in 1763.

Why should this be important in the context of a Task Force on federally sentenced women? If we look at the composition of the Working Group we already know that six of the members were non-civil servants. What has not been made clear is that all of these lived and worked outside Ottawa, coming from as far as British Columbia and the Maritimes, whereas the five civil servants were all then based in the capital city. Of course it is scarcely surprising that civil servants, working largely at

Corrections' headquarters should be selected for a Task Force which was focused on their areas of expertise, but there is a further dimension to all of this. CSC had recognised the need to involve the voluntary sector and saw that its primary partner, in the context of federally sentenced women, could realistically only be CAEFS. CSC then had to accept the need to involve Aboriginals as a separate group and, as we will see, eventually involved many more than first anticipated. In doing so a distinction between federally sentenced women, based on ethnicity and culture, was made. Aboriginals were only 2.5 percent of the total Canadian population yet were, disproportionately, 23 percent of the federally sentenced women's population. At the time of the 1991 census French-speaking Canadians formed roughly 25 percent of the country's population and the majority of these lived in Québec (Bothwell 1998: 234). Federally sentenced women from Québec comprised 21 percent of the sentenced population at the time of the Task Force and those Québécois could correctly have claimed to be a distinct ethnic and cultural group in their own right. Yet they were not represented separately on the most influential of the groups comprising the Task Force. We now need to look at what had been happening in Québec prior to the forming of the Task Force to see if it might be justifiable to ask why the Québécois were not recognised as constituting an equally important group of their own on the Task Force.

Returning to history

It is not necessary to delve too far back into Québec history to establish that the province had experienced immense political and social change during the two decades prior to the Task Force, but we also need to understand something of how the province of Québec came into being. As far as Europeans were concerned, Jacques Cartier 'discovered' Canada in 1534 (although there is evidence of much earlier European contact on the eastern seaboard) and the French were the first colonisers of Canada, or New France as it became known. In turn, they were colonised by the British in 1760 – a time known as the Conquest – and New France was ceded to Britain. This was made formal by the Royal Proclamation of 1763, through which Québec became a British province, English law was imposed, the Church of England became the established church, English became the official language in any representative assembly and any Québécois wishing to sit in such an

assembly had to renounce their (Catholic) faith. Such a strategy proved impossible to implement and the *Québec Act 1774* re-imposed French civil law, leaving the Catholic church again ascendant (McRoberts, 1993: 44-45). In 1791 Québec was divided into two separate areas known as Lower Canada and Upper Canada, with the French-speaking former Québécois comprising the majority in Lower Canada. It was always an uneasy division, exacerbated by increasing numbers of English-speaking immigrants into Lower Canada and in 1837 the francophone nationalists, led by Louis-Josèph Papineau, rebelled. They were defeated and in 1838 the newly arrived Governor-General, Lord Durham, was charged with recommending 'how further disturbances might be avoided' (Bothwell 1998: 34). His solution was the proposal that both Upper and Lower Canada should be united into one Province of Canada, with a legislature that would entrench the hegemony of the anglophones. An associate of Papineau's, Louis-Hippolyte LaFontaine, pragmatically recognised that, irrespective of Durham's dismissal of the francophones as a 'a people with neither history nor literature', the French-speaking majority could use parliament to their advantage (McRoberts, 1993: 51). That pragmatism and astuteness was to translate into adept political manoeuvring by various francophone politicians in the following decades but, by the 1860s, the political structures were once again at breaking point. A solution was found in the concept of Confederation and with the *British North American Act 1867*, the Dominion of Canada emerged. Québec was once again a separate province, with the francophones overwhelmingly in the majority. While French-speaking Canadians at last had a political structure which enabled them to dominate provincial matters, a more powerful federal government was at the same time created – and in this the Québécois would be a minority (Bothwell 1998: 39).

Québec was a largely Catholic province, as distinct from the Protestant-dominated provinces in the rest of the Confederation, and the church had played a considerable role in encouraging Québécois to believe that they were an agrarian society, a society 'with a special mission' and 'a society where the government did not play a significant role, thereby leaving the leadership of the society to the church' (Cook, cited in Bothwell, 1998: 42. Also see Cook, 1995). Although it is simplistic to characterise Québec as a nationalist province defined by its history, language and

religion – together with the implicit underlying issue of ethnicity – the twin questions of faith and language have resonated throughout the province’s history. Moreover, they have been viewed by other Canadians with a great deal of distrust and have sometimes been seen as an excuse for Québec’s having remained aloof from the rest of Canada while continuing to reap the benefits of being within the Confederation. The view that Québec benefited from being part of the larger Canada was not shared by many Québécois. As the major means of Québec employment moved from agriculture to industry, with the consequent drift towards the conurbations, the bedrock of the francophone society also changed and the old certainties began to be questioned. More Québécois began to be educated outside the province and those that returned saw their society with new – and frequently non-religious – eyes. As the sixties progressed what became known as the ‘Quiet Revolution’ unfolded, with the province assuming responsibility for functions that had previously been very much the domain of the church, particularly those of education and social welfare (see Cook, 1995). In doing so Québec frequently opted out of federal programmes, choosing to implement its own plans, thus emphasising its difference. Meanwhile, the 1965 *Royal Commission on Bilingualism and Biculturalism* had declared that ‘Canada, without recognising it, was passing through the greatest crisis in its history’ and this became evident at the same time as the country was celebrating its centenary as a Confederation. The President of France, Charles de Gaulle, came to Montréal, declaimed ‘vive le Québec libre’ and was promptly asked to leave the country; and René Lévesque founded the Mouvement Souveraineté-association, which was to become the Parti Québécois in 1968 (Bothwell, 1998: 117).

Just two years earlier Pierre Elliott Trudeau had been elected to the federal parliament as a Liberal representing a Montréal riding and within less than three years he was to be Prime Minister of Canada. Although the Liberal Party within Québec had become identified with nationalism and nationalists, Trudeau himself was not and he and a group of like-minded friends believed that the previous federal government, led by then Prime Minister Lester Pearson, had done insufficient to promote the case for a united Canada. Within weeks of becoming Prime Minister, Trudeau had laid the groundwork for the *Official Languages Act 1969*, which

declared that both English and French were the official languages of Canada, much to the dismay of many Canadians living far from Québec.

Despite Trudeau's premiership, nationalism continued to flourish within Québec. Even as the 'Quiet Revolution' had been unfolding a small group of nationalists resorted to bombing in and around Montréal and in October 1970 the Front de Libération du Québec kidnapped the British Trade Commissioner, James Cross. Five days after that they kidnapped, and later murdered, the Québec Minister of Labour, Pierre Laporte. Trudeau's response was to proclaim the *War Measures Act 1970*, which suspended all civil liberties and allowed for government by decree. While most Canadians supported his actions, many in Québec never forgave him for supposedly crushing part of the separatist movement (remarkably small, as this branch of it turned out to be). The move towards separatism had not, however, died.

Language continued to be a potent issue in Québec, partly because the changing patterns of immigration meant that new ethnic groups were asking to be educated in English, rather than French. The declining birth rate within the francophone community suggested that the supremacy of French would relatively soon be seriously challenged and eventually Premier Bourassa of Québec brought in *Bill 22* in 1974, which gave priority to the use of French in both education and business. (*Bill 101* further strengthened the position of French three years later, making it the official language of the province). By 1976 René Lévesque had led the Parti Québécois to victory in the Québec elections and in 1980 he sought a mandate from the Québécois, by means of a referendum, simply to start talking to the federal government about sovereignty-association.²⁸ Trudeau, who was again Prime Minister after a brief period out of office, was appalled by the possibility of a 'yes' vote to the proposition and actively campaigned against it. In the event, the referendum was lost, but Trudeau wasted no time in setting out his own constitutional stall; he would seek the patriation of the Constitution from Great Britain and this would be supported by a *Charter of Rights and Freedoms*. After

²⁸ *Sovereignty-Association* was part of the political discourse of the Parti Québécois prior to its election win in 1976 but its official position on the matter was not outlined until 1979 in the White Paper *Québec – Canada: A New Deal*. It was proposed that Québec would become a sovereign state,

hard bargaining with the provincial premiers Trudeau achieved his objective in 1982 but René Lévesque, still premier of Québec, refused to sign the newly patriated Constitution.

Similar aspirations?

While the foregoing has done little but skim the surface of very complex issues, we have a clear idea that Québec was not a province which any federal government could afford to ignore. Many of the major federal initiatives had been designed either to placate or thwart Québec's wish to be recognised as an historically, linguistically and culturally distinct society within the larger Confederation of Canada. The reason, here, for examining the situation in Québec prior to the creation of the Task Force on Federally Sentenced Women is to demonstrate that Québec was rarely out of the headlines. The patriation of the Constitution did not end that situation. Indeed, it increased Québec's high profile and the federal government then attempted, through the *Meech Lake Accord*, to entice the province back into the constitutional fold. At this point, however, the interests of both women and Aboriginals – ignored during the constitutional debate – need to be thought about, as they were both absent from the provincial – federal negotiating table. We saw in chapter 1 how women from across the country were united in their opposition to the inadequate equality clauses in the *Charter*. What we need to look at now are the remarkable parallels between Aboriginal and Québécois' reactions to those events in the 1980s. All of these should be viewed in the knowledge that Aboriginals have always been the First Nations of Canada, notwithstanding the fact that the French were the original colonisers of those Nations and that the French were themselves conquered by the British. The *British North American Act 1867* had made formal this colonisation, characterising both the French and the British as 'founding nations' of Canada, while ignoring the Aboriginals. The Royal Commission on Aboriginal Peoples (RCAP) put it succinctly:

... equating Aboriginal peoples with racial and cultural minorities is a fundamentally flawed conception. People came to Canada from other countries in large numbers, over a period of several hundred years, and they came as immigrants – that is, for the most part they chose to leave their

but that there would be a very high degree of economic continuity and co-operation with the rest of Canada. See Bothwell, 1998; McRoberts, 1993.

homelands as individuals and families and to settle in an already established country. Aboriginal people are not immigrants. They are the original inhabitants of the land and have lived here from time immemorial. (RCAP 1996: Vol. II: 13)

While we know that Aboriginals had generally been excluded from the negotiating table on all major constitutional matters, it was Trudeau's decision to introduce the 1969 White Paper *Statement of the Government of Canada on Indian Policy*, proposing the ending of the *Indian Act* and the assimilation of Aboriginals into the 'dominant' culture of the larger European Canadian society, which proved to be a catalyst for Aboriginal protest and activism. 'They were to be allowed to keep their cultures, much as other Canadians do in a multi-cultural society, but they were to give up the other features that make them distinct – elements such as treaties, Aboriginal rights, exclusive federal responsibility and the department of Indian affairs' (RCAP 1996: 191). An immediate consequence of the Paper was the founding of the first pan-Canada political Indian (Aboriginal) organisation, the National Indian Brotherhood. Although the *Indian Act* had been responsible for many of the ills visited upon Aboriginals, it also represented a link to the promises made when the First Nations were afforded the protection of the Crown in 1763, irrespective of how these promises might have subsequently been interpreted by the dominant culture. When Trudeau later decided that the Constitution should be patriated Aboriginals responded by actively lobbying the British government, because they feared that patriation would lead to a loss of their Treaty rights, as guaranteed by the Crown. The three major Aboriginal men's organisations were only permitted to be observers at the first of the constitutional conferences preceding patriation and, as chapter 1 has shown, the Native Women's Association of Canada was totally excluded. The original draft legislation included three sections specifically providing for Aboriginals' rights but, by the time the actual *November Accord* was published in 1982 these had been removed, directly as a consequence of horse-trading indulged in by some of the provincial Premiers. The outcry was vociferous and, at this point, Aboriginals had added support from Canadian women's organisations which were protesting about threats to sexual equality posed by the *Charter of Rights and Freedoms*, which accompanied the *Constitution Act 1982*. An amended reference to Aboriginal rights was eventually inserted in the legislation together with the promise of a subsequent First Ministers' (provincial premiers')

conference which would focus on Aboriginal affairs. The issues of Aboriginal sovereignty and self-government were finally to be discussed at First Minister²⁹ level (Chodos et al, 1991: Cook, 1995). In the event, four First Ministers' conferences took place between March 1983 and March 1987, but they eventually failed because of an inability to agree on 'whether the right of Aboriginal self-government flowed from inherent and unextinguished Aboriginal sovereignty ... or whether it was to be delegated from provincial and federal governments' (RCAP 1996, Vol. 1: 7). (The 1983 *Penner Report* also looked at questions of Aboriginal self-government).

There was therefore outrage amongst Aboriginals when the *Meech Lake Accord* was announced only one month after the ending of the last of these First Ministers' conferences. *Meech Lake* was intended to persuade Québec to accede to the Constitution and offered the province recognition as a 'distinct society'. Zachary wrote: 'from the federal point of view, spending the political capital required for a native agreement would have left little in the bank for the constitutional negotiations that really mattered electorally – the talks that took place in April on Québec's status within Confederation' (Zachary, cited in Chodos et al, 1991). As Hall (1989: 434) described it, 'Aboriginal leaders had faced consistent resistance to the assertion that there must be constitutional reform to enable Aboriginal governments to preserve and promote the distinct identity of Aboriginal peoples. Within a few weeks of the termination of this process Native people learned that the kind of recognition denied to them was to be extended to the provincial citizens of Québec'. (See also Monture 1995: 158, for further comment). Ovide Mercredi, former Grand Chief of the Assembly of First Nations, dealt with *Meech Lake* trenchantly, observing that 'many people think Québec has the market cornered, so to speak, on the phrase 'distinct society' and that even using the expression 'distinct peoples' in reference to the First Nations is unacceptable'. He continued, 'the concept of 'distinct society' is as real for us as it is for you [Québécois] (1994: 167 & 175). Another Aboriginal leader, Louis Bruyere, said that 'Aboriginal people's views of the *Accord* can be summarised in four words: It abandons Aboriginal peoples. It does this by being silent about the uniqueness and distinctiveness of Aboriginal peoples' (cited in

²⁹ The First Minister (Premier) of each province.

RCAP 1996, Vol. 1: 7). (See Mercredi and Turpel, 1994; Frideres, 1993; RCAP, 1996; Krosenbrink, 1993 for a fuller discussion of these issues).

Although the *Meech Lake Accord* was later to fail, when Aboriginal parliamentarian, Elijah Harper, stood up in the Manitoba Assembly in June 1990 and said ‘no’³⁰, the whole issue of Québec and its place within Canada was much debated during the 1980s. The collapse of the *Meech Lake Accord* was as much to do with the federal government’s failure to allow for ‘the highly volatile nature of provincial politics’ as with anything else and, during the 1980s, Québec was believed by many to be acting against the best interests of confederal Canada (Behiels, 1989: 475). As we have also seen, many of the issues seemingly exclusively linked to Québec were also Aboriginal issues; for example, sovereignty, culture, distinctiveness as separate nations. As RCAP itself summarised:

Meech was meant to heal the wounds created by the patriation and amendment of the Constitution in 1982 over Québec’s objection. For years, Québécois were seeking recognition of their historical rights – the reality of deux [two] nations – in the Constitution. Aboriginal peoples were unable to have their nation-to-nation relationship recognised, and Québec was unable to have its distinctiveness as a society recognised. The fate of these two Canadian dilemmas had become inexorably linked. (RCAP 1996, Vol. 1: 7.1)

The Québécois had the overwhelming advantage of being entrenched within their own province – and of being recognised as an ethnic group reflecting the traditions and European sensibilities so familiar to their Anglophone counterparts, even while these same traditions appeared to divide them. Aboriginals had no specific homeland and, therefore, no bargaining position. They were vastly outnumbered – thanks to the ravages of colonisation – and their traditions were not readily understood by the dominant culture. Aboriginals were very easy to ignore and, if they chose to organise themselves into protest groups, it was easy to label them militant rather than see them as a people responding to injustice. Yet Aboriginal

³⁰ Elijah Harper daily sat in the Manitoba legislature, holding an eagle feather, and saying ‘no’ whenever the Speaker asked if the *Meech Lake Accord* could be considered. The *Accord* eventually failed because it was not ratified within the necessary time limit. Harper was later to say: ‘We blocked the accord because it posed a threat to aboriginal people. Aboriginal people have no quarrel with Québec. But we’re a distinct society too, and we’ve fought for many years for the basic rights that Québec takes for granted, such as participating in constitutional talks’ (Cited in Miller 2000: 377).

concerns were also never far from the public gaze during the 1980s: there were clashes at Kahnawake over proposed tax laws; the carrying of the Olympic flame across the country was politicised by Aboriginals; a number of Inquiries highlighted the grossly inequitable treatment of Aboriginals by the justice system.³¹ And, we should not forget, the 1985 amendment of the *Indian Act*, *Bill C-31*, had specifically focused attention on Aboriginal women.

It was Québec, however, that continued to be of major concern to the federal government and, as we have seen, every effort was made during that decade to tempt the province into a closer federal embrace, while Aboriginal aspirations appeared to be expendable in pursuit of that goal. Québécois nationalism had not died with the failure of the Referendum and the place of the province within Confederation was an issue of concern to the Canadian public, as well as the federal government. It is therefore right to ask why astute civil servants, charged with putting together a Task Force, failed to include a representative from Québec on the Working Group, while eventually accommodating another distinct ethnic group, the Aboriginals. It is also right to ask why Aboriginals were initially not included in the Task Force at all, bearing in mind the high public profile they had recently enjoyed. Both these questions will be considered in chapter 5, where their importance should be apparent.

For the moment we must consider the relative impact of both these distinct groups on the work of the Task Force on Federally Sentenced Women and begin by focusing on the role of NWAC.

NWAC joins the Task Force

Although Aboriginal participation in the Task Force had been suggested in September 1989, it took until early January 1989 for NWAC to be asked if they would nominate a representative.³² NWAC was already the national voice for

³¹ See, for example, Hamilton, A.C. and Sinclair, C.M. (1991) *Report of the Aboriginal Justice Inquiry of Manitoba: The Justice System and Aboriginal People*; Nova Scotia (1989) *Royal Commission on the Donald Marshall Jr. Prosecution*.

³² NWAC 'represents Aboriginal women who base their identity on self-identifying criteria and includes non-status and status Indian women' (Krosenbrink 1993:344). Its constitution dates from 1973 and its activities cover most areas impinging on the welfare of Aboriginal women. Like CAEFS, it has an Executive Board composed of representatives from regional / provincial associations across Canada. Although not predicated on the issue of sexual equality, NWAC was

Aboriginal women. Although well aware of the disproportionate number of federally sentenced Aboriginal women (23 percent, set against 2.5 percent Aboriginal women within the general population)³³, NWAC was involved in other grassroots issues; there were simply too many areas demanding their attention at the time. The heavy rates of Aboriginal offending were not necessarily felt to be shameful. Rather, they caused anger and this was directed at the dominant culture responsible, so it was felt, for the socio-economic inequities contributing to Aboriginals' disproportionate rate of offending.³⁴ NWAC also had the recent memory of the failure of the 1984 Women in Conflict with the Law (WICL) initiative, when NWAC had been excluded from the 'ministerial committee ... which possessed the authority for final approval on proposals ...' (AWC Submission, 29.8. - 2.9.1989). NWAC eventually withdrew its support for WICL. Even more recent had been the publication of the report of the *Task Force on Aboriginal Peoples in Federal Corrections*, which had devoted two and a half out of 109 pages to women. This report was viewed by most Aboriginals as a *government* report and great offence had been caused by the Task Force's original title, *Task Force on the Reintegration of Aboriginal Offenders as Law-Abiding Citizens*. It raised questions such as 'Whose laws?' and 'If a group have never been integrated, how can they be re-integrated?'

NWAC was amongst those Aboriginal groups campaigning for legislative, social and economic change. It also had to fight its own battle to establish its right to represent Aboriginal women independently of other, male-dominated Aboriginal organisations such as the National Indian Brotherhood and the Native Council of Canada. Unlike NWAC, these last two groups determined their membership 'in accordance with the status regulations of the *Indian Act*' and were fearful that any attempt to achieve sexual equality for Aboriginal women might lead to the repeal of the *Indian Act* and

heavily involved in campaigning for 'Indian rights for Indian women' following the initial failure of the *Lavell* and *Bedard* cases, which challenged the discrimination Indian women experienced under the *Indian Act* when they married non-status males, or Aboriginals from other bands. See also Razack, 1991 for further discussion of the *Lavell* case. See Behiels, 2000 for a comprehensive overview of the role of NWAC in challenging both the government and male Aboriginal organisations over their treatment of Aboriginal women.

³³ In 1989 Aboriginal women comprised 45 percent of all female admissions to provincial institutions (La Prairie 1992)

³⁴ La Prairie (1992) explores Braithwaite's theory of reintegrative shaming in the context of Canada's Aboriginal population, showing that shaming was 'a standard response to deviance in

the loss of Indian rights (Krosenbrink 1993: 341). In essence, Aboriginal women were being 'requested to subordinate their goal – Indian rights for Indian women – to that of Indian men; they were used as a political vehicle to pursue an *Indian Act* revision the way status Indian males saw fit' (Krosenbrink 1993: 342).

The process of patriating the constitution also involved NWAC but, strikingly, not as formal participants sitting at the conference table. Attempts to achieve parity (with, amongst others, male Aboriginal organisations) were to occupy NWAC in the late eighties and early nineties, which partially explains why NWAC did not immediately accede to CSC's invitation to join the Task Force. But there were also other reasons. Like CAEFS, NWAC is an organisation based on volunteers and no-one on the Executive Committee felt able to commit herself to the amount of time which the Task Force would require. Additionally, Aboriginal women's voluntary organisations operated under greater constraints than did many other women's groups, not least of which was their relative financial positions and the level of education many members had achieved. Although its membership was large, NWAC did not have a big pool of women it could call upon to participate in government initiatives. Nevertheless, the request that they should be on the Task Force was discussed by the Executive Council, supported by the Elders, and it was felt important that an Aboriginal voice should be heard during the Task Force's deliberations. They knew that they were after-thoughts to the original proposals, but for them this was not an uncommon experience. Eventually, Sharon McIvor, an Aboriginal lawyer from British Columbia, agreed to be nominated, but the question of how many Aboriginals should be on the Task Force remained. CSC's assumption that one would be sufficient was: *totally, flatly unacceptable to us because when you put one Aboriginal woman on a committee like that you're just so alone and so marginalised and you've got no support.*³⁵

The question took some time to resolve. The Ontario branch of NWAC suggested that Patricia Monture, another Aboriginal lawyer and academic, should also be on the Working Group and this request was relayed to Corrections and eventually

traditional, communal aboriginal communities' [in Canada] but that its impact had been lessened by the 'rupturing of traditional institutions of social control'.

accepted. At the same time, NWAC wanted Aboriginal women who had served federal time to be on the Task Force and two names were put forward for consideration by the Prison for Women's Aboriginal Sisterhood.³⁶

Thanks to persistent lobbying, by the time of the first Steering Committee meeting its Aboriginal representation had been increased to two. The Aboriginal representatives then persuaded the Steering Committee that two federally sentenced women should be included in its already large list of representatives, as well as two other members of the Aboriginal Women's Caucus. The balance of the Working Group was altered and voluntary sector representatives outnumbered the civil servants. Thus the eleven-strong Working Group – five civil servants, four CAEFS' and two NWAC representatives – ended up looking rather more like the tri-partite group it later proclaimed itself to be. The 31-member Steering Committee had representatives from a much wider field and the civil service members were again outnumbered by one voluntary sector member. Whether this lack of absolute balance might possibly undermine the Commissioner's grasp on the Task Force remained to be seen. That NWAC managed to have *Aboriginal* federally sentenced women included on the Task Force raises interesting questions about CAEFS' failure to press for federally sentenced women, of whatever ethnic identity, to be included. Perhaps more importantly, it raises questions about why NWAC's proposals were so readily acceded to and that is something to which I will return. The striking fact is that federally sentenced women were considered to be legitimate members of such an enterprise and what this means is open to interpretation. It could have been a simple recognition of their inherent expertise – and certainly it was for that reason that NWAC insisted that they should be included. But their inclusion also added further legitimacy to CSC's venture, in the manner of both CAEFS and NWACs' participation, and the civil servants would have been well aware of that.

³⁵ Interview 20

³⁶ CAEFS, in their written proposals submitted to James Phelps in December 1988, had asked that the Task Force 'actively seek out and incorporate the views and ideas of federally incarcerated women' but had not suggested they actually be on the Task Force. In March 1989 a meeting took place between Bonnie Diamond and a CSC representative, during which the composition of both the Steering Committee and the Working Group was reviewed, and it was then that Ms Diamond suggested that an Aboriginal should be on each.

The *Terms of Reference* for the Task Force had already been worked out between CSC and CAEFS, with no contribution from NWAC. Amongst other issues, the Terms documented some of the ‘unresolved, longstanding issues pertaining to the management of federally sentenced women’, including those of geographic dislocation, the inflexibility of the Prison for Women regarding classification and security levels, and the difficulty in providing programmes comparable to the range available in male institutions. It recommended ‘that a policy paper be prepared to set strategic direction for the future sentence management of federally sentenced women’. The *Terms* outlined the Mandate governing these objectives:

The mandate of the Task Force will be to examine the correctional management of federally sentenced women from the commencement of sentence to the date of warrant expiry, and to develop a policy and plan which will guide and direct this process in a manner that is responsive to the unique and special needs of this group.

The *Terms of Reference* were later presented to the Working Group at their first meeting and Patricia Monture pointed out that ‘it contained no mention of the particular oppression experienced by First Nations Women in prison’.³⁷ It was agreed that Prof. Monture would draft an amendment (which was eventually ratified by both the Working Group and the Steering Committee at subsequent meetings) and she added to the list of ‘unresolved problems’:

... the over-representation of Aboriginal people in the criminal justice systems of Canada. This over-representation is also evidenced among federally sentenced women. The unique and valued cultural, historic, and spiritual aspects of the experience of Aboriginal women has an additional significant impact on the ... areas of concern [centred on accommodation, programming and community release services which left federally sentenced women disadvantaged, compared to men].

But the ‘unique ... cultural, historic and spiritual aspects of ... Aboriginal women’ had largely not been valued by other Canadians. The replacement of the core of the Aboriginals’ heritage by an alien culture, with its different historical perspectives and understanding, can be linked to Aboriginals’ becoming increasingly marginalised within a society which both rejected and, as many Aboriginals saw it,

³⁷ Working Group Minutes 13th April, 1989. The ‘particular oppression’ can best be explained as the extra burden carried into prison by Aboriginal women who, having experienced both socio-

criminalised them through its unaccepted laws. (Aboriginal nations have never formally accepted the authority of the Canadian justice system). Prof. Monture's amendment could be seen as a political one as much as anything else, and prefigured subsequent attempts to broaden the Task Force's agenda when considering Aboriginal issues. (It also marked the beginning of the characterisation of Aboriginal women as victims by the Task Force). For the Aboriginal members of the Task Force the narrowness of the Mandate meant that they could only focus on issues arising from the passing of a sentence. It left them unable to examine the sentence itself and its legitimacy for Aboriginals. This initial failure of both CSC and CAEFS to be aware of the broader Aboriginal perspective was to be a continuing thread throughout the deliberations of the Task Force.

Both sections of the Task Force would be working to a set of nine Working Principles previously agreed by CSC and CAEFS, as well as the Mandate, and one of these stipulated that the Task Force would not be 'premised on the closure of the Prison for Women'.³⁸ Nevertheless, a senior civil servant, when looking back, said: *I thought the most important thing would be to find an alternative to that one national institution in Kingston – and certainly to that particular national institution. I thought that a national institution in any event was a bad idea. These women were so far away from their relatives and their support communities, and I thought that no-one around that table would suggest that we keep the Prison for Women and that nobody would suggest that we replace it by another national institution.*³⁹

Conclusions and looking ahead

We have seen that the appointment of the new Commissioner of Corrections proved to be the necessary catalyst for change and how, at his instigation, a Task Force was struck so that the question of the Prison for Women could once again be considered. Mr. Ingstrup ensured that the work was collaboratively undertaken with a pre-eminent member of the penal voluntary sector, CAEFS, in partnership with his civil servants. We have also seen that, although initially unplanned for, another

economic and racial discrimination on the outside, often found themselves exposed to racism on the inside.

³⁸ Minutes of Working Group 13th – 14th April, 1989. Appendix B

³⁹ Interview 18

campaigning group, NWAC, subsequently joined the Task Force. Through sheer force of argument NWAC then managed to persuade those responsible for the Task Force that Aboriginal representation should be significantly increased on both the Working Group and the Steering Committee – and that Aboriginal federally sentenced women should also be members of the Task Force. Because of NWAC's inclusion the unanticipated question of ethnicity and culture, although circumscribed by the Mandate, was acknowledged as being within the remit of the Task Force. Yet those who had been accustomed to thinking of themselves as *the* 'distinct' society in Canada – the francophones of Québec – were not included separately on the most influential of the Task Force's two working parties, the Working Group, leaving Québec once again on the margins of anglo-Canadian planning. Although I have not clarified at this stage why questions of inclusion and exclusion are important, we can already see that these two distinct ethnic communities and cultures shared some common aspirations and can begin to see that these questions might, conceivably, affect the deliberations of the Task Force.

Of equal importance – even though the historic cultural dimensions of this Canadian story have dominated this chapter – is the relationship of the voluntary sector with CSC. The participation of CAEFS and NWAC in the Task Force represented a compromise: for CAEFS, in that the Association was accepting the possibility of jointly planning new prisons; and for NWAC, in that it was tacitly accepting the need to work within 'illegitimate' Euro-Canadian law in order to facilitate change for Aboriginal women prisoners. Both groups faced considerable risks in being allied with corrections, not least because 'when reforms reach the existing system, they confront a series of powerful, managerial and organisational imperatives' (Cohen 1985: 92). Aboriginals' history had taught them that the dominant culture did not easily cede control to the first peoples of Canada (see RCAP, 1996; Miller, 2000). The history of penal initiatives taught CAEFS that bureaucracies are adept at incorporating and subverting the language of reform (see Rothman, 1971, 1980; Rafter, 1985; Freedman, 1981; Cohen, 1983, 1985; Hannah-Moffat, 2001). Their shared concerns were set aside on behalf of a small group of imprisoned women.

The various members of the Task Force are now assembled and we are about to look at what unfolded when they undertook their work. As a member of the Task Force was later to remark: *... so much of what happened is like a magical period of time, with a constellation of people and a series of events that created a very unique opportunity or problem, depending on how you wanted to look at it.*⁴⁰ All were about to discover the extent of their individual contributions – and what the opportunities or problems might be.

⁴⁰ Interview 17

3. Struggling for consensus

Beginning the deliberations

The first meeting of the Steering Committee was held on the 3rd April 1989, under the co-chairmanship of CSC Deputy-Commissioner James Phelps and the Executive Director of CAEFS, Bonnie Diamond. Commissioner Ingstrup made his only formal appearance before them and challenged them to 'think broadly', stressing that there were 'no limits or conditions on the Task Force work within the confines of the Mandate'. Yet there were limits and possible impediments to change, already explicit in the Commissioner's retention of financial accountability and the 'government structure' within which the Task Force would operate. The Task Force was expected to present its completed report to the Commissioner by the 15th December, 1989 and the Steering Committee's prime function was to provide direction for the whole of the Task Force, with this being achieved through the four co-chairs liaising with each other.

The Working Group, co-chaired by CSC's Director of Native and Female Offender Programmes, Jane Miller-Ashton, and CAEFS' Past President, Felicity Hawthorn, met for the first time ten days later. Unlike the Steering Committee, which included four men, the Working Group had none. This was something of an exploratory meeting, where individuals assessed each other and decided the operating model for the Group. They spoke of their 'hopes and fears', including the possibility that their work would be shelved, as had been the fate of so many previous commissions and inquiries. They were particularly concerned that any failure to detail their recommendations with sufficient precision in the final report would make it difficult for those outside the Task Force to 'appreciate' and '*implement*' the plan (emphasis added). Another fear was that their 'goodwill [would] be turned into oppression'. They worried that federally sentenced women might eventually be left in a worse position because of the Task Force's work and their individual contributions, as they had been following other reforming ventures. They anticipated the possibility that they would need to be vigilant in acknowledging differences amongst themselves, because of the intensity and scale of the work they were undertaking, their diverse backgrounds and small numbers. One member of the Group remembered their

introductory session, when each woman was ‘doing her “who I am” bit’. She was ‘blown out of the water’ by the ferocity of one contribution and eventually returned to her room, asking what on earth she had got herself into and whether she would ‘survive’ it? Moreover, did she want to?¹ This, of course, was not a problem specific to the Working Group, as a member of the Steering Committee recalled: *Very much the same thing ... [applied to] the Steering Committee because you have to remember the makeup of the Steering Committee was that there were [almost] equal numbers of private sector and CSC reps, so you had these career CSC reps ... all of whom had agendas that we knew nothing about, bringing them all in to the Steering Committee.*²

The Working Group realised that they would have to consult throughout Canada if they were to hear the voices of those most intimately involved with federally sentenced women. This strategy was useful to CSC, because provincial correctional officials who contributed to the regional debate, could not subsequently say that they had been ignored by those initially planning the Task Force. The scale of the work confronting them was immediately apparent and the Working Group formed a number of sub-committees from within its own ranks in an effort to cover ground in advance of future meetings. It was already clear to them that there needed to be a philosophical basis to the proposed report and they were determined to identify at an early stage those ‘items which seemed to look like principles on which the Task Force might premise its work’.³ While an initial text for the principles bore little resemblance to what finally appeared in the report, from the beginning the Group was grappling with the concept of ‘difference’: how women differed from each other; how Aboriginal federally sentenced women differed from other federally sentenced women; how women differed from men; how difference in treatment of women and men might be justified if the end results were comparable.⁴ The Group also arranged to visit the Prison for Women to hold ‘a preliminary meeting with several representative inmate groups in order to facilitate the women’s input into the

¹ Notes of conversation November, 1999

² Interview 28

³ Working Group Minutes 13th – 14th April, 1989. These principles should not be confused with the Working Principles, allied to the Mandate, which set out the ‘ground rules’ guiding the Task Force (see TFFSW 1990: 72).

⁴ Memorandum 2nd May, 1989

formal consultation process'.⁵ Their greatest concern was that they might 'be disrespectful to other people's lives [as they were] not the ones serving [a] sentence'.⁶

Different perspectives; working together

The Working Group's members inevitably brought varying perspectives to the deliberations, as well as different ways of working. They were also individually answerable to their own organisations and, as became apparent at various times, their dual responsibilities were not easily reconcilable. Participation in a government-sponsored Task Force raises questions as to whom members are ultimately responsible and about their ability to remain independent. It raises further questions about: participants understanding the possible limitations of their role, and the manner in which official policies are constructed; whether participants are creating joint policy, or are simply contributing to official policy. In this instance, the Commissioner's injunction to the Steering Committee and, by extension, the Working Group, to 'think broadly' encouraged some non-civil servants to assume that a large degree of change was feasible. Yet, when dealing with documents that are expected to be turned into policy, there are certain processes which come into play. In relation to another policy initiative, Rock quoted an official in the Policy Branch of the Ministry of the Solicitor-General, who said: 'you have to facilitate the production of the types of paper that make [policy] go through the system' (1986: 31). At federal levels of government, especially, the processes of facilitation require a high degree of diplomacy. It was inevitable, but perhaps not always acknowledged by those from the voluntary sector, that the civil servants quite frequently felt constrained by the requirements of officialdom. While being quite capable of thinking imaginatively and laterally, they also knew that certain procedures had to be followed if there were to be any hope of their planning being officially accepted. Their training as civil servants encouraged a pragmatic acceptance of the necessity of working within existing legislative parameters, so for them the invitation to 'think broadly' was immediately hedged with (anticipated) constraints. Their restraint may, however, be otherwise interpreted. Young (1983) suggests that the penal system is

⁵ Working Group Minutes 10th – 12th May, 1989

⁶ Working Group Minutes 13th – 14th April, 1989

adept at neutralising and diffusing change and it is, of course, those working for the system, rather than those confined within it, who exercise power. Cohen (1983) took this further, arguing that state-sponsored personnel had a vested interest in maintaining the system which employed them. The Canadian civil servants would have vehemently denied such self-interest – and probably correctly, insofar as it was a conscious act – but the bureaucratic instinct would have been deeply instilled, even if unconsciously so. They also brought another dimension to their work, being women who had experienced the rapid social change of the seventies and absorbed the language of feminism. While working as civil servants – indeed, as ‘femocrats’ – within the complex bureaucracy of federal government, they would have said that they were advancing the feminist cause and ideals by means of the perspectives they brought to their work. Stetson and Mazur suggest that ‘femocrats’ have a vital role to play in providing access to resources and opportunities for feminist groups wishing ‘to participate autonomously in policy formulation and implementation’ (Stetson and Mazur 1995: 276). They also make the point that ‘femocrats’ should ensure that such groups are not co-opted or dominated by the state, but this is not always easily achieved because groups funded by the state inevitably have their independence constrained. Thus, in wishing to advance the feminist cause, state feminists sometimes manage to diminish the autonomy of such groups and this can lead to a painful compromise of their own principles.

The civil servants’ apparent acceptance of the status quo, and willingness to work under it, reflected to some degree a deference to the established order which others did not share. Unsurprisingly, their attitudes intensely angered some members of the Task Force, who were hoping for collective radicalism and courage. But, as a member said, reflecting on the role of her voluntary organisation: *Really, we have an easier role. We’re on the side of light and bright. ... We don’t have to think about the cost because we’ve exempted us from all responsibility there so we can just ask for what we think we need. We may not get it!*⁷ Yet this was also a disingenuous response because it did not reflect the constraints under which she operated; she was in a position to ask things of CSC, but was ultimately answerable to her own organisation regarding which questions she asked – or failed to ask. Not one

⁷ Interview 19

member of the Working Group could say that she was truly independent and not one could say that her allegiance was solely to federally sentenced women, despite trying to effect change on their behalf. Inevitably, the challenge for all the Working Group was to achieve change through consensus, whereas '*a benevolent dictatorship might have been easier*',⁸ as one participant was later to observe.

The added dimension to their struggle for consensus was that of culture. Members were still becoming accustomed to working with each other, to the extent that it was necessary to minute:

- everyone who wishes gets to speak before any one else can speak again;
- no interruptions;
- members will be sensitive to the issue of reinterpreting another's points.⁹

Although the Minutes do not specify which of the Group's members suggested them, all of the preceding 'rules of procedure' are reflective of the Aboriginal Sacred Circle, wherein speakers are heard in turn and in silence (see Waldram 1997: 134-6). It is an Aboriginal custom which allows time for reflection, rather than an immediate, perhaps unconsidered riposte. Similarly, the consensus model – based on consultation leading to consensus – adopted by the Working Group reflected Aboriginal custom. Ross, writing from the perspective of a non-Aboriginal Canadian Crown Attorney, 'coming into remote Native communities to conduct criminal courts' discusses Aboriginal consensus in relation to judicial decision-making. He describes the 'ordering of relevant facts ... [the] sifting to shake out the truly significant facts' which precede the eventual judicial decision. Although this is similar to a conventional court, the crucial difference lies in the fact that the decision was 'communal', that it is 'arrived at without "losing", without anyone having his or her opinion ignored' (Ross, 1992: 21, 23). It is debatable whether the non-Aboriginal participants would initially have recognised 'consensus' as being an Aboriginal practice because of their own understanding of what 'consensus' meant, but the distinction between Aboriginal and European use of the strategy lay in the

⁸ Interview 19

⁹ Working Group Minutes 10th – 12th May, 1989

way in which it was conducted. The device enabled the Working Group to reach decisions whilst acknowledging amongst themselves the varying shades of opinion.

Aboriginal influence was also beginning to be felt in other ways. In May the Group adopted the word 'Aboriginal', rather than 'Indian' or 'native', for their own usage, as it was 'consistent with the terminology of the *Constitution Act 1982*, (although an amendment in the July minutes emphasised that this was the 'simplest solution' and might not be acceptable to 'all Natives'). During the same meeting the draft Principles were reviewed and it was argued that 'differences between and within Aboriginal groups had been ignored' and that there was too frequent a comparison between men and women.¹⁰ A political note was being added to the debate in an effort to force the realisation that Aboriginal women came from backgrounds as diverse as their Euro-Canadian counterparts and that they could not be planned for on the assumption that all would have the same needs.

As the work of the Group progressed through the months, the pressure of the huge task – and the individual histories and loyalties of the members – led to intense disagreements. This forced many members repeatedly to refocus on the federally sentenced women as a means of justifying their own continuing participation. It was not easy. A Working Group member articulated some of the stress involved, when asked why she had decided to stay on, despite huge personal reservations: *I had thought quite a few times during the process of pulling out, but I had a lot invested in it and the reasons for going into it were still there, that I wanted to influence the outcome. I was distinctly unhappy about the Civil Service aspect of the Working Group and didn't want them to be the ones that wrote the report.*¹¹ While this might be seen as initial naivety regarding the final control of the enterprise she had wittingly joined, it may more accurately be regarded as pragmatism. She knew the propensity of a larger organisation – in this case, CSC – to retain control and was determined that the perspective of those whom she represented would be heard in the final report. She acknowledged this when elaborating on the structure of the Task Force and the fact that it was not an independent Royal Commission (whose

¹⁰ Ibid

¹¹ Interview 19

appointee is also carefully chosen, but ultimately has greater freedom to act should he or she wish to), saying that she felt she had ‘been co-opted by something that was a “done” deal’, implying that the civil servants had already decided the outcome, as they were accountable to those in more senior positions.

This question of who *she* was actually representing again leads to the larger point of accountability. Bearing in mind the compromises members of the voluntary sector had made in order to participate in the Task Force, particularly those inclined towards the abolition of most prisons rather than the construction of new ones, failure to deliver a workable proposal could have led to charges of betrayal of principles from their own organisations. The civil servants, on the other hand, insisted that they were neutral; that their function was to be a dispassionate force concerned with getting the most practical solution to a seemingly intractable problem. On this reading, it also left them able to claim that they had the best interests of federally sentenced women at heart and were *morally* accountable to them, if not answerable, whilst simultaneously accountable to the correctional hierarchy. While this might, indeed, be the official version of a civil servant’s responsibilities, political realities demand that they produce solutions which can be implemented and not embarrass the governing party. For plans to be implemented it is imperative that they should reflect the political sensibilities of the relevant Minister. As one senior civil servant reflected on the ethos of civil service neutrality: *They may mean it, [that they are neutral] but they may not realise that they have a powerful vested interest and a whole career of culture and education in the political environment of working as a civil servant. You’re always aware that the Minister has to be protected, taken care of, that you can’t put him in a political situation that he can’t handle.*¹²

Research; identifying the federally sentenced woman

The Working Group knew that a research strategy had to be formulated quickly because of the extremely tight timetable for production of the final report and a discussion paper set out a rationale, saying there ‘has been a serious gap in previous work in this area, and [this] has contributed in some cases to the failure to implement

¹² Interview 27

recommendations of previous work groups and committees. In today's environment, it is even more imperative that any recommendations of the Task Force, especially if they have resource implications, *have a sound empirical basis*'. This was amplified: 'while we on the Task Force might be in complete agreement on all major directions in this area, it will still be necessary *to demonstrate objectively* to others that the options we recommend are the best of all available options' (emphasis added). Although it was recognised that a number of constituencies would need to be persuaded, including the Commissioner, the Minister and the public, arguably the most important was the Treasury Board Secretariat, which had 'in recent years shown an increasing tendency to insist on a thorough analysis of all reasonable options before agreeing to consider a proposal to proceed with any one option'.¹³ The Sub-Committee recommended that research should be commissioned on:

- women's programme needs, involving *all* women serving a term of two or more years, not just those at the Prison for Women;
- exemplary programmes from other jurisdictions, as well as those available within Canada;
- women's risk to themselves, as well as to others, and their security needs (to support accommodation recommendations);
- a comparative analysis of accommodation options (to satisfy possible Treasury Board demands);
- the home communities of the women.

It was assumed that basic data about the women (such as offence, education, children) could be extracted from files, as could statistics regarding population flows. In the event, not all of the recommended research was undertaken.

When the Task Force was first mooted the then Deputy Solicitor-General, John Tait, alerted the Commissioner to a study of the 'needs and characteristics of female offenders',¹⁴ which the Secretariat had already begun. This work had been undertaken by Margaret Shaw and was made available to the Task Force in June

¹³ Memorandum 28th April, 1989

¹⁴ Letter from John Edwards to Ole Ingstrup 22nd September, 1988

1989. It gave a comprehensive account of the history of imprisoned women in Canada, set this in the context of international practice, asked questions about risks and needs and frankly said 'we do not have much idea who [these] women are, why they are there or what are their needs for programs and support' (Shaw 1991a: 2). A further piece of research, also involving Margaret Shaw, attempted to provide some answers, asking what were the experiences of women in the federal prison system, both of imprisonment, and prior to their involvement with the law; what were their circumstances; what did they see as their needs for programmes and services in and out of prison? This research was to be based on interviews with all federally sentenced women in the Prison for Women or provincial prisons. It was accomplished with some difficulty since the Corrections' Research branch of the Ministry of the Solicitor General had already decided to undertake interviews with all women in Kingston and had drawn up a schedule. Their survey was to use the Diagnostic Interview Schedule (DIS), an American instrument developed in Wisconsin to measure the prevalence of mental health problems in general populations. It had not been devised for prison populations, yet Corrections' Research had already completed a study using the instrument on a sample of male federal prisoners. In recognition of the Task Force's interest, Corrections' Research suggested that one or two additional questions might be added to their survey. This was totally unacceptable to the researcher and to those members of the Working Group involved in developing an interview survey. The DIS, a psychologically-based instrument, consisted of a series of specific, closed-scale questions. It made no concessions to gender or diversity and, since its concern was with measures of mental ill-health, contained little of the broader information the Task Force sought. The result was that all interviews for the Task Force had to wait until the DIS interviewer had completed her separate interview schedule.

Corrections Research, as a department within CSC, was firmly psychological in its discipline and had no interest in feminist research or thought, which it regarded with great scepticism as being subjective and unscientific. On another front, having persuaded CSC of the necessity for a separate survey for Aboriginal women, there was intense discussion within the Working Group of the inadequacy of using even an open-ended interview for gauging the Aboriginals' concerns and experiences.

Standard question and answer responses and linear questions would be inaccessible because of cultural differences and ways of talking. It was agreed, therefore, that Aboriginal women from outside the prison would undertake all interviews with Aboriginal women inside.¹⁵

The wider sphere

During the 1980s it could not be assumed that Canadian knowledge and experience of providing for imprisoned women would be widely disseminated amongst Canadian practitioners. As Adelburgh and Currie (1987: 13, 22) were to write in the introduction to their ground-breaking book on Canadian women ‘in conflict with the law’¹⁶, *Too Few to Count*, ‘during our years as students of criminology and social work and later while working in the criminal justice field, we scoured libraries and bookstores for literature that would inform and assist us. Little was to be found, at least about Canadian women’. In a footnote they wrote that ‘significant progress has been made in this field in Britain and the United States’, citing commentators such as Smart, Carlen and Klein. But even in England Heidensohn was writing: ‘I have already suggested that academic criminology has given some house room to the study of women and crime in recent years, but it tends too often to be the lumber room or attic rather than the visible and visited public rooms. What is still lacking is the integration of all this work into the mainstream’ (Heidensohn 1987: 26). Within Canada, Bertrand had asked questions about sexual equality and the law at a conference in 1967 and there had been pieces of unpublished research which could have added to the understanding of Canadian women and crime, had they been more widely available. Adelburgh and Currie (1987: 14,15,17) preceded Shaw in observing that there was a ‘lack of good statistical data on women in conflict with the law’, which left the contributors to their book ‘making tentative, as opposed to

¹⁵ I am grateful for Margaret Shaw’s assistance in clarifying the issues in these two paragraphs.

¹⁶ Faith relates how during the 1980s ‘women’s groups succeeded in persuading criminal justice agencies, including CSC, to refer to convicted female lawbreakers as “women in conflict with the law” [which] comes closer to a non-judgemental description in that it doesn’t denigrate or permanently label the woman in question. It doesn’t presume that she is a criminal “type” but rather that she is in an adversarial position vis-à-vis the law’. She continues: ‘The key problem with the phrase ... is that it denies the fundamental inequality of the relationship ... one simply cannot be “in conflict” with power to which one is subordinate’ (Faith 1993: 58). In a personal letter Prof. Faith amplified her view, saying that ‘the change grew out of the grassroots, initiated by prisoners objecting to “female offender” ’ (August, 2001).

written-in-stone conclusions' ... 'relying on their own and others' first hand impressions ...'. The data on Aboriginal women were described as 'non-existent'.

So the Task Force – and Shaw – had little option but to look elsewhere for detailed information on imprisoned women and the review of international practice compiled by Shaw focused on England and Wales, Australia and the United States 'because each has certain characteristics of relevance to Canada' (Shaw, 1991a: 33). Axon (1987) had undertaken a comprehensive review of practice and legislation relating to imprisoned women from fifteen countries for the Secretariat of the Ministry of the Solicitor General, upon which Shaw was also able to draw. Australia, in many respects, was the one jurisdiction most closely resembling Canada, in so far as it had a federal system, a vast geography imposing severe limitations on what could be provided for imprisoned women, a disproportionate number of imprisoned Aboriginals and a system of justice heavily dependent upon British precedent. As with its neighbour, New Zealand, Australia was only just beginning to assess the problems encountered by Aboriginal prisoners and the report of the Task Force on Aboriginals and Criminal Justice was yet to be published. *Te Ara Hou*, the Ministerial Committee of Inquiry into the Prisons System in New Zealand was not published until 1989 and would not have been available as the (limited) resource it might have been. (It rejected the concept of differential treatment for women.) Jackson's *The Maori and the Criminal Justice System*, the second of a two-part investigation into Maori offending, had been available since 1988 and its call for a parallel system of Maori justice would have resonated with some of the Aboriginal members of the Task Force; yet it did not deal with the prison service. Overall, there was a body of knowledge to be consulted from which many common strands emerged. But the bigger question is whether such knowledge is translatable between jurisdictions, and the question becomes particularly difficult to respond to when the 'knowledge' is derived from cultural practices specific to indigenous groups.

The short timetable stipulated by Ingstrup for the production of a report meant that an enormous amount of research had to be undertaken within a very short period, and at the beginning of the Task Force there was little information readily available about the Canadian client group, as Shaw later emphasised. Members were faced with

creating solutions for an inadequately defined problem until the commissioned research was completed. In a sense, this left the Task Force initially free to construct its own vision of the federally sentenced woman. The Task Force has since been accused of portraying her largely as a victim of her economic and social environment, bereft of agency because of her victimisation, yet the initial construction emerged from Task Force members' individual knowledge of such women. Many on the Task Force, but more specifically those from the voluntary sector on the Working Group, had worked closely with imprisoned women and knew their collective histories of poverty, abuse, racism, addiction and educational failure. The civil servants also had this understanding, but it was generally acquired at a remove. They rarely visited the Prison for Women and did not know the women as individuals. Rather, the women were the statistics informing the civil servants' daily work. As the Task Force proceeded the image of the federally sentenced woman assumed some of the characteristics of those whom the Working Group began to meet via the consultations and prison visits; 'the woman' became more of a physical reality and, finally, an event occurred which partially metamorphosed this 'woman' into a particular, almost symbolic woman, as we will shortly see. Essentially, however, this 'woman' remained shrouded by the status of victim and federally sentenced women were 'denied even the rhetorical status of *survivors*' (Bruckert, 1993: 11). The consequence of this will be seen in later chapters.

Speaking for other women

Historically, men have always been involved in planning for, and speaking on behalf of, imprisoned women. The women's reformatory movement challenged men's right to do so, but, as chapter 1 outlined, it has been suggested that the reformers' challenge was premised on their belief in an innate sexual difference, rather than an attempt to press for sexual equality (Freedman, 1981). (See also Rafter, 1985; Hannah-Moffat, 2001). In 'cross[ing] the boundary between themselves and fallen women' (Freedman 1981: 105) reformers were suggesting a commonality of women's experience and assuming that women such as themselves had an instinctive, or collective, knowledge of other women which qualified them to participate in the governance of women's prisons. Those early reformers accommodated imprisonment, rather than questioned it, and contributed to its

continuing legitimacy as a means of controlling deviant women. In so doing, they developed a form of maternal governance which was no less controlling than the paternalism more commonly found in prisons (see Hannah-Moffat, 2001). While the majority of the members of the 1989 Task Force were not employed directly by correctional authorities (although CAEFS had a financial relationship with CSC), so were not in a position to exercise maternal authority in a physical sense, they were nevertheless involved in a project which required them to plan on behalf of imprisoned women. Once again, women were being asked to show a collective understanding of other women, yet only two on the Task Force had personal experience of actual imprisonment; for the remainder, their knowledge could be no more than conjecture and empathy. Additionally, these women exercised their power to plan for others from various positions of authority and, most obviously, all were free (Bruckert, 1993; Hannah-Moffat, 2001). In no sense could they be equal to imprisoned women.

Bruckert had pertinent things to say about the power differentials between 'the discourse creators [members of the Task Force] and subjects [federally sentenced women]', positing that class was a 'central [unacknowledged] difference' (Bruckert, 1993: 19). Irrespective of how each member of the Working Group might have viewed their own background, the sheer disparity between their economic and social circumstances and those of the vast majority of imprisoned women immediately distanced them from those for whom they were planning. Harding et al (1985: 171) lamented the loss of prisoners' voices from criminological literature, and then almost immediately discounted prisoners' accounts of their own lives as 'not to be greatly relied on for obvious reasons'. However, there is often a tendency to assume that it is those working with prisoners who have the greatest understanding of prisons. Indeed, many officers spend longer inside than do the prisoners (Faith, 1993), but that is not to experience the physical loss and pain occasioned by imprisonment. DiIulio (1991: 1) suggests that: 'there are no experts on corrections. As near as we come to such experts are the men and women who have spent their adult lives working with criminals: wardens, correctional officers, probation and parole agents ...'. In this analysis the prisoner becomes merely the subject of others' expertise. Within the Task Force, it might have been tempting for some Working Group

members to assume that their somewhat increased contact with individual federally sentenced women, occasioned by visits to the Prison for Women, permitted a closer understanding of their needs. Yet 'these [federally sentenced] women ... are one of the most over-studied and over-intervened populations ... As a consequence they are likely [to be] more conscious and articulate about their past experiences' (Bruckert 1993: 33). Many of the women would have been able to convey powerfully the pain of their incarceration, using the 'sociological' language of some of the professionals within the prison. This did not necessarily mean, however, that the truth as they experienced it was being fully expressed. Neither did it lessen the power differentials between the two groups. The imprisoned women had few means of expressing their inherent expertise, except through the mouths of intermediaries.

Hannah-Moffat traced the development of 'maternal logics' in the governance of imprisoned women and in doing so explored the question of 'structural relations of power which are not mediated by gender sameness. Although women reformers, volunteers, matrons and prisoners are of the same sex, relations of power continue to exist between those socio-economically and culturally heterogeneous categories of women' (Hannah-Moffat 2001: 43). In the context of the Task Force, and specifically within the Working Group, it can be argued that there were also 'relations of power' between members. The civil servants had a power vested in them by virtue of the fact that they were government appointees, with (stratified) access to those who would make the final decision regarding implementation of the final report. With the exception of Mary Cassidy – both a prison warden and a civil servant – their expertise was as government administrators involved in the bureaucracy of corrections, rather than in the prisons themselves.¹⁷ The CAEFS' representatives derived their expertise from the specific knowledge they had individually of the imprisoned women whom they represented. The Aboriginal members' knowledge was grounded in their knowledge of the destruction of their communities and culture at the hands of Euro-Canada. Yet the power differentials were remarkably fluid, depending upon the area of expertise being discussed. The

¹⁷ This lack of prison-based expertise on the Working Group did not indicate a disregard for the knowledge of individual wardens; rather, it reflected the fact that there was only one federal prison for women, so the pool of specific expertise was restricted. The Steering Committee included the

civil servants were politically ascendant, while the voluntary sector often believed itself philosophically ascendant. The civil servants sometimes thought the voluntary sector unrealistic in their demands and were, in turn, seen to be intransigent and lacking in vision. Unsurprisingly, the pressures of working to a rigid timetable caused friction between members, exaggerating their differences to a degree which might not have occurred had they been under less pressure.

It could be assumed that the Aboriginal representatives were the least advantaged within the formal relationships of power, but this would be to discount the effect of their history on others in the Working Group. As the Minutes reveal, even while they were failing to document the true extent of Aboriginal contributions to discussions, there was little criticism of Aboriginal perspectives by others on the Task Force. At times there was a marked deference to the moral authority of the Aboriginal members indicated not so much by what was said by the rest of the Group, as by a failure to say anything at all. One Aboriginal member was later to characterise this as ‘internalised racism’, a view also presented by a non-Aboriginal interviewee.¹⁸ By this, they meant that the other Working Group members’ reluctance to criticise and challenge implied that the Aboriginals’ perspectives could not withstand critical discussion. Some of the non-Aboriginals would have refuted this, as explained by this commentator from the Steering Committee: *I would say that at least part of it [the silence] is that the non-Aboriginal members never felt that they were experts on the Aboriginal issues or culture, so when the Aboriginals say they are suffering an injustice, the general attitude of all the people in the room was ‘you’re right’. No Canadian doubts that they have been treated unjustly. ... There is an element of guilt, particularly within government, at having managed it so badly.*¹⁹ This might well be interpreted as another means of neutralising Aboriginals simply by refusing to engage in debate with them, but interview evidence suggests that there was a genuine acceptance of the strength of the Aboriginals’ case.

Directrice of a Québec provincial facility, but the needs of a provincial prison, with its transient population, do not always translate into a federal model.

¹⁸ Interview 29

¹⁹ Interviews 27 and 31

Politicising the agenda

Eight consultations across Canada were planned for the months of June and July and before that over 500 invitations were extended to groups and individuals across Canada. A very large number of organisations responded and 200 presentations were made to the Task Force. As with all the Task Force's documentation, the need to translate documents delayed the distribution of information in Québec, and organisations and individuals who might contribute to the consultations were not contacted as quickly as others across the country. In an effort to focus the presentations at the consultations, and to lessen the burden of collating the responses, a Sub-Committee drafted a set of Guideline Questions they wished to have answered. Patricia Monture's views were subsequently sought 'to ensure that [the] First Nations perspective was included'.²⁰ She added two further questions: 'who should have responsibility for women serving sentences of two years or more?', and 'if First Nations had a self-determined justice system, what would it look like?'.²¹ The Working Group's co-chair, Jane Miller Ashton, provided a written brief on the matter for James Phelps, in his capacity as Deputy Commissioner, rather than as co-chair of the Steering Committee and had forwarded the Consultation Guidelines, by then including Ms Monture's questions. In his reply Mr. Phelps pointed out that the 'design of a "self-determined justice system" for the "First Nations" would be a Department of Justice issue, which is beyond the authority of the Solicitor-General. Similarly, the responsibility for women serving sentences of two years or more is federal under existing law ...' He was concerned that the Task Force should not 'exceed its authority or interfere in the jurisdiction of other government departments or other governments'.²² The Working Group was informed at its July meeting that all the co-chairs had jointly decided to remove the sovereignty question from the Guideline Questions. Patricia Monture noted that 'while the federal – provincial aspect is the usual interpretation applied to jurisdiction, the question did provide an opportunity for Aboriginal presenters to address the issue of sovereignty'. Its deletion might limit 'the potential scope of the consultation'.²³ This attempt to broaden the brief and circumvent the Mandate would undoubtedly have been seen as

²⁰ Minutes of meeting of Sub-Committee on Consultations 21st April, 1989

²¹ Guideline questions for consultations 21st April, 1989

²² Memorandum 17th May, 1989

²³ Working Group Minutes 6th – 7th July, 1989

an attempt to politicise their deliberations by some members of the Working Group and it is possible that a few might have thought such attempts capable of destabilising the joint project. Yet once again, Ole Ingstrup's injunction to 'think broadly' was seen to be circumscribed and in this case the limitations were reinforced by a co-chair of the Steering Committee, in his capacity as a Corrections' official and civil servant. James Phelps' response highlighted the dual roles of some on the Task Force and raised further questions about their ultimate accountability. While members of the voluntary sector could, with some degree of accuracy, claim to be accountable to federally sentenced women, was this ever a real possibility for the civil servants on the Task Force? And, in attempting to add a political dimension to their deliberations, were some of the Aboriginal members showing that they had a wider constituency than just federally sentenced women?

In June it was the Steering Committee's turn to meet and a Briefing Note was provided for both James Phelps and Bonnie Diamond beforehand. Three new Aboriginal members were to attend the meeting. The Chairs were forewarned that the women might wish to 'put forward an agenda different from the course established' and should be told that their colleagues on the Working Group had agreed to work within the Mandate.²⁴ At the meeting itself the practicalities of commenting on 'work in progress' provided by the Working Group was again a dominant feature. There were fewer, shorter meetings of the Steering Committee than there were of the Working Group, which meant that the Working Group would be covering an immense amount of ground, but still required the approval and guidance of the Steering Committee before certain decisions could be made. During this June meeting a great deal of time was spent discussing the Draft Principles and, although still a distance from those which were finally published, certain words of great importance in the final Report made an appearance: respect; dignity; self-esteem and empowerment. The Committee high-lighted the fact that the Principles seemed to focus on the 'incarceration period' and that there needed to be some emphasis on the 'community and post-release aspects'. Co-chair Phelps found the suggested wording altogether 'too soft'. He thought it important to make references to such things as assisting 'offenders to become law-abiding citizens' (a phrase sure

²⁴ Briefing Notes 19th June, 1989

to annoy the Aboriginal members), if the Task Force's credibility were not to be undermined. The co-chairs of the Working Group were indeed 'steered' by the Committee to reconsider much of the draft.

History repeated; ignoring Québec

Although Aboriginal perspectives were heard from the first, an entirely outnumbered francophone member of the Steering Committee had also been trying to raise Québécois issues. At the first Steering Committee meeting in April she had expressed concern about the lack of a Québec representative on the Working Group, but no response was minuted and we do not know the general reaction to her proposal. The question of francophone representation on the Group was also raised during the May Working Group meeting, 'given the significant number of federally sentenced women from Québec', and it was agreed that all four co-chairs would consider the options of either appointing a francophone member to the Working Group, or allowing francophone members of the Steering Committee to take on a greater role.²⁵

The Task Force's four co-chairs then invited a francophone civil servant to join the Working Group, in recognition of the importance of the Québécois' perspective, but she was unavailable until August, which was felt to be too late. This is the clearest of indications that Québec, from the Task Force's inception, could have been represented on the Working Group – by a civil servant – without there being undue worries about offence being caused to other provinces. My supposition is supported by the fact that one of the Task Force's four co-chairs was a Deputy Commissioner, itself a very senior rank, and he had acquiesced in the decision to co-opt a civil servant. Twenty-one percent of all federally sentenced women were French-speaking and, given the fraught history of relations between Québec and the rest of Canada, it is remarkable that their needs had not assumed an earlier importance. Since 1982, with the signing of the Exchange of Services' Agreement (ESA), the *Tanguay Agreement*, most Québec women had been incarcerated provincially, at Maison Tanguay, which inevitably provided a francophone milieu. This ESA

²⁵ Working Group Minutes 10th – 12th May, 1989

implicitly accepted the rationale of the others; that acceptance of provincial imprisonment meant acceptance of provincial standards in programming and, as these were based on the infinitely more transient needs of the provincially sentenced woman, the requirements of the long-term prisoner were consistently overlooked. This was certainly the case at Maison Tanguay which, in its own way, was as bleak as the Prison for Women. The inescapable conclusion, sustained by the late invitation extended to the civil servant, is that those responsible for the initial composition of the Task Force did not, to begin with, see Québec as a major component in what they were undertaking. They only came to see it as such during the life of the Task Force.

Listening to other voices; looking at existing provision

Although members of the Steering Committee assisted during the consultations, those most affected by the scale of the proceedings were on the Working Group.²⁶ Alongside the regional consultations, the Task Force found itself interviewing its own members, Bonnie Diamond and James Phelps, in their professional capacities. Ole Ingstrup was asked for his personal view 'on the issues and possible solutions'.²⁷ The unions were questioned. Extensive meetings took place with the provincial Heads of Corrections and their staff. The National Parole Board, both nationally and regionally, was consulted, as was the noted advocate of prisoner's rights, Claire Culhane.²⁸ Task Force members visited eleven provincial institutions housing federally sentenced women. They met with federally sentenced women in the Prison for Women and on parole in the community. The Task Force was determined to show that it had 'heard' the various voices and also needed to ensure that provincial sensibilities were not offended, as the Exchange of Services Agreements had made provincial Corrections key partners in the business of housing federal women. There were immediate provincial difficulties once the consultation process began.²⁹ The francophones expected that French would be used during the Québec consultations,

²⁶ Working Group members were each assigned to a proportion of the consultations. It would have been an impossibility, within the timescale, for all to attend every consultation meeting.

²⁷ Progress Report on Consultations September 1989:3

²⁸ Claire Culhane occupies a special place in the history of Canadian penal reform, noted for (amongst many things) her resolute advocacy of prisoners' rights and the book(s) detailing removal of her visiting rights at provincial and federal men's prisons in British Columbia. (See Culhane, 1979, 1985, 1991).

²⁹ Minutes of Consultations Sub-Group 6th June, 1989

simply because to do otherwise in a largely French-speaking province would be politically insensitive.

As indicated earlier, members of the Working Group were also visiting other institutions as part of their fact-finding mission, and a member was particularly alarmed by what she observed at one. *We had a meeting with the staff who were going to be the staff at Burnaby [in British Columbia] when it opened and we asked them all sorts of questions about how things would be different when the new institution opened and of course the answer was ‘not at all’ and that was when it really came to me most forcefully – probably half-way through the Task Force – that we may be on the wrong track. That you can’t fix the present system. That you have to have a new system.*³⁰ Under an ESA (the *Burnaby Agreement 1988*) the new Burnaby Correctional Centre for Women (BCCW) was to hold both provincially- and federally-sentenced women. The prison was later described: ‘Technically, the institution is a medium security facility, but for all practical purposes, due to the architectural design and high-level technological security systems, and because women from every classification are locked up together, they must all abide by the maximum custody rules intended for the control of the few women who are perceived as security risks’ (Faith 1993: 146). It thus replicated what already prevailed at the Prison for Women.³¹ The distinction, however, between this new ESA and all predecessors negotiated earlier, lay in the fact that federally sentenced women, who both qualified and elected to remain in British Columbia, would be under federal jurisdiction. Others making the same decision in other provinces at the same time, lost their ‘federal’ status and became provincial prisoners. This generally meant that women from other provinces received the benefit of being held closer to their homes, but had significantly fewer programmes available to them, unlike federally sentenced men, who did not face the same dilemma because of the greater number of penitentiaries.

³⁰ Interview 19

³¹ As BCCW was newly built, the decision was later made that it would not be replaced by one of the institutions subsequently recommended by the Task Force. This was an uncanny echo of the reasons for not closing the Prison for Women in 1938 – that it would be fiscally irresponsible to close a prison so recently built.

The fourth Working Group meeting was held in August, 1989 in Ottawa. Although they were beginning to receive information and ideas from the community, provincial and institutional consultations, the Group knew they still had some time to wait until the bulk of the research material would be available. The Minutes stated: 'Given the Task Force timeframe, the Working Group would have to move forward using assumptions based on their personal expertise, that of the organizations consulted and the findings of previous studies. The research results, therefore, would be used to validate or modify these assumptions'.³² In assuming a collective expertise – and, in this instance, having little choice – the Working Group were straying into problematic territory. As we know, James Phelps had urged the Group to validate their work by means of empirical research, whereas the Commissioner had imposed an almost draconian timetable for completion. Both stances were determined by the demands of the Treasury Board and they left the Working Group in an untenable position. Without research evidence they could not accurately plan, yet if they failed to complete their report on time the Treasury Board would refuse funds essential for implementation. In relying on their own expertise and their shared experience of womanhood, if not imprisonment, the Working Group were replicating the strategies of the first women prison reformers and planning for an insufficiently identified group. It was a risky position to be in, and one with which they did not feel comfortable, yet they saw no other option. The benevolence of their intentions outweighed the inherent risks and, as we shall see, there were unintended consequences.

At this critical half-way stage the Working Group also needed to start planning the outline of the final report. There was a diverse public which had to be persuaded of the need for change but, above all, the final document had to open the Treasury Board's purse. The report had to be logical, persuasive and defensible. In short, its appearance could not be too different from most other government reports, but this did not preclude its language from being radical. Where the Working Group was ground breaking, at that juncture, was in deciding that the voices of federally sentenced women would open the report; the women would have a chapter to themselves and be recognised as possessing a unique knowledge. As the Working

³² Working Group Minutes 15th – 16th August, 1989

Group was constrained by a tight budget and contract hours were fast being used up by the non-government representatives, it was decided that the civil service members would undertake the writing of the first draft. The wisdom of allowing the civil servants to be the initial drafters of the report was apparently not questioned, but the minutes of all the meetings are at best an approximation of what was said, and we already know that some members had reservations. It was still proving difficult to move towards consensus on the Principles which were to underpin the report and the Group knew that, as the distillation of a new correctional philosophy, they had to be precisely defined. The Task Force attempted subsequently to safeguard their plan by including an implementation strategy in their report, but what the Task Force could not do was force the bureaucracy of CSC to co-operate.

Adding to the agenda; Aboriginal issues

During the Working Group's July meeting concerns about the failure to consult with Aboriginal groups in the 'more remote northern or rural native communities' had resurfaced. Invitations to meet with the Working Group had been extended but the response had been discouraging. So in August the Working Group decided that the final report would document the failure and that the Aboriginal issues would not be confined to a sole Aboriginal chapter in the final report, but raised throughout. The Aboriginals' success in pressing their issues continued with the question of Aboriginal sovereignty again being raised, in the context of a discussion on the 'artificiality of the federal-provincial split in jurisdiction'. Aboriginal self-determination was considered another 'jurisdictional issue'. Despite James Phelps' earlier-cited view that this question was outside the Mandate of the Task Force, the Working Group agreed to acknowledge the Aboriginals' wish for self-determination in the report. By then the Working Group was largely persuaded of the moral strength of the Aboriginal case (and some had needed no persuading at all), but a minority also conceded certain arguments in order to keep the peace and ensure a completed task.

The commissioned research was already under way and the needs' interviews (which provided the basis for Shaw et al's *Survey of Federally Sentenced Women*) had commenced at the Prison for Women. There were delays beginning the interviews in

Québec, but these were occasioned by a ‘nervousness’ on the part of some of the Task Force in approaching the province rather than by the inability of the researchers themselves to gain permission.³³ This ‘nervousness’ reflected the dual reality that Québec Corrections had negotiated a considerable amount of autonomy with the advent of the *Tanguay Agreement* and that the province itself was customarily treated with caution. A separate piece of research, the Security Needs Assessment, also involving Shaw in the preliminary discussions, was delayed. This was to be based on earlier work Berzins and Dunn carried out for the *Chinnery Report* in 1978 (see chapter 1) and was expected to demonstrate – as it had some ten years earlier – that women were frequently over-classified, with most capable of being accommodated in minimum security settings.

Finalising the schedules for the community interviews was problematic. In June the Steering Committee had minuted a request that Aboriginal women should be interviewed by an ‘Aboriginal person’ and a Memorandum to the co-chairs of the Working Group, written by another member, had outlined Patricia Monture’s unhappiness about the seeming failure to discuss the interview guide with an Aboriginal woman with ‘research/interview experience’. The pre-testing of this guide had been restricted to non-Aboriginal women, and Prof. Monture felt that the more logical step would have been to limit it *to* Aboriginal women, in an effort to test its efficacy in persuading them to speak. At this stage Patricia Monture also felt that her attempts to ‘communicate awareness/sensitivity to the Working Group [had] not been effective’.³⁴ What she had been trying to convey to the Group was perhaps best expressed in the report eventually produced by Lana Fox and Fran Sugar, themselves one-time federally sentenced women and members of the Steering Committee, when they discussed other task forces which had requested meetings with the Native Sisterhood inside the Prison for Women:

We always agreed to meet, somehow believing that there was hope for change. ... We never said out loud that we were teaching them something about being a people. The circle of chairs we sat in represented the cycle of life from birth to death and that cycle did not exclude anyone. ... In our private conversations afterwards, we felt that even though those officials

³³ Letter, January, 2000

³⁴ Memorandum 2nd August, 1989

were our enemies, our jailers, our keepers, the all-powerful representatives of white authority and the state, *that they would have heard our truth* (Sugar & Fox, 1990: 15, emphasis added).

We already know that Aboriginal claims to ‘truth’ or understanding had historically been swept aside by the dominant culture. That Aboriginals were allowed to participate in ceremonies in prison showed Corrections’ supposed tolerance, rather than a failure to understand that Aboriginal societies did not themselves resort to imprisonment. In an effort to understand Aboriginal issues more fully, and to show that Aboriginal women came from backgrounds as diverse as their Euro-Canadian counterparts, the August meeting concluded with a workshop conducted by an Elder, Joan Lavallee.³⁵ She reflected on the impact of the residential schools on Aboriginal women and the consequent separation from traditional teachings, but warned that native spirituality was not a ‘quick fix’. The Working Group would soon be faced with decisions about the type of staff they wished to have working with federally sentenced women and she cautioned that ‘efforts to increase Aboriginal staff in institutions [might] be ... misdirected ... since Aboriginal persons object to guarding their sisters’.³⁶ Again, this reflected the divide between the Euro-Canadian and Aboriginal cultures, because Aboriginal nations did not have comparable hierarchical structures. Where hierarchies did exist, they were generally based on respect accorded to wisdom, as with the Elders.

Some Euro-Canadian members of the Task Force were further exposed to Aboriginal concerns in August, when Jane Miller Ashton and Bonnie Diamond attended the Aboriginal Women’s Caucus conference. The opening lines of one of the papers, ‘dedicated to the memory of all women who have died unnatural deaths as a result of their incarceration’, gave some indication of the mood of the meeting:

The relationship of the Aboriginal Women’s Caucus and the federal government is not a relationship that is based on trust. ... All Aboriginal, First Nations citizens are in conflict with the law. We are First Peoples with an inherent right to exercise our own systems of justice and the values these systems represent. The issue of Aboriginal women and the criminal justice

³⁵ For Aboriginals, Elders have the same function as priests and chaplains. They are valued for their wisdom, insight and knowledge and are considered to have special spiritual gifts. They are valued by their communities for their ability to guide others, both by example and through teachings.

³⁶ Working Group Minutes 15th – 16th August, 1989

system is merely the most blatant example of the oppression of First Nations people under a system of laws to which we have never consented.³⁷

In considering the Task Force itself, Caucus members expressed frustration at the failure of the Steering Committee to 'take account' of their views and questions and the equal failure of the minutes to record their contributions. This point was later made most strikingly by Sugar and Fox:

When our rage became uncontainable [during Task Force meetings] we spoke of prison conditions, of the actual experiences of being Aboriginal women in prison ... Yet our words were met with tense silences and appear nowhere in the minutes of meetings. Our descriptions of the reality are buried as our sisters are buried in prison (1990: 2).

Despite the clear concerns, the September Minutes followed much the same format as previous ones but, in this instance, it is possible to compare them with very detailed notes taken of the same meeting. In the Minutes there was one line saying: 'Karen Paul spoke of her vision for responding to the needs of Aboriginal women'. In the notes this 'vision' took half a page to explain. Whether these omissions were in support of 'consensus' or simply to avoid the appearance of dissent is a debatable point, but their effect was to heighten distrust at a time when the Task Force, and the Working Group in particular, needed to work cohesively in order to prepare for the final stage of their work.

The critical role played by the Minutes in passing information to both parts of the Task Force was also apparent at the September Working Group meeting, when Patricia Monture reported that 'the Aboriginal Steering Committee members had [understood] from the [August] Minutes ... [that she and Sharon McIvor] considered acceptable the fact that the consultations had failed to reach Aboriginal communities'.³⁸ Had the Minutes been fuller this misunderstanding might not have occurred, but it also reflected the continuing anxiety on the part of the Aboriginal participants that they were listened to but not 'heard'; that Euro-Canadians, while appearing to be more deferential in that they did not interrupt or criticise, were in effect 'internalising' their unacknowledged racism, as has earlier been discussed.

³⁷ Paper presented at the Aboriginal Women's Caucus 30th August, 1989

For some of the Euro-Canadian members of the Task Force the emphasis on Aboriginal concerns, while understood, at times occasioned discomfort. Although theoretically familiar with Aboriginal history, a number had had very little contact with Aboriginal women, particularly those who were articulate and assertive in the company of Euro-Canadians, and some found the emotions expressed during meetings very difficult to deal with. One recalled: *You sat there. You listened politely. It was also a period when you were extremely politically correct. There were scenes – I remember waiting for an hour for the representatives to come to the table because they were late and no-one mentioned anything, no-one said ‘let’s start’, we just waited. ... There could be all kinds of ... personal histories sat around the table ... with an awful lot of emotion being shared and people just felt very uneasy.*³⁹

Federally sentenced women; victims?

The language used by the AWC, in speaking of the ‘oppression of First Nations people’, is particularly interesting because it continues a theme which has previously emerged; the victimisation of Aboriginal women. Although used in the context of *imprisoned* Aboriginal women, it is not entirely about their victimisation by the criminal justice system. There is a larger political strand to the discourse encompassing the historic victimisation of Aboriginal women by the dominant culture, through the application of unjust laws to which their individual nations had never assented. Had these laws not been enforced, Aboriginal women would not have been dispossessed of their families, communities and cultures. Most would conceivably have remained living in secure communities, with supportive familial ties, and unaffected by the ravages of alcohol. Although imprisoned Aboriginals were undeniably offenders, insofar as Euro-Canadian law classified them as such, their disproportionate imprisonment was assumed to be almost entirely attributable to their historic victimisation and not necessarily a cause solely for shame, as chapter 2 has explored. The AWC’s language reflected some Aboriginals’ belief that the only solution to their many problems lay in the adoption of separate strategies and, in this case, one focused on an Aboriginal justice system. To the Aboriginal members of

³⁸ Working Group Minutes 21st – 22nd September, 1989

³⁹ Interview 32

the Task Force the apparent failure of other members to appreciate the scale of past injustices was difficult both to accept and work with and their continuing battle to educate individual members seemed fruitless.

However, it was not only Aboriginal women who were seen as victims. In the context of the Task Force the theme of victimisation had four strands: the victimisation of federally sentenced women by CSC's failure to recognise that women have needs distinct from those of men; the victimisation experienced by many federally sentenced women, from all ethnic groups, as a consequence of their economic and social positions in Canada; the victimisation imposed by the correctional / justice system on federally sentenced women because only one federal facility was available to them (while to be held in a provincial prison meant foregoing federal rights, which compounded the injustice); the victimisation experienced specifically by Aboriginal women, exacerbated by racism, the roots of which lay in historic injustices. As we shall see, the Task Force was later accused of characterising all federally sentenced women as victims, rather than as women who had themselves created victims. I believe these various distinctions must be made, however, if only to avoid perpetuating what some commentators have interpreted as being the *collective* image of a group of women completely without agency. It is apparent that the traditional image of the 'victim' as being the innocent bystander to whom something unwarranted had happened was somehow lost. Yet that same description could equally apply to an Aboriginal woman, should her life be seen in a social context, so the terminology was necessarily imprecise. At this point we need to be aware of the evolving, undisputed image of the federally sentenced Aboriginal woman as 'victim', a view reinforced by Johnson and Rodgers (1993: 110), who characterised Aboriginal women as suffering from 'racial discrimination, gender discrimination, ... and legislated discrimination'. That image eventually affected how all other federally sentenced women were characterised by the Task Force, for reasons which I shall later discuss.

Glimpsing the ‘difficult to manage’ woman

By September, 1989 progress with the research could be relayed to the Steering Committee. Lee Axon’s report on exemplary programmes for women in the United States would be available in October and the needs research interviews were proceeding, although a start still had to be made in Québec. The fact that these interviews were solely with imprisoned women, rather than including those released into the community, continued to worry the Task Force. The 15th December deadline imposed by the Commissioner was cited as the reason for the research not being undertaken, as there simply was not enough time to commission and complete it. The Steering Committee, while recognising that the Working Group was already faced with an enormous work-load, still thought that funding and personnel for the research could be obtained from other sources. The option of asking for the deadline to be extended was much debated, but considered detrimental to the ‘credibility of the Task Force’ and forcefully opposed by James Phelps, who was also aware of the constraints imposed by the need to meet Treasury Board deadlines.⁴⁰

Of all the research areas discussed by the Steering Committee in September, the area that was eventually to have the greatest impact appeared to receive the least debate, according to the Minutes, but this was belied by the very full discussion documented in the *Detailed Notes*.⁴¹ The Security Needs Assessment, to be undertaken at the Prison for Women, was deferred. The main reasons offered for the deferral were the lack of time and recent disturbances at the Prison. As the Minutes recorded, ‘while the exercise was not without merit, it was not considered of high priority, and therefore would not be completed as an integral part of Task Force work’.⁴² But the *Notes* revealed that Committee members were worried that the results would be ‘skewed by recent events’ (disturbances and a lock-down at the prison) and that the women would be over-classified. Looking ahead to the possibility that there might be a facility other than the Prison for Women, the exercise provided an important opportunity to ask what kind of ‘static and dynamic security features [might be]

⁴⁰ Steering Committee Minutes 19th September, 1989

⁴¹ Detailed Notes of Steering Committee Meeting 19th September, 1989

⁴² Steering Committee Minutes 19th September, 1989

required in alternate (sic) accommodation' and was 'critical for long-term accommodation planning'.⁴³ But what seemed to sway the Committee towards deferment was the worry that the assessment might 'falsely suggest the women have become tougher since the last exercise' (carried out for the *Chinnery Report*, in 1978) and, by implication, that this depiction would make it harder to justify a new style of facility. The cancellation of the Security Needs Assessment also worried the Working Group when it met separately two days later and the Group specifically minuted their 'recommendation that the exercise should be implemented at the first possible moment'. One Group member noted that this would leave them unable to make 'as precise a recommendation regarding maximum security type accommodation', which eventually proved to be the case.⁴⁴ The Task Force was thus deprived of information crucial to the planning of any new prisons as they had no specific information on the numbers of women requiring higher levels of security. This left the Working Group to rely heavily on its own knowledge of the women when proposing its plans.

The Task Force was right to be aware of and concerned about events at the Prison for Women. Some two weeks before the September meeting there had been a minor assault at the Prison, and by the next day the Prison had responded by locking the women on A and B ranges in their cells and heavily restricting all prisoner movement. Shortly afterwards three protective custody inmates were assaulted, which led to a lockdown of the institution for a day and a half. Restrictions were gradually eased, but the prisoners were very resentful of what they saw as an overly harsh response. The situation deteriorated and the Chair of the Inmate Committee called the press to protest at what was happening, but the ensuing publicity focused on the supposed violence of the women in the prison, rather than on the institutional policy. Tension continued to mount as the weeks passed.

At the Task Force's first meeting Mr. Ingstrup had stressed that 'no major decisions regarding federal women would be made during the life of the Task Force'⁴⁵, but the

⁴³ Detailed Notes of Steering Committee Meeting 19th September, 1989

⁴⁴ Working Group Minutes 21st – 22nd September, 1989

⁴⁵ Steering Committee Minutes 3rd April, 1989

administration of the institution of course remained firmly within the grasp of CSC. While Mr. Ingstrup was at that point referring to expanded Exchange of Service Agreements and matters of similar significance, the Task Force worried about its ongoing work being used as an excuse for allowing conditions to stagnate at the Prison. Although an undertaking had been given that any initiatives being considered would be 'brought to the attention of the Task Force' (TFFSW 1990: 75), this did not mean that it could influence day-to-day procedures. Neither did it mean that initiatives always *were* brought to the attention of the Task Force, as evident when the Working Group queried a proposal to establish a mental health unit at the Prison for Women. Mary Cassidy told them that she had not raised 'this initiative at the previous meeting since the unit [was] intended to address an acknowledged long-term regional need, whether or not federally sentenced women remain[ed] at the Prison for Women'.⁴⁶

This highlights the anomalous position of a member of the Working Group who was both Warden of the prison in question and a government employee. Decisions she needed to make, as a Warden accountable to CSC, would not always be ones that she could easily convey to her colleagues on the Working Group. It had been clear at the July Working Group meeting that the Task Force was being used as an excuse for inactivity at the prison, with individual members having been told that 'the Task Force will address it' whenever they tried to raise issues.⁴⁷ Mary Cassidy's position, on the relatively few occasions when she was able to attend Working Group meetings, was made even more difficult by the fact that she was the public face of the Prison. Irrespective of what she might be attempting to achieve within the Prison for Women, the escalating unrest ensured that she was continually subjected to public criticism and also had to face it during the Group's meetings. One member recalled: *We were all criticising her*, while another remembered: *There's no doubt that they used the meeting as a chance to whip her ... you could see from their criticisms that it was beyond their comprehension that she could have a view ... they were advocating changes to her management, so it wasn't a situation where she was*

⁴⁶ Working Group Minutes 6th – 7th July, 1989

⁴⁷ Working Group Minutes 6th – 7th July, 1989

*looked upon as part of the team.*⁴⁸ The sense of being ‘apart’ must have greatly increased any difficulties Mary Cassidy experienced as a member of the Working Group, but this is conjecture on my part, as she felt unable to discuss this, or any other aspect of her work, with me.

Thanks to the consultation process it was already clear to members that the Task Force would *not* be recommending the continuation of the status quo and they were able to minute that the ‘Prison for Women, as it exists now, be closed and that the Exchange of Service Agreements cannot continue on the current terms’.⁴⁹ A preliminary review of 118 of the consultations’ submissions revealed that only eighteen had suggested the Prison for Women should remain open. There was also little support for enhanced Exchange of Service Agreements (under which provinces accommodated federally sentenced women, in provincial standards of imprisonment). Emerging themes suggested that: women were over-classified as security risks; women should mostly be dealt with in the community; women’s groups should provide women’s services; programmes should be focused outside, rather than within, the prison. Some of the recommendations which emerged from the consultations would have required legislative changes, but it was felt that the Working Group should produce recommendations which could be implemented ‘under the authority of the Commissioner’, further illustrating the restricted nature of his injunction to ‘think broadly’.

The Aboriginal representatives on the Task Force had met earlier to discuss the Task Force’s inability to make contact with Aboriginal groups during the consultations, as well as federally-sentenced Aboriginal women post-release. During the September Steering Committee meeting one of the Aboriginal members had highlighted the need to provide empirical information: ‘Government has historically not funded Native Organisations unless they were willing to provide traditional empirical data to back up their work. ... But the data collection must be appropriate for native people’.⁵⁰ The Steering Committee emphasised that ‘the community needs personal interviews [were] a critical element in determining what programs/services [for

⁴⁸ Interviews 28 and 27

⁴⁹ Working Group Minutes 21st - 22nd September, 1989

Aboriginal women were] required to support community-based intervention strategies'. The Committee again recognised the extreme workload being carried by the Working Group and decided that 'consultation can be considered a type of research', which meant that 'traditional research instruments' need not be used. Thus the Committee provided Aboriginal women with a means of undertaking research appropriate to them, irrespective of whether 'traditional' researchers would accept the validity of the finished piece. This decision inspired the AWC members, at their separate meeting, to propose that Fran Sugar be sent to 'eighteen cities to locate Aboriginal women through names obtained from the Native Sisterhood, CSC databases, word of mouth and consultation with street workers' and their proposal was accepted by the Working Group. (Lana Fox was to join Fran Sugar in this endeavour).⁵¹

The report eventually produced by Sugar and Fox, both of whom were on the Steering Committee, was a powerful document, as we have already seen. Their own experience of serving federal time enabled them to provide a running commentary on what women individually told them, and they did so with a passion and articulacy which far exceeded the cool prose normally reserved for such research. They did, indeed, produce something which 'challenge[d] traditional understandings of effective research methods' (Monture, 1989-1990: 467). Monture continued: 'This report is also important in academic circles and women's circles because it carries a powerful message about research. Research methods to be effective must be culturally relevant. In this case, that meant respecting the traditional way of doing things of First Nations' Peoples'. In large part this meant accepting the validity of qualitative information, listening to the voices of those directly affected and not attempting to put them in a quantified context. Voices were to be heard individually and respected for their individual truths. Yet the fact that Sugar and Fox's report was considered acceptable, alongside the Task Force's commitment to underpinning their work with rigorous (and, for this, read empirical) research, also said something about the dynamics of the Task Force and the general reluctance to impose its collective will on the Aboriginal members. In saying this I am not implying that

⁵⁰ Detailed Notes of Steering Committee Meeting 19th September, 1989

Sugar and Fox's report was less worthwhile. Rather, that it was *different* and achieved its purpose of giving a voice to the voiceless in a highly effective manner.

The untested question is whether the cultural difference to be found within the francophone community would have been respected had the Québécois pressed for a similar report, irrespective of the fact that Québécois culture shared a common European heritage with the anglophones. As it happened, Québec's federally sentenced women were interviewed by francophones, but were not subsequently viewed as a distinct faction within the Euro-Canadian group. It might be argued that, as they shared a history of reliance on the penitentiary as a means of social control, even before they had separately colonised Canada, few distinctions needed to be made. Furthermore, the Exchange of Services Agreement, the *Tanguay Agreement*, enabled most Québécois federally sentenced women to be imprisoned in a francophone milieu, so they were seen to be less disadvantaged than many other imprisoned women. Yet, accepting these positions is to continue ignoring the importance of culture; those specific ways of knowing, indeed the 'truth' to which Sugar and Fox (1995) alluded. In assuming that the francophones were quite naturally part of the Euro-Canadian plan, the Task Force – perhaps unwittingly – imposed anglophone ways of knowing upon a province familiar with such treatment since the Conquest. This left a Québécois member of the Steering Committee appealing fruitlessly for 'the interests and special interests of French women' not to be overlooked.⁵² The Task imposed their knowledge in a larger sense (and were subsequently criticised for failing to consider black women separately), but I have been dealing with those three communities which historically have laid greatest claim to Canada. While we do not know what a truly Québécois plan might have looked like, we can perhaps safely assume that it would have been somewhat different, precisely because Québec itself is different.

With three months left until the deadline of the 15th December, the Working Group had reached the point where they needed to start the final planning process and acknowledge the importance of two strands; community interventions and prison

⁵¹ The community-needs interviews of non-Aboriginal women were also being carried out at the same time and both pieces of research were to become separate companion volumes to the final report.

interventions. It was suggested that, as long-term federally sentenced women would spend the greatest period in whatever new prisons emerged, their needs should dictate what would be regarded as the 'norm' when designing accommodation. Lee Axon, who had been commissioned to look at exemplary programmes available outside Canada, had told the Group of the adverse effects of visible and intrusive security on inmate participation in programming. She stressed that the greater the security the more likely it was to promote a 'them and us' culture, adding that it would be difficult to have programmes requiring 'openness and self-disclosure' if security levels were too overt. The wish to provide an environment which would 'reduce institutionalisation and support autonomous living' was seen as a short-term objective, with the longer-term objective being legislative change permitting greater 'flexibility in sentence management' and 'an Aboriginal Justice System'.⁵³ Once again, the Mandate was being exceeded.

The community model was also becoming clearer, especially the need to have adequate liaison between the prisons and those supporting the released woman in the community. But the Working Group had set themselves a problem, which they recognised, in wanting to move towards a community rather than a prison-based solution for these women, and they called it 'the central issue':

If a capital investment is made in construction (or lease/buy) how will the strategy to replace prisons with community-based interventions be moved forward?⁵⁴

They understood the risks inherent in providing better prisons and programmes. Sentencers would see them as being beneficial to the women, whereas the geographically dislocated Prison for Women had been a disincentive to sentence women to federal terms (see Bruckert, 1993). The Working Group's interim compromise was to take shape in the next three months.

⁵² Steering Committee Minutes 19th September, 1989

⁵³ Working Group Minutes 21st – 22nd September, 1989

⁵⁴ Working Group Minutes 21st – 22nd September, 1989

Conclusions and looking ahead

As this chapter has chronicled, the Task Force, but more specifically the Working Group, were experiencing geographic dislocation of their own. They needed to cross the country both for meetings and consultations. In between, they had formidable piles of papers to read and comment on and extra papers to prepare themselves. It is already clear that the francophones were on the periphery of decision making and that their omission, if not deliberate, was surprising in the context of events within Québec. It is also clear that the initially disregarded Aboriginals were proving themselves unexpectedly eloquent and influential, while ignoring the limitations of the Mandate and pressing for political issues to be considered as part of the Task Force's work. The constraints of the Commissioner's injunction to 'think broadly' have been further highlighted by the Task Force's inability to plan adequately for federally sentenced women from British Columbia. Those were to be imprisoned in the Burnaby Correctional Centre for Women, which was about to be built and therefore could not be replaced. The federally sentenced women themselves assumed a voice, yet those with the greatest experience of managing federally sentenced women, the staff of the Prison for Women, remained singularly absent from the debate. The tensions between the requirements and expectations of both the civil service and the voluntary sector have become apparent, with some of the conflict centred on their being involved in 're-forming' prisons, rather than reforming, or changing, the old concept of imprisonment. Some members of the Task Force, having overcome initial concerns about their participation, were faced with the realisation that they might not be able to restructure imprisonment at a fundamental level (see Hannah-Moffat, 2000).

This and the previous chapter might have subliminally suggested that some members of the Working Group took a more dominant role than others. On the evidence of the available minutes there is undeniably some truth in this, but there is also another consideration, articulated by several of the Group in separate interviews. Certain members were extremely influential, if not always publicly so. In particular, Sharon McIvor, was repeatedly cited for her skill in being able to refocus the Working Group on the reason for their sharing what at times seemed like an enforced, unwelcome co-existence, yet her name features infrequently in the minutes. The

Minutes' drafter, a civil servant, controlled the official record (and it is remarkable how silent some members appear to be), but it must be remembered that it is not the *whole* record, because the Minutes were continually refined before being sent out. (Minutes for the Steering Committee were much more forthcoming about names). Although my use and interpretation of the Minutes is necessarily selective and, in many respects, gives little idea of the sheer volume of work undertaken by the Working Group, it may be justified on the grounds that a new tale is emerging. One in which a minority group appears to be taking advantage of an unforeseen opportunity and is politicising the agenda of a government-sponsored initiative. Moreover, those who were unofficially charged with keeping the project on track – the civil servants – appear to be reluctant, or possibly unable, to prevent the politicisation. (But it may also be conjectured that part of the civil servants' failure to intervene was based on a pragmatism which suggested that, once the report was finalised and approved, they knew they would be in charge of deciding what changes ought to be made). Much has been written about the risk of benevolent ventures being incorporated by the state (for example, see Rothman, 1980; Cohen 1983, 1985; Freedman, 1981; Scull, 1983; Hannah-Moffat & Shaw, 2000; Hannah-Moffat, 2001). The Task Force appears to be demonstrating an alternative version of incorporation, wherein the seemingly less powerful Aboriginal participants have captured the moral high ground and are actively involving others in the dissemination of their views. Those whom they have not 'captured' appear, nevertheless, to have been neutralised by their own knowledge of Canada's colonial history and the terrible consequences for Aboriginal nations.

Why this should be so is something we must explore, as parallel ventures appear to be emerging. One in which the replacement of a prison for federally sentenced women is being planned; and one in which the replacement of a prison for federally sentenced women appears to have been overlaid with considerations of women's victimisation and, more specifically, Aboriginal women's victimisation. This should be borne in mind during the next chapter, as I continue to chart the work of the Task Force as it determined the content of the report. I show how events at the Prison for Women influenced the Task Force, right up until the time – and beyond – when the completed report was handed to the Commissioner of Corrections.

4. Facing the central conundrum

During the August meeting of the Working Group a submission from a prisoner at the Prison for Women had been tabled. It was written by Sandy Sayer and eloquently urged the Task Force to remember that, for prisoners, the real experts on imprisoned women were the women themselves. She was a reluctant contributor to the consultations, having seen many people attempt to provide solutions to the intractable problems of the prison, with few positive results. Despite her doubts about the outcome, she wanted to add her voice, in the hope that ‘something [would] work for our people’.¹ Ms Sayer, the mother of two young children, was a twenty-five year old provincially-sentenced Aboriginal woman who had been involuntarily² transferred to Kingston from Saskatchewan, and on the 7th October, 1989 she committed suicide in the Prison for Women. Hers was the third suicide associated with the Prison for Women in less than ten months and there were to be another four by the end of February 1991.

Her death had a profound impact on all involved with the Task Force; women such as Ms Sayer were the ones for whom they were all working. There was immense pain and, for those who knew Ms Sayer personally, a feeling of incredulity. One member of the Task Force remembered being told and, in distress, conveying the news to a work colleague, who responded: *Jesus, I can't believe you don't understand this one yet. Every suicide in Aboriginal country is painful for us because there isn't an Aboriginal person alive on the planet who hasn't thought of doing it themselves.*³ (Aboriginal women between the ages of ‘fifteen to twenty-four have a suicide rate almost six times greater that of other Canadian women’ (Johnson & Rodgers 1993: 110). Another member thought that for those on the Task Force with the closest links to Kingston: ... *who worked intimately* [with the imprisoned women] *there was a level of anger that this had to happen and here [they] were still talking about the same thing, the closure of the Prison for Women.* She emphasised the growing sense of connection they were all beginning to have

¹ 22nd July, 1989

² As Horii (2001) makes clear, the use of the term ‘involuntarily transferred’ obscures the fact that prisoners are being *forcibly* transferred.

³ Interview 20

with the confined women: *We visited the prison, we listened to them speak, we had submissions from them – I don't think anyone could have heard the voices and not been touched in a personal way.*⁴

But even for those on the Task Force who did not know Ms Sayer, her death felt intensely personal and akin to a rebuke for their failure to be further ahead in their work. In a sense Ms Sayer, despite her provincial status, represented all federally sentenced women living in what was thought to be the unsafe and inadequate environment of the Prison for Women. Of the seven suicides at the prison between December 1988 and February 1991, six were by Aboriginal women, and there were also high levels of self-harm amongst the women. It seemed that the prison imposed a form of state-sanctioned victimisation upon its inhabitants, and this perception counter-balanced the Task Force's views of the offending and victimisation of individual women, as we shall later see.

Nine days after Ms Sayer's death the Steering Committee met and was urged by co-chair James Phelps to 'proceed aggressively' with their work. Later that morning Fran Sugar (an Aboriginal member, and one-time federally sentenced woman) spoke at some length about the death of her friend. She explained that she felt guilty, frustrated and powerless 'as a member of the Steering Committee, in dealing with bureaucratic issues and long-term plans, while the living conditions for women at [the] Prison for Women become worse and the human suffering continue[d]'. She reminded the Committee that she had 'raised the concern of [provincial] transfers in a previous meeting as an urgent matter, but no action followed'. (The provinces sometimes resorted to transferring 'difficult-to-manage' provincially-sentenced women to the Prison for Women and a disproportionate number were Aboriginal.) Ms Sugar asked 'what [was] the purpose of the Task Force if it [was] not able to ensure operational change as necessary at the Prison for Women?' Noting 'the composition of the Steering Committee, the numerous government and non-government members who represented sufficient political power to affect (sic) change', she 'urg[ed] them to use their influence to produce

⁴ Interview 28

changes needed in the immediate and short term'.⁵ The Committee responded by suggesting that their long-term contribution would be in the form of a completed report recommending an alternative to the Prison for Women. Their short-term response was to produce an immediate formal Motion to send to Commissioner Ingstrup, the Deputy Commissioner responsible for Ontario (wherein lies the Prison for Women) and the Warden of the Prison for Women (who was also on the Working Group). The Motion urged that 'the existence of the Task Force [should] not preclude immediate action' at the Prison and that 'involuntary transfers of provincially sentenced women to Prison for Women [should] cease forthwith'.⁶

This decision to send the Motion was not easily reached, irrespective of how each member might individually have felt. Almost half the Steering Committee were civil servants, with eight working for either provincial or federal corrections and, for them, the Motion was a direct criticism of those to whom they were answerable in Corrections. Although drafted by the Steering Committee, the Motion was sent on behalf of the Task Force and the same difficulties were faced by the civil servants on the Working Group. They understood that, while a Task Force could be an expedient choice because of its relative speed compared with a Royal Commission, its expedience also rested on its ability to include members able to influence the decision-making process. Signing a Motion so critical of the Correctional Service of Canada appeared to some to be 'improper'⁷; their role as civil servants was discreetly to further the work of government and, above all, to provide the public appearance of impartiality. But they also had to protect the Commissioner from adverse criticism, even when the criticism was relevant to what some knew he wanted achieved – the closure of the Prison for Women. Civil servants operating at this level are always aware that their careers are less important than that of the relevant Minister and their work is carried out with considerable constraints attached to it because policy, especially within the bounds of a federal system of government, can never be seen as an isolated construct. It is always set in the context of other policies, which inevitably reflect the political bias of the

⁵ Steering Committee Minutes 16th October, 1989

⁶ 16th October, 1989

⁷ Interview 31

party in government – and, in Canada, the political bias of the federal government is not necessarily reflected in each provincial government. This knowledge would have made the civil servants hesitate before signing, yet sign they did. Co-chair James Phelps was later to say that he felt he had to reflect the views of the Task Force, rather than his own: *For the inclusive consultation process to be effective and to retain the respect and support of the Task Force I had to represent accurately the views of the members of the Task Force, even in the difficult situation where the views were critical of operations of the Correctional Service of Canada and / or its administration.*⁸

How much attention would actually be paid to the Motion was beyond the control of the Steering Committee and it was sent more in hope than expectation. Fran Sugar's view that some on the Task Force 'represented sufficient political power' to effect change was accurate, but not in the sense that change could be immediate or was indeed wanted.

Emerging from the shadows; profiling the federally sentenced women

The Working Group, meeting on the 25th - 27th October, were equally shocked by Ms Sayer's death and their immediate concern was to do whatever they could to ameliorate the lockdown within the prison, which at least one member believed had had a direct bearing on Ms Sayer's death. Peer-support⁹ was impossible and Elder Joan Lavallee was consequently allowed into the prison to work with the women.

The October meeting was, arguably, the most important of any undertaken by the Task Force as the Working Group were about to decide on how they would replace the Prison for Women. With events at the Prison for Women foremost in their minds, they still needed to be able to consider the results of the survey of federally sentenced women which Margaret Shaw was about to present to them. For the first time they were to have properly documented information about those for whom

⁸ Interview 2000

⁹ Heney (1990) noted that 'a good deal of the counselling/emotional support that takes place in ... prison is provided by the prisoners themselves'. She suggested that prisoners should be trained as 'support counsellors' and her recommendation led to the first 'peer-support' team being formed at the Prison for Women in 1990. All of the new regional prisons for federally sentenced women have similar teams of trained prisoners able to offer help to fellow inmates during times of personal crisis.

they were planning and Shaw's evidence was crucial in supporting any decisions they might make. A remarkable aspect of this was that such information had not been gathered before; CSC itself did not know its client group in the detail then made available. In common with imprisoned women across the world, imprisoned women in Canada were a tiny part of what was essentially a male phenomenon. With so few imprisonment options available for federally sentenced women, it had been easier for the Canadians to justify gathering information about larger groups of individual men, as defined by their offence. Even this was a haphazard enterprise, as 'during the 1980s Statistics Canada abandoned efforts to collect national court data' (Johnson & Rodgers, 1993: 96). Ms Shaw's report to the Working Group was a preliminary view of the greater detail she was due to provide in December and the following, derived from the full report, illustrates the scattered nature of the population.¹⁰ Eighty-five percent of all federally sentenced women were interviewed.

Table 1. Distribution of Incarcerated Federally Sentenced Women's Population in 1989

Location	Native	French	Other	Total
P4W	25*	14*	87	125
Québec	1*	26*	6	32
Manitoba	4	-	3	7
Saskatchewan	5	-	-	5
Alberta	6	2	12	20
B.C.	5	1	8	14
Total	46* (23%)	43* (21%)	116 (56%)	203

* two women were both Native and French-speaking
(From *The Survey of Federally Sentenced Women* Shaw et al 1991b)

From the above it can be seen that 78 women were living in provincial prisons. Ten of those classified as 'other' were from outside Canada. It can also be seen that the number of Aboriginal women, although disproportionate to their numbers in Canada as a whole, was roughly equivalent to that of francophone women.

¹⁰ *The Survey of Federally Sentenced Women* was to be published as a companion volume to the Task Force's eventual report and concentrated on those federal women actually in custody. *The Release Study: Survey of Federally Sentenced Women in the Community* and the *Survey of Federally Sentenced Aboriginal Women in the Community* provided another view of these women and their lives.

Table 2. Average Sentence Length of Federally Sentenced Women in 1989

under 5 years	5 - 9 years	10 years & over
48%	22%	30%

Table 3. Distribution of populations by offence in 1989

Offence		
Murder	44	(22%)
Attempted murder	3	(1%)
Manslaughter	38	(19%)
Robbery	34	(17%)
Assaults	21	(10%)
Theft, fraud etc.	30	(15%)
Drugs	24	(12%)
Other	9	(4%)
Total	203	(100%)

(Adapted from *The Survey of Federally Sentenced Women* Shaw et al 1991b)

Other relevant information

- over 33 percent of the women were first-time offenders;
- 87 percent were first-time federal offenders;
- 50 percent had never previously received any prison sentence.

- 64 percent of the women had children and 48 percent of those interviewed had responsibilities for at least one child of school age or below;
- women held provincially had far greater contact with their children than did those at the Prison for Women and the interviews had revealed an intense wish on the part of most women to maintain contact with their children.

- alcohol and drug addiction was, or had been, a problem for almost 75 percent of the women;
- 71 percent of women with addiction problems claimed this had contributed to their offence or offending history;
- for Aboriginal women, problems with and caused by addiction were even more marked; of the 39 interviewed, only three (8 percent) said they were not addicted.

- 68 percent of those interviewed had experienced physical abuse and 53 percent had experienced sexual abuse (the abuse was self-identified);
- these figures were much higher for Aboriginal women, with 90 percent having experienced physical abuse and 61 percent sexual abuse;
- the women drew their own parallels between the abuse they had suffered and their subsequent addictions. A little over 50 percent of the women had self-harmed, either by cutting, or by attempting suicide, and 20 percent of these had attempted self-harm during their time in prison.¹¹

Working towards a solution

In considering possible options the Working Group had to face the central conundrum:

If a capital investment is made in construction (or lease/buy), how will the strategy to replace prisons with community alternatives (including Aboriginal community alternatives) be moved forward?¹²

As the Task Force later explained, they believed that society had to ‘move towards the long-term goal of creating and using community-based, restorative justice options, and an alternative Aboriginal justice system’. They also thought that ‘substantial and significant changes [should be] made *immediately* in the environment of federally sentenced women’ (TFFSW 1990: 78).¹³ However, legislative constraints meant that, while they could articulate hopes for community and Aboriginal alternatives, they had no option but to plan for further imprisonment. To have planned on the basis that legislation might be enacted in the future would have fatally compromised the possibility of the report’s eventual implementation. It was also essential that their planning should be transparent and, as co-chair Felicity Hawthorne commented, ‘detailed testing of [the] options

¹¹ All this information is taken from *The Survey of Federally Sentenced Women*, Shaw et al 1991b

¹² Working Group Minutes 25th – 27th October 1989

¹³ Canada has embraced the principles of restorative justice in a correctional context and victim-offender mediation has been in use for nearly 25 years. Community conferencing, based on the New Zealand model of family group conferencing, is now being used more widely. Community sentencing panels are also being set up. The Restorative Justice and Dispute Resolution Unit of CSC produced a lengthy list of projects, either on-going or about to be implemented, in 1998. Much of the emphasis appeared to be on Aboriginal-style projects, which is not to say that they are necessarily faithful to Aboriginal principles of justice. The new Aboriginal Healing Lodges are based on Aboriginal principles of justice, which also happen to be restorative.

[would] minimise the possibility of individual reconsideration after the Report [was] delivered'.¹⁴ Before beginning the process, each member of the Working Group took time to explain her own view of the way forward and it was clear that Sandy Sayer's death was central to their unanimous decision that the Prison for Women should close. They answered the 'central conundrum' by accepting that it would be impossible to plan for the longer-term goal of community solutions for federally sentenced women without first having an interim accommodation option available to replace the prison. This meant the adoption of a dual-track strategy. Any move towards a community solution inevitably meant that their new plan should have a regional dimension. This led to the suggestion that a limit should be placed on the number of new prison places provided so as to increase the likelihood of returning women to the community. In an unconscious replication of the rationale underpinning the replacement of Holloway Prison in England, one member suggested that the new accommodation should 'be designed to facilitate its conversion to other non-correctional functions in the event the long-term goal [of community disposition] is achieved more quickly than projected'.

Having decided against the possibility of retaining the status quo – the Prison for Women, ESAs and provincial prisons – the Working Group had to decide how, and with what, these would be replaced. At the same time they also rejected other options, but needed to demonstrate their unsuitability so that the logic could not later be questioned by those responsible for implementation. Consequently, the Working Group evaluated each possibility, using a check-list of ten factors. In outlining the reasons for rejecting the Prison for Women I shall list each factor and it can be assumed that these also applied to the other options discussed. I do this in order to augment the public record because, as will become apparent, the reality of the Prison for Women quickly faded in both the public and civil service consciousness. We need to understand – and remember – just why the prison was thought to be so unfit for federally sentenced women. According to the Minutes, there was a considerable degree of unanimity on the main issues and this can partly be explained by what was, by then, the Working Group's shared experience of visiting both the Prison for Women and some provincial prisons. These had

¹⁴ Working Group Minutes 25th – 27th October, 1989

powerfully illustrated what they did *not* want, making it somewhat easier to focus on what they did want. And, undeniably, exhaustion played a part: *We'd talk and talk and talk until we were too exhausted to fight anymore. That's how consensus worked.*¹⁵

(Deciding against) *Retaining the Status Quo*

Community involvement:

- the Prison for Women's design physically precluded much community involvement;
- Kingston was not the home community of most federally sentenced women;
- federal women electing to be held provincially received variable community access, depending on their home province.

Existing realities (those facilities across Canada which already held federally sentenced women):

- the new prison at Burnaby (British Columbia) had to be part of whatever they recommended, irrespective of whether it fitted their developing philosophy. There were deep concerns about its design and the ability of its staff to operate within a new philosophy (see chapter 3), so the Working Group inserted an important proviso – that the existing *Burnaby Agreement* should be re-examined after seven years to see if it met the federal standards operating elsewhere (something which did not actually happen);
- the (proposed) *Fort Saskatchewan Agreement* (another Exchange of Service Agreement), which covered women in Alberta and parts of Manitoba and Saskatchewan, should not be pursued because it relied on a co-corrections¹⁶ model, which the Working Group opposed;
- Maison Tanguay (also see chapter 3), on the outskirts of Montréal, was subject to the *Tanguay Agreement*. The Working Group were especially critical of

¹⁵ Interview 31

¹⁶ A distinction should be made between this co-corrections or 'mixing' model and 'shared-site detention', wherein men and women are housed totally separately on the same site, sharing programme and recreation facilities, but at different times (see Faith, 1993; Hayman, 1996). With the co-corrections model most activities may be jointly undertaken, but accommodation is generally separate.

Maison Tanguay's design, lack of programmes and correctional philosophy, but acknowledged that its location was 'ideal' for community access.

Aboriginal needs:

- neither the Prison for Women nor any of the provincial facilities provided a 'culturally appropriate physical environment [with] access to the outdoors, spacious grounds [or a] dedicated space for a sweatlodge';
- Aboriginal people were disinclined to work in traditional facilities and Kingston was not close to an Aboriginal community;
- none of the existing facilities showed any sensitivity towards, nor respect for, Aboriginal spirituality and traditions.

Proximity to home / cultural environment:

- to be offered the choice between location (province) and programming (the Prison for Women) was in effect no choice at all. Women had always had the threat of a transfer to the Prison for Women hanging over them, while held provincially, and the Working Group rejected this coercion of 'good behaviour'.

Access to appropriate programming:

- programming at the Prison for Women was limited by the design of the building and its management. Provincial facilities offered fewer programmes and those available were not designed with the needs of the long-term prisoner in mind.

Ease of addressing language requirements:

- neither the needs of the francophone living in the Prison for Women, nor of the anglophone residing in Maison Tanguay were adequately met.

Consistent with views of the federally sentenced women:

- the choice between location and programming was unfair and unacceptable to the women. Most wanted to be closer to their families and home communities and to be able to serve their sentence in an environment which did not infantilise them by removing most elements of choice in their daily lives. (In

this the Working Group favoured the majority view, but 19 of the 170 women interviewed by Shaw et al (1991b) preferred to remain at the Prison for Women).

Consistent with consultation and research feedback:

- the Prison for Women's physical environment, lack of programming and location had been rejected during the consultations. The commissioned research had shown that most women did not require the levels of security to which the prison subjected them and that high security also militated against effective programming.

Ease of meeting design assumptions:

- none of the design assumptions (which will be discussed elsewhere) could be met.

Ease of facilitating release:

- in the absence of adequate community support (unavailable to most women in Kingston) women did not become eligible for release at the earliest possible point in their sentence.

Upon reviewing these, we can see the direction in which the Working Group was moving: the Prison for Women, measured against most criteria, was unacceptable; provincial Exchange of Service Agreements provided inadequate resources for the women; access to families, home communities and culture was essential; the women's needs had to be allied to choices. Yet in striving to avoid 'coercion' of good behaviour, the Group showed perhaps unwarranted hope, or naivety, that different behaviour might emerge, without coercion, and be consistent in a new prison. They were certainly ignoring the lessons of history, which showed that failure was 'the inevitable result of attempting to improve prisoners within coercive settings' (Rafter 1985: 74). They were also disregarding the fact that prisons are what Sparks et al (1996) call 'dominative institutions', in which people are involuntarily confined and deprived of the right to make the most fundamental decisions about their own lives. Under the Working Group's emerging plans good

behaviour might no longer have been coerced by the threat of transfer to another prison, but to imprison a woman in a furnished 'room' in her own province, rather than in a barred cell, did not eliminate the reality that the 'room' was still a place of confinement. They were in the process of moving from 'open to hidden discipline' of the women (Mathiesen 1983: 139), with the women's regulation undiminished. In planning new prisons the Working Group were following the historic path paved by 'good intentions', while paying less attention to the possibility that 'prison reforms always take place within political conditions which might result in their outcomes being very different to the intentions of those who put the reforms in place' (Carlen 1998: 98).

The other options

An enhanced status quo?

The Working Group moved on to look at the possibility of retaining and *renovating* the Prison for Women and having it operate in conjunction with enhanced Exchange of Service Agreements. All of the arguments previously used against the prison still applied, but the Working Group wanted to emphasise the impossibility of transforming the bleak prison, or the shared provincial prisons, into 'truly adult environment[s]'. This ignored the reality of imprisonment; that an 'adult environment' was not consistent with the removal of personal autonomy.

A central facility?

Having rejected the Prison for Women, in any manifestation, was another central prison a possibility? The Group decided not, largely because of previously rehearsed arguments, but also because of the necessary scale of a replacement. They felt that 'its size alone [would] inevitably result in an institutional environment and ... the re-appearance of traditional institutional administration'. Security would be disproportionate to the needs of most of the women and it would be difficult to establish 'positive and supportive relationships between staff and prisoners'. The Group did not discuss the possibility that more and better programmes could be made available precisely *because* of a central prison's scale; the argument against geographic dislocation had already prevailed. Similarly, there was no apparent acknowledgment that 'an institutional environment' is an

inevitability wherever there is a prison, however modified, but this could be a failure of the Minutes, rather than of the Working Group.

Co-corrections?

The possibility of a co-corrections model, which would mostly have entailed 'sharing all facilities apart from living quarters' (Shaw et al 1991b: 57), was also rejected. Shaw's research showed that a 'significant' number of women favoured this as an option, with some citing the 'more normal atmosphere' of being alongside males (Shaw et al 1991b: 59). The prime reason given for rejection of co-corrections by the Working Group was that it was 'insensitive to the situation of many federally sentenced women who have been abused and exploited by men'. The Working Group felt so strongly about the inappropriateness of co-corrections that they declared this choice to be 'as unacceptable as the location/program choice of the status quo'. In this the Working Group seem to have assumed that their own expertise surpassed that of the women and that they should recognise women's victimisation, even if the women refused to recognise it on their own behalf. This was yet another instance of the Working Group tending to see all federally sentenced women as a homogeneous group, not even separated by ethnicity, but defined by its victimhood and inability to act independently of this definition. It was also another instance of the 'maternalism', which suggests that women have qualities and insights unique to their sex, which Hannah-Moffat (2001) took great care to detach from the 'maternal feminism' described by Freedman (1981) and Rafter (1985), suggesting that the two were not necessarily compatible.

Exchange of Service Agreements?

The Group soundly rejected Exchange of Service Agreements as a stand-alone option, commenting that 'effective implementation of the proposed innovative interim strategy for federally sentenced women require[d] direct federal management'. This left Québec effectively grouped with the anglophone majority, with no recognition that the province might wish to act independently, on the basis of its distinct cultural needs, as indeed it considered doing once implementation was under way.

Labelling the 'difficult to manage' woman

The Working Group had shown why none of the proposed options should be pursued, in the hope that this explicit dialogue would remove any possibility of their decisions being questioned at a later stage. They knew that regionally-based facilities provided the best chance for federally sentenced women to be closer to their home communities. They expected that the new facilities, because of their size, would allow the possibility of a greater range of programmes being offered to the women than were then available in the provincial institutions.¹⁷ But what would these new facilities be like? Where would they be located? To be able to answer these questions the Working Group had to focus more intently on the composition of the federal women's population and, initially, this meant deciding what proportion of them might not easily fit a new model.

The Security Classification Exercise (which would have provided more detailed information on the security needs of the women, as explained in chapter 3) had been cancelled because of the fear that the situation at the Prison for Women might lead to over-classification of the women. A Case Management Review, which might also have given some information about risks posed by individual women, had been rejected as it was 'not designed for women offenders'¹⁸, so that was another closed avenue. In the absence of specific figures the Group looked at those women 'whose behavioural problems currently result in their removal from the general population at the Prison for Women'. Without the guidance of the Warden, who did not attend this meeting, and failing details from CSC itself, they had to rely on advice from Group member Sally Wills, the Executive Director of the Kingston E. Fry Society. The assumption underlying the focus on these women was that the provinces only held federally sentenced women whose behaviour was unproblematic. In other words, those federal women who were held provincially would be representative of the mass of federally sentenced women, because any found to be difficult would already have been transferred to Kingston.

¹⁷ Although the new institutions would be smaller than the Prison for Women, and more akin to provincial prisons in size, programmes within them could be designed in relation to the needs of federal women. When housed within the provincial system the programming needs of federal women tended to be ignored, in much the same way that imprisoned women's needs were generally considered after those of imprisoned men.

¹⁸ Steering Committee Minutes 19th September, 1989

Nevertheless, the Working Group believed that *all* federally sentenced women should be categorised as ‘high need’, requiring ‘high support’ levels, yet another instance of the Group emphasising the women’s presumed lack of agency. (‘High need’, linked to ‘low risk’, was later to become part of the discourse surrounding federally sentenced women.)

It was estimated that of those women ‘removed from the general population’: four were psychiatrically / psychologically ill; ten had serious behavioural problems, making them ‘a danger to themselves and / or others’; twelve required protection from other inmates. These comprised a group of twenty-six women. Referring to Shaw’s *Survey of Federally Sentenced Women*, and using the numbers provided therein, during the months of August through to November 1989 there were 203 women serving federal sentences, with 125 being detained in the Prison for Women. So the twenty-six women represented 21 percent of the total population at the Prison for Women and 13 percent of all federally sentenced women. However, the Working Group considered that ‘oppressive environments such as the Prison for Women [fed] unacceptable behaviour’. They also thought that ‘a series of regionally-based facilities would assist the re-integration of the twelve “protective-custody inmates” into the standard living accommodation’.¹⁹ Therefore, the number to be considered was reduced to fourteen. Having assessed the ten who were ‘behaviourally disordered’ the Group decided that five would ‘function well in a different environment’. The remaining five would require a ‘therapeutic milieu’, as would the four thought to be psychiatrically ill, and these nine women represented less than 5 percent of all federally sentenced women.

The conclusions, reached without benefit of any empirical evidence, must raise questions about how aware the Group was of the evidence that women were being increasingly sentenced, for longer periods, for crimes of violence, even though Shaw’s research had alerted them to this in July (see Shaw 1991a: 45 & 84). Yet, although more federally sentenced women were being sentenced for crimes of violence, their violence was often set within a context of abuse and addiction.

¹⁹ The Minutes are contradictory, at first referring to twelve women in protective custody and later to ten. I have calculated on the basis of twelve being in protective custody.

Once imprisoned, they were not necessarily seen as institutional risks by the prison authorities. Although Margaret Shaw herself attended this meeting to present preliminary findings from what was to be the (separate) *Survey of Federally Sentenced Women*, that study was never intended to be an examination of why or how women had become federal prisoners (although informed deductions could certainly have been made from the assembled data). Rather, it was designed to show who they were and ‘to assess the views of the women themselves on the experience of imprisonment’ (Shaw et al, 1991b: 1). In the eighties much of the discussion in Canada about violent women – when, indeed, there was discussion – centred on women as victims of male violence, who reacted to rather than instigated violence. But in the late seventies and early eighties there had been much debate about Adler’s hypothesis that women’s liberation, as exemplified by second-wave feminism, would lead to an increase in their criminal activity and that their behaviour would more closely resemble male patterns of violent offending (see Adler, 1975: with commentaries by Box, 1983; Heidensohn, 1985, 1994; Gavigan, 1987). So it could not be said that the spectre of the violent woman was unknown, even if Box, amongst others, had largely dismissed this view, demonstrating that ‘the increase in female convictions for *violence* seemed to be explained by changes in social labelling practices’ (Box, 1983: 198).

While in Canada it had been important, politically and socially, for the extent of violence against women to be recognised (see Rock, 1986) there was also an ‘underlying predisposition to view criminal women as more victims than aggressors, more sinned against than sinning, more to be pitied than blamed’ (Allen, 1987: 93). Further, ‘that feminist discussions are ready to explain female offending by reference to social or economic forces, ... or to [their] oppressive domestic and familial situations’ (Allen, 1987: 92). Although Allen was writing in an English context, her words were equally applicable to Canada, where feminists also found it difficult to grapple with the idea that (some) women could be intentionally violent in situations where they were not themselves under threat.²⁰

²⁰ The 1993 conviction of Karla Homolka in connection with the murder of her sister and two other young women, received enormous publicity in Canada. The controversy surrounding her trial – and plea-bargain with officials – focused attention on women’s capacity for violence. The graphic

However, as Johnson (1987: 30) noted, in the late eighties there was ‘a serious lack of information about women offenders [in Canada and] their role in crimes of violence’. She cited statistics showing that ‘7,000 charges were laid against women in 1985 for acts of violence, up from less than 1,200 in 1965’ and suggested that much of this could be explained as women retaliating in abusive domestic situations. (It must be remembered that only a small percentage of these women would receive a federal sentence). She also cautioned that the base figures for women were very much lower than for men, so that any percentage shifts had to be treated with care. This was a position that Johnson and Rodgers were to adopt again in 1993, when they also had pertinent comments to make about Aboriginal women in conflict with the law, making specific links with their offending and the ‘near-complete breakdown of the Aboriginal culture and traditional way of life’ (Johnson & Rodgers 1993: 110). La Prairie amplified this point when discussing the ‘role strain’ experienced by Aboriginal *men* and how this had frequently manifested itself in violence towards those closest to them – their partners and children. La Prairie (1993: 237) believed that ‘the importance of links between the victimisation of Aboriginal women as children, youth or young women due to sexual assault or family violence and future conflict with the law cannot be overemphasised’.

All on the Working Group were aware of the social and economic circumstances of the majority of federally sentenced women. But it is too glib to say that the Group erred in characterising these women as victims rather than (some) as simply violent offenders, because the research evidence supported this view, especially regarding Aboriginals. It seemed they did not want to take the next step and see federally sentenced women as both victim and victimiser. Yet the question of violence and hard-to-manage behaviour was discussed, even if it did not appear in the Working Group’s minutes: *Some of us were saying ... but supposing, once in a blue moon, all that nice stuff doesn’t work ... are you going to have solitary confinement ... are you going to have the normal range of punishments available? What are you going to do when it comes down to a really tough situation? [And] certain people were*

facts of the case, preserved on video by both Ms Homulka and her husband, have unsurprisingly coloured the public debate on women’s propensity for violence.

saying 'no, you never have to do that because these new places are going to be so well run'.²¹ Because the veracity of the 'victim' discourse had been accepted by a large proportion of the Group, members felt unable to label too large a number of federally sentenced women as violent. Under the consensus model to which they were working, this perspective prevailed. As we shall see, an added dimension resided in the Group's reluctance to criticise Aboriginal views. In tacitly accepting that Aboriginal women were victims, the Group's reliance on 'consensus' meant that it would have been impossible for them only to label non-Aboriginal women as violent or disturbed offenders. Some would also have felt that in many instances women's violence had a kind of rationality attached to it and that they were acknowledging women's agency, rather than denying it, as was later alleged.

Undoubtedly, there were some members who continued to be unhappy with the failure to address yet another of the 'tough' issues. Largely, these were the civil servants, yet one member from the voluntary sector also remembered: *There were those of us who didn't agree, who felt that there were very serious and real problems to be addressed – and that they had to be addressed in a more secure environment. ... It was hard to think how we could accommodate them ... without building another prison that looked like a Special Handling Unit. But some of us felt very strongly that there were women in that category ... We finally had to come to something we all could live with, not necessarily comfortably, so we couldn't put the spotlight on them that they probably deserved ...*²² A civil servant commented, in the context of the need to complete their task: *The least productive outcome is to have no report, no solutions. E. Fry didn't get everything they wanted because they wanted to do away with prisons altogether. I guess CSC got most of what they wanted, but the solution to the most difficult female offenders they didn't. ... The advocate groups had come a long way and they didn't really want to discuss dangerous women and had we tried to push them ... there would have been a big argument leading nowhere and they would have held off as long as they could in agreeing with anything.*²³ Pragmatism aided consensus and, as another civil servant added: *I think there was [a feeling of] let's get a consensus now and, on the*

²¹ Interview 31

²² Interview 28

²³ Interview 27

*part of the CSC folks, there was a recognition that we would get it done later.*²⁴

Some from the voluntary sector failed to recognise that CSC would then be able to define the eventual provision for violent and / or disturbed women, perhaps because they had come to know and trust some of the civil servants who might later be involved in the report's implementation. This was to have consequences later. Yet those same members from the voluntary sector would have contended that, had they been prepared to plan definitively for the 'difficult to manage' women, CSC would then have taken it as an opportunity to expand provision once implementation began. As a consequence, the Working Group continued to plan almost entirely for a homogeneous 'woman' who required support, rather than security.

Through the media, and often in the public mind, the violent woman is sometimes conflated with the mentally disordered woman. Kendall (1999: 90) shows that 'serious anxieties about women's mental health' did not really emerge until the release of the Task Force's Report and the separate 1990 *Task Force on Mental Health, Special Needs of Female Offenders*. The latter said that '*only five per cent of women prisoners show[ed] no evidence of serious disorder*' (emphasis added) which makes it especially notable that relatively little attention should have been paid to them by the Task Force. Even if the specific information was not available to them at that precise moment, it was certainly mostly available prior to the time the report was completed. What Kendall terms the 'psy-sciences' had been well and truly entrenched in Canadian prisons for years and, with the acceptance of the medical model during the 1960s, the 'psy-experts' had an even higher profile (Kendall 1999: 87), even if 'they were not the primary mechanisms for the governance of women prisoners' (Hannah-Moffat 2001: 105). The medical model was never entirely displaced, even when other jurisdictions had moved away from it. Within the Prison for Women inmates were subjected to some highly irregular treatments, and during the 1960s LSD was given to at least 23 women and electro-convulsive therapy administered to others. Although these experiments were conducted 'with the full knowledge of the prison's superintendent and senior corrections official in Ottawa' and published in the *Canadian Journal of Corrections* in 1964, at issue was the question of obtaining informed consent. It

²⁴ Interview 31

was only in 1998 that an official complaint was made and an investigation launched (*Kingston Whig-Standard*, 1998; Kendall 1999: 87; Hannah-Moffat 2001: 102-4).

By the early 1990s there were a significant number of psychologists and therapists at the Prison for Women, many of whom used a feminist model of treatment, the key principles of which are: 'personal autonomy (empowerment) and connection with others' (Kendall 1993a: ii); seeing women within a broader social context than solely as individuals with emotional problems; and stressing 'the equalisation of power differentials between therapist and client' (Shaw 1997: 80, 81). Kathleen Kendall was contracted to evaluate the prison's services in 1992 and, although she found that 'inmates [were] very supportive of the individual counselling currently provided', she also stressed that 'the very nature of prison imposes control' and that prisoners needed 'a choice of whether or not to engage in therapy' (Kendall 1993a: 45, 39; also see Kendall 1993b, 1993c). In this, Kendall's use of 'choice' echoed the language which had earlier emerged from the Task Force, but her interpretation of the term was significantly different. Thanks to the Task Force, language-use was to undergo a transformation and 'healing', which was also part of Aboriginal discourse, was to become part of the softer language used by Corrections to describe what Kendall refers to as the 'opportunities model' which now co-exists with the 'medical model' (Kendall 1999: 89).

The Working Group had reluctantly identified a small group of 'difficult to manage' women, but where should they most appropriately be housed? Within Canada there are Regional Psychiatric Centres (RPC) and Regional Treatment Centres (RTC), both of which groups of institutions could be used to house women requiring intensive help. This option was not acceptable as the small numbers of women involved would mean their being isolated within a much larger group of men, in an environment where the correctional emphasis overwhelmed the therapeutic. Faced with the women's small numbers, would it be better to have a specialised unit attached to one or two of the new regional facilities (with the implication that specialised staff would be better able to provide for their needs)? Again there was a negative response, occasioned by the fear that such a resource could be used as a dumping ground by the other prisons, when challenged by

women's behaviour, in the same way that the Prison for Women had been used for some provincially sentenced women. It was therefore decided that each new institution would manage these women using mental health specialists on an 'as-needed' basis, reinforced by 'unobtrusive security measures'. An important aspect of this was that federal women, who in the community would have been assessed as requiring hospitalisation, were expected to be admitted to provincial psychiatric hospitals, rather than to correctional psychiatric facilities. The Task Force dealt with the lack of concrete evidence in their report, noting that although they had received 'preliminary data on the mental health needs of women ... as assessed by the Diagnostic Interview Schedule Survey (DIS Study) ... more analysis need[ed] to be done', but the DIS study 'confirmed ... that federally sentenced women have a high need for mental health related support and intervention' (TFFSW 1990: 86). *Creating Choices* emphasised that, because of this lack of information, the Task Force could not make a 'definitive recommendation' as to appropriate accommodation. The Working Group, affected once again by the demands of consensus, felt unable to be prescriptive in terms of specifying anything other than the standard accommodation, with additional small support units. The image of the homogeneous 'woman' continued to prevail.

The Healing Lodge; accommodating a 'distinct' group

The decision that women with mental health needs should be provided for at each new prison left the Working Group free to concentrate on planning completely new institutions which would house all federally sentenced women. But there was one further decision to make before the precise number of new prisons could be settled upon. Would there be specific provision made for Aboriginal women, or would they be integrated in all the new prisons?

It is at this stage that the official strands become confused. The October Working Group Minutes refer to a proposal made during their September meeting, but nothing was actually noted in the September Minutes.²⁵ The Aboriginal Women's

²⁵ *Detailed Notes* were provided for the September Steering Committee meeting. The Steering Committee subsequently decided that *Detailed Notes* would not be provided and that all recordings and notes would be destroyed once the Minutes had been drawn up. In the light of the repeated complaints by the Aboriginal participants that their comments were frequently omitted from the

Caucus had met for three days at the end of August and their records show discussions of a possible half-way house, or Medicine Lodge, but this was envisaged as a resource for Aboriginal women released into the community. Following the September Steering Committee meeting the Aboriginal women had all met and it is likely that they discussed the possibility of a dedicated Aboriginal facility then, but there is nothing in the official record to indicate precisely when the idea first emerged. What is clear from anecdotal evidence is that the idea of a Healing Lodge was first mooted by Alma Brooks, a member of the Aboriginal Women's Caucus and NWAC, and that this concept had been articulated, if not fleshed out, some time prior to when it was first proposed to the Working Group. The October Minutes clearly credit Patricia Monture with articulating the 'preliminary conceptualisation' which was 'based on her discussions with other Aboriginal women'.

The preliminary vision and its transformation into reality will be discussed in greater detail in chapter 8, but it is important to establish here the unique nature of what was being proposed; specifically, that *all* Aboriginal women should be able to choose to go to a Healing Lodge, irrespective of their security classification. They would not be sent there because a court had stipulated they should be; rather, the choice would be theirs and could be made at any stage of the sentence. The Lodge would be situated in open, spacious grounds and its heart would be a 'large round room to be used for ceremonies, teaching, workshops with Elders, healing ...'. An Elder would be essential to its function as a place of healing. Almost as essential was that the Lodge should be 'affiliated with an Aboriginal community', yet it 'would also have to be located near a major urban centre in recognition that Aboriginals live in a dual reality'. How this initial vision should be transformed into physical reality was the task awaiting them and the Group was advised that a Lodge would not lessen the need to provide Aboriginal programmes and services in the other facilities. Any sense of the correctional aspect of the Healing Lodge was almost completely effaced from the discussions, almost as though the name itself accurately denoted its purpose. It is interesting that this concept should have taken

official record this was a bizarre decision, even if it continued the consensus model agreed by the Working Group.

so long to be placed on the Working Group's table. A civil servant commented: *It didn't come up early on because most of the meetings were about just women and what were we going to do ... recommend new prisons, joint options? ... and all with the understanding that in the mean time the Aboriginal representatives were in discussions with the Elders and that they would bring to the Working Group the results of those deliberations. ... There was also a sense that the Aboriginal members were not prepared to devote the final meetings to fleshing out the Healing Lodge because it was all very new to them as well.*²⁶ This provides another example of the Task Force declining to be prescriptive about a proposal but, with the Healing Lodge, the outcome did not leave the final definition entirely in the hands of CSC.

The sentenced Aboriginal woman was seen by other Aboriginals as being almost entirely a product of colonial oppression, whose personal choices were circumscribed by the larger socio-economic environment in which she lived. The criminalising of Aboriginal women was thought to be the consequence of a colonialism which had left Aboriginal communities across the country ill-prepared to cope with the outcome.²⁷ For Aboriginal women 'healing', or coming to terms with those factors, had to take precedence over any notions of punishment, because the greater harm had been inflicted by the dominant culture, even if its manifestation had been a criminal offence by an Aboriginal woman. Of course, the same argument regarding victimisation could be used for many non-Aboriginal federally sentenced women (and the final report perhaps goes some way towards doing this) but it was acknowledged that Aboriginal women experienced double discrimination, or what Monture preferred to call 'discrimination within discrimination through the addition of racial stereotypes'.²⁸ For Aboriginal women the law remained a dominant society construct, despite the fact that it was also intended to protect them, and their own experience was that justice was not applied equally.

²⁶ Interview 30

²⁷ Some communities managed to find their own solutions, but only after years of struggle. Alkali Lake is perhaps one of the most famous examples, because of the way in which it managed to find a collective way back to sobriety. (See Warry 1998; Morrison and Wilson 1986).

This Canadian concept of ‘healing’ while incarcerated, as exemplified by the Healing Lodge, was then unique and came to be the cornerstone of the Task Force’s report. But in the Aboriginal context it was also an extraordinary venture into the unknown. As *Creating Choices* makes clear, ‘the [Euro-Canadian] concept of punishment is alien to the Aboriginal culture. The focus on restoration of harm and finding direction through teachings and spirituality in traditional culture is diametrically different from the punitive models that have grown up in non-Aboriginal ... civilisations’ (TFFSW 1990: 90). Yet, in an effort to lessen the damaging effects of conventional imprisonment on Aboriginal women, here was a group of Aboriginal women proposing that a new prison should be built – and that it should be done in alliance with the administrators of the old. This was indeed a step born of desperation and a recognition that the legislative constraints would not immediately be removed. Underpinning this were the refusal to include consideration of Aboriginal jurisdiction in the Task Force’s remit and the hope that Aboriginal self-determination would eventually enable such a facility to be administered solely by Aboriginals. But the type of facility they wished to have – where women truly could ‘heal’, as well as restore harm done – was then unattainable and the first step towards it remained in the gift of CSC.



Locations of past and present prisons for federally sentenced women

Deciding the locations

Having accepted the need for a separate Aboriginal prison, where were the other facilities to be placed? The necessity of 'a national plan for regional facilities' was already accepted and narrowing the focus to specific locations was largely determined by existing geographic realities. The Working Group had to decide which city, in each region, best provided the existing support network required for the community release strategy. They also had to ask whether this targeted city was the most easily accessible to the *majority* of federally sentenced women – and their families – from that region. In reality, the immense size of Canada meant that wherever the new facilities were eventually sited, some of the women would still be many hundreds of miles from their home communities.

Halifax CSC's 'Atlantic Region', covering the Maritimes (Nova Scotia, New Brunswick, and Prince Edward Island), in addition to Newfoundland, presented little difficulty for the Working Group. The immediate choice was for a facility to be 'located ... close to Halifax'.²⁹ Halifax, with Dartmouth just across the harbour, was by far the largest of the Maritime cities and its selection could also be justified on the basis of the percentage of federal women coming from Nova Scotia. Whether or not that province should then 'buy in' provision for its non-federally sentenced women was a question which could be deferred, because additional units could be added to a new facility at a later stage. We might well ask; if it were unacceptable for federal women to be outnumbered by provincial women under Exchange of Service Agreements, why should the reverse be considered appropriate? But the Atlantic Region presented a unique case amongst the correctional Regions because of the relatively few women sentenced to federal custody. Offering to accommodate provincial women gave the projected facility greater scope, both in design and the possibility of wider programming.

Montréal Québec presented larger considerations, partly because of the size of the province (it is the largest in Canada) and the spread of population. The accommodation provided at the existing Maison Tanguay was thought inadequate in almost every respect, apart from its easy accessibility by public transport.

Montréal, while the largest city in Québec, is situated between two other large cities, Québec City and Hull (which is adjacent to Ottawa). A case could partially have been made for two facilities within the province, thus allowing more women to live closer to their homes, but the cost and programme disadvantages – and the fact that some Montréal women would be dislocated in order to keep both equally full – persuaded the Group that Montréal was the only logical choice.

The Hamilton corridor Ontario is the second largest of the Canadian provinces but is the most heavily populated, despite vast, unpopulated tracts. The greatest concentration of people can be found in Southern Ontario, focused on Toronto and the surrounding smaller cities. The Working Group knew that the majority of federally sentenced women from Ontario were from this area so it might have been assumed that Toronto would be the chosen city. It was felt, none the less, that Toronto was simply too large and that there would be ‘too many competing interests for available resources’, so the Working Group chose the Hamilton-corridor area.

The October Minutes record, however, that there was one dissenting voice, that of Sally Wills, the Executive Director of the Kingston Elizabeth Fry Society, who asked that her ‘continued support of the Kingston location should be documented in the Minutes’. She explained that her support for Kingston (as the Ontario site) was based not only on her personal knowledge of the ‘resources available in Kingston’, but also on the fact that some of the women had partners in the various Kingston male prisons, which made private family visiting easier.³⁰ There was a further dimension to her concern and this is not mentioned in the Minutes. Many of the women whom she had met during the course of her work had spoken of the difficulties they faced with the ‘revolving door’, meaning that the Prison for Women continually had women coming and going. For those serving particularly long sentences it was hard to live with the fact that many women would be released long before they would and this made the creation of their own support networks

²⁹ Working Group Minutes 25th – 27th October, 1989

³⁰ A prisoner’s entitlement to Private Family Visits is dealt with in the Commissioner’s Directive (CD) 770. Prisoners may no longer have a Private Family Visit with another prisoner as, under the

within the prison doubly hard – and doubly important. They needed a reasonably settled existence where they could come to terms with the length of their sentence, supported by substantial numbers of women experiencing the same difficulties. It was feared that smaller regional facilities, with a proportionately smaller number of women serving lengthy sentences might make it even harder for them to do so. (As we have seen, Shaw’s research showed that a significant minority of federally sentenced women were in favour of the status quo).

A further dimension lay in the group of women needing extra support with mental health needs; Ms Wills thought it unlikely that smaller facilities would be able to provide the range of programmes and support the women needed. She wanted a new Kingston prison to have two extra functions: to be a national resource to which women could opt to be sent if they were serving longer sentences; and to be a national resource for those with mental health needs.

Edmonton For its own purposes CSC classes the Prairie provinces – Saskatchewan, Alberta and Manitoba – as one administrative area. CSC is dealing with a smaller client group than in Ontario, but one coming from a huge geographic area. The Working Group had roughly forty-five women to consider, of whom the majority were Aboriginal. As with their deliberations about Québec, they were initially inclined towards two facilities, as well as a Healing Lodge, but acknowledged that the Lodge would be likely to ‘attract a significant number of Prairie women, thereby making two additional facilities unrealistic’. With that decision made, the choice of province was largely determined by the higher percentage of women coming from Alberta, and Edmonton was eventually ‘tentatively’ selected as the location, despite competing claims from Calgary. The Group did not go so far as to select a site for the Healing Lodge, but did conclude that it should be in Saskatchewan. The rest of the geographic divide was to be covered by ‘immediately’ establishing a half-way house in Winnipeg.

CCRA, a ‘visitor’ is ‘any person other than an inmate or staff member’. See, *Gilles Laliberté v. Commissioner of Corrections and Attorney General of Canada* 27th April, 2000.

The Northern Territories were not considered during the meeting; it was so unusual for a woman from the Territories to be sentenced that the Working Group felt 'innovative alternatives on a case by case ... basis' would be required.

British Columbia This left British Columbia, but the discussion here was driven by the reality of the Burnaby Correctional Centre. Although its design in no way resembled what the Working Group envisaged for federally sentenced women, it was accepted that a replacement facility could not be built. Accordingly, it was agreed that Burnaby would house federally sentenced women for a 'minimum twelve year period', but that 'following this initial period, a new-style federal facility should be available in the Vancouver area if the Burnaby option [had] not been successful in accordance with the principles set out in the Task Force Report'. Burnaby would be encouraged to 'focus on implementing, within the [Burnaby] Agreement, as many of the programme recommendations as possible'. Above all, CSC needed to 'acknowledge that the Task Force principles appl[ied] to federally sentenced women housed in Burnaby'. The Working Group had little choice but to accept that Burnaby was a *fait accompli* but, in doing so, they were consigning women from British Columbia to a style of imprisonment not applicable to other federally sentenced women. In effect, they were allowing two tiers of federal punishment, because Burnaby could never hope to replicate the proposed cottage-style living of the new prisons, leaving British Columbian women disadvantaged by comparison.

Conclusions and looking ahead

Most on the Working Group had known instinctively, almost since beginning the task, what the final decision would be. All that they had heard, seen and discussed in the intervening months had simply led them to concur with MacGuigan's view that the Prison for Women was indeed 'unfit for bears, let alone women'.

Moreover, the dangers inherent in any prison were magnified at Kingston because of its design and its distance from the home communities of most federally sentenced women, as had become devastatingly apparent with the death of Sandy Sayer. The Working Group had reached the point of declaring openly where they stood – and their unanimous decision was that the Prison for Women should be

closed and replaced by five regional prisons. They had selected the areas where the new prisons should be built, had determined that one should be an Aboriginal Healing Lodge and had reluctantly conceded that the new British Columbia prison was a fixture they had to accept. They had also made clear that the new prisons would provide for all levels of security so were, in effect, duplicating the Prison for Women, even if not physically manifesting it. At this point it is important to emphasise that the Healing Lodge was also expected to be a multi-level prison.

But this chapter, despite the fact that the federally sentenced women have emerged from the shadows, thanks to the assiduous research of Shaw and her colleagues, has primarily been the tale of a group of women attempting to reconcile their personal and professional perspectives for the greater good of federally sentenced women. Unlike those early female prison reformers, they recognized the need to be careful of their 'biases' and acknowledged the expertise of imprisoned women.³¹ Yet at times they could not resist assuming a greater knowledge and, while they might have rejected the label of 'maternalism', their stance could not always be thought of as feminist. The Group had also been forced to confront their own lack of homogeneity; while working for a common purpose, they were frequently aware of the gulf between them, whether professionally or culturally inspired. This was particularly the case between the Euro-Canadian and Aboriginal members. While none denied the common bonds of womanhood, and an innate sympathy for, and possible empathy with, other women there was the irrefutable gulf occasioned by history between the Euro-Canadians and the Aboriginals. Monture suggested that the relationship of Aboriginal women with the women's movement could 'not be understood without an understanding of the past', arguing that it was impossible to divorce feminism from Canadian colonialism and the consequent 'exclusions and intrusions' (Monture-Angus 1995: 177). That historic understanding was brought to the Working Group's table and the women, most of whom would certainly have described themselves as feminists, were continually being asked to assess their decisions in the light of that colonial history. What has already emerged is the way in which that knowledge successfully subverted and extended the government agenda.

³¹ Working Group Minutes 13th – 14th April 1989

In the next chapter I will examine how the Task Force's conclusions were presented in *Creating Choices: The Report of the Task Force on Federally Sentenced Women* and ask to what extent these might have been affected by Aboriginal perspectives. I will look at the language of the report and, in returning to the earlier questions of why the Aboriginals were originally excluded and the Québécois were ignored, I will also ask if the report unexpectedly became a vehicle for political aspirations.

5. Returning to the cottages; abandoning the prison?

The proposition that the Prison for Women should be replaced was an historic step, but one which had been made frequently before, as chapter 1 has shown. How their planning should be translated into government action was beyond the authority of the Task Force, which could only hope that the Commissioner's public commitment to change would survive the pressures of the inevitable political process to follow. Where the Task Force departed from other Commissions and Inquiries was in the way it carefully delineated a style, if not actual design, for the proposed new prisons, together with a philosophical foundation for their management. The highly visible security of the old prison, manifest in its immense stone walls, signalled that containment of an apparently dangerous population had been its major function. The Working Group wanted their new, model prisons to relay an equally strong message; that federally sentenced women were yet another part of diverse Canadian communities. During the October meeting the Group needed to articulate what they had individually and collectively been considering since beginning their work, and to do so in some detail.

They were united by a common knowledge of what they did not want, having visited many of the provincial prisons. The new Burnaby Correctional Centre for Women, with its Benthamite central rotunda augmented by the addition of 20th century electronic surveillance, had dismayed them (see chapter 3; Faith, 1993). The design of the Prison for Women was considered inherently dangerous and Maison Tanguay, in Québec, offered no vision upon which they could build. So what did the Working Group finally propose? Fundamental to their concept was that all the new prisons should be 'close to larger cities which offer the desired infrastructure: university teaching hospital, specialised services and proximity to an Aboriginal community'.¹ This had led them to select Halifax, Montréal, Edmonton and the Hamilton corridor. In these cities each new prison would be placed in no less than ten acres, with 'non-obtrusive perimeter security'. They would have a 'core building', containing a 'gym, library, school/program area, administration, health services, cafeteria, ... chapel, ... inmate committee office, offices for

¹ Working Group Minutes 25th – 27th October, 1989

volunteer / community programs'. Each would have a 'garden; family visiting unit; a dedicated Aboriginal ceremonial / sweat lodge area; occupational buildings'. The living units (described as cottages) would be 'house-style' and hold 'approximately five women'. Each cottage would contain 'spacious bed-study rooms, living room, study, kitchen, dining room, playroom, telephone corner, staff office / lounge, counselling room'. One of the cottages would be 'smaller, with more staff space to house trauma cases requiring intensive support'.² (Chapter 4 has briefly outlined the separate vision of the Healing Lodge).

All the new prisons would be equally provisioned, irrespective of how many women they held; the women were not to be disadvantaged by accident of geography and sentencing trends. The language used reflected a concern with providing care and, by extension, 'healing', both of which would be facilitated by the new architectural style of the prisons. Insofar as we can rely on the Minutes, staff do not appear to have been discussed, except in relation to whether they might be stationed within the new houses.³ The major focus of the Group always appeared to be on the women themselves. *Creating Choices* expanded upon the staff's role, suggesting that they should have wide 'life experience' alongside an understanding of women's and cultural issues, yet was not so prescriptive as to limit the field. What was clear was that the military model of staffing, with its emphasis on security and hierarchical relationships had been rejected. Staff would play their part in creating 'dynamic security' (TFFSW 1990: 116) and this was dependent upon the relationships they were able to develop with the women. Through the example of the staff the women would be encouraged to take control of, and responsibility for, their own lives. This was a return to staff assuming the position envisaged by Elizabeth Fry, wherein "respectable" female warders might play a positive role as a "consistent example of propriety and virtue" (Fry, cited in Zedner 1995: 301; also, see Dobash et al, 1986), 'acting as loving but demanding

² Ibid

³ In all of the Minutes there was relatively little discussion of staff, which is an interesting omission, bearing in mind their important role within a prison. The May 1989 Working Group Minutes indicated that members of the Group were to meet Union members at the Prison for Women, so staff views would have been heard then, but, overall, their knowledge of the women was not called upon. This can partly be related to the Group's wish to avoid importing any of the old staff culture into the new prisons and staff at the Prison for Women were later told that they would not 'fit' the new prisons.

mothers who forgave past errors but insisted on obedience (Freedman 1981: 95). *Creating Choices* specified that males should not be hired as guards ('front-line' staff, with access to the living units), but that they should be allowed to work in certain educational and vocational roles.⁴

While this brief description conflates the minutes and *Creating Choices*, it gives a general idea of how the Task Force's ideas were built upon and expanded, with the general point being that the Task Force provided the foundation for what later followed. The Task Force suggested the houses / cottages; the home-like regime within the cottages; the 'holistic' approach to programming, centred on community standards and community provision; exemplary staff; the mother and child programme; the involvement of volunteers who would provide 'important social and intellectual variety' for the women (TFFSW 1990: 123). Yet, irrespective of how any of these concepts might have been redefined as the new prisons took shape, the basic structure was not new and the Task Force was not breaking new ground. The women who had been instrumental in founding the first reformatories for women had got there first. Rafter, citing the first annual report of the reformatory at Albion, New York, shows that 'the idea of family life, each cottage with its own kitchen, its pleasant dining room adjoining' was reproduced in a custodial setting some hundred years prior to the Task Force's concept of cottages and exemplary regimes. Freedman wrote of children being permitted to stay until the age of two in the early reformatories and the way in which the early reformers could influence prisoners through 'womanly sympathy' (1981: 96 & 54). Indeed, as the Working Group's October minutes noted, the Minnesota Correctional Facility-Shakopee, which had begun as a reformatory for women in 1920, seemed to be 'representing the most coherent expression of [a female corrections model] to

⁴ Madam Justice Arbour recommended that a Cross Gender Staffing Monitor should be appointed to deal with the issue of whether or not men should be front-line workers at the new prisons (1996: 252-3). Additionally, Arbour (1996: 217) suggested that women should have the option of serving their sentence in a prison which had no men working as front-line correctional officers. CSC designated Edmonton Institution for Women free of men and, through the Public Service Commission, obtained a three-year exclusion order, which was then extended for a further year. (See CSC, 1995b.) The Cross Gender Monitoring Project's Third Annual Report (September 2000) recommended that *all* males should be barred from front-line positions, because CSC had failed to implement four recommendations regarding the deployment of male staff which had been made in its Second Annual Report (2000: 4). Both Edmonton and the Healing Lodge initially decided against hiring male Primary Workers, whereas Joliette and Nova took a small proportion.

date'. Canada also had its own earlier model of a reformatory-style prison for women, the Andrew Mercer Reformatory in Toronto (see chapter 1). So in adopting Shakopee as a paradigm, the Task Force was also returning to its Canadian roots, albeit with an added Aboriginal dimension.

Following their lengthy October meeting, having committed themselves to closure, the Working Group revisited the Prison for Women to 'present the women who have given so freely of their time and energy, both in the consultation and the research, with a token of appreciation', which took the form of a 'give-a-way'.⁵ Many of the women were by then familiar faces and the sense of 'them and us' – where it had existed – was becoming blurred. There was more chance of the women being seen as individuals who had experienced adversity, rather than simply as offenders; moreover, they continued to live with adversity because of deteriorating conditions within the Prison for Women, in the aftermath of Ms Sayer's suicide. In a sense, the Working Group had collectively begun to cross the divide separating empathy from objectivity, but this was scarcely surprising, as the fear of another suicide at the Prison for Women was only too real. This degree of consultation with imprisoned women – and, indeed, deference – was remarkable, even in its Canadian context, and without parallel in other jurisdictions.⁶

Another aspect of this 'blurring' was the Working Group's knowledge of feminist research showing 'that women in prison have more in common with *other women* than they do with male inmates' (Shaw 1991-3: 11, cited in TFFSW 1990: 68, emphasis added). While this is true, from the strict perspective of gender, it is not the whole picture. Hannah-Moffat deconstructed the analogy, stressing that in denying difference we deny the diversity of women and their unique, individual experience of imprisonment. The most profound difference between the majority

⁵ This derives from the 'potlatch' and refers to a gift given to mark an event. It was originally used to denote the status of the giver, with gifts of different value being conferred according to the rank of the recipient. Historically, the potlatch became more and more extravagant and the alleged excesses associated with them were used as an excuse for their being banned in 1884, under the *Indian Act*. This prohibition was only removed in 1951, when the *Indian Act* was rewritten. See McMillan (1995) for a fuller discussion.

⁶ In the United Kingdom, for example, prisoners would not be included in a Home Office-sponsored planning group. Their views and needs might be ascertained by means of commissioned research, but they would not have their approval sought while plans were being formulated.

of women and imprisoned women is the question of freedom; imprisoned women are not free (Hannah-Moffat 2001: 191). (This is not to ignore another profound difference; that some women offend and a larger proportion do not). Yet it is perhaps not too fanciful to say that some within the Working Group, while aware of these distinctions, had begun to feel as though they might be *the* 'other woman', with an instinctive understanding of what federally sentenced women felt and, in particular, needed as the Group had collectively demonstrated by its refusal to countenance co-corrections. Whilst not going as far as English 18th century non-conformist prison reformers who viewed prisoners as 'machines to be tinkered with ... because they had a conscience like everybody else' (Ignatieff 1978: 71), the Working Group did believe that the provision of exemplary institutions would encourage change in women. The new physical surroundings, allied with the (moral) structure provided by skilled staff, would facilitate those changes.

As previously alluded to, the Working Group had come to believe strongly in a dual-track approach to providing for federally sentenced women and this was articulated in the Central Conundrum, which asked whether a capital investment in new 'residences' might 'divert focus and attention from the long-term objective' [of providing community alternatives] (TFFSW 1990: 78). While this strategy might have had something to do with the reluctance of many from the voluntary sector to be associated with building more prisons, it was much more than that. For the Working Group 'community' meant an amalgam of both 'culture and geography'⁷ and for a woman to be released successfully into such a community, she had to have an easily accessible route, peopled by those whom she had come to trust. 'Community' would be represented within the prisons by programmes and mentors and a recognised pathway to Community Release Centres, half-way houses and satellite units. Planning for eventual release would start immediately a woman was received into prison and this would be facilitated by her community worker, who would be from the voluntary sector. The initial vision of the community worker was based on Jerome Miller's concept of client specific planning and it was expected that the community workers would take the lead in planning for a woman's release. Commenting on this aspect of the proposals, agreed at the

⁷ Working Group Minutes 25th – 27th October, 1989

October meeting, a Group member – who happened to be a civil servant – later noted that this was not clarified in the report. She thought the consensus had been that as they could not ‘control the evolution of any facility, it was best to build in “watchdogs”, “advocates”, “checks and balances”’. In a wry aside, reflecting the difficulties they had all experienced, she ended the memo by saying ‘perhaps I was hearing a consensus because I wanted to – on this occasion, as on others ...’.⁸ It is instructive that a civil servant, rather than a member from the voluntary sector, should have alerted the Group to the possibility that planning might go awry. For unexplained reasons *Creating Choices* concluded that a team approach was preferable, with a CSC employee being in overall charge. The role was not seen as being part of any ‘checks and balances’ necessary to ensure successful implementation.⁹ It was envisaged that the community strategy could be ‘implemented independently and in advance of the accommodation model’¹⁰ and the ultimate failure to do this – funding was refused by government – was to have repercussions once the new prisons were opened. Additionally, in wanting to provide new standards for half-way houses to which the women could be released, the Task Force was again faced by legislative impediments which were beyond the immediate authority of the Solicitor General. Once again, the Task Force could not think as ‘broadly’ as they might have wished.

Conflicts of interest

Work had started some time previously on drafts of the various chapters for the final report, and these were circulated so that all members of the Working Group had the opportunity to comment before the next stage was reached. Most of the Group contributed to some of the initial writing, but some had greater overall responsibilities, and by October Patricia Monture had completed the fourth draft of what was to become Chapter II, *The Voices of Aboriginal People*. It will be remembered that the Working Group had faced problems when formulating the Guideline Questions to accompany the Consultation documents; these related to whether there should be a question about Aboriginal self-determination in justice

⁸ Memorandum: 21st December, 1989

⁹ The ‘checks and balances’ themselves were similarly absent and the lack was highlighted when CAEFS withdrew from the implementation process in June 1992, leaving CSC free of any external auditor.

issues. The view formed then was that the Task Force had to be careful not to exceed its brief by venturing into the jurisdiction of other government departments. Prof. Monture's draft ended with a list of nine recommendations, which elicited a hostile response from some of the civil servants within the Working Group, with the sticking point again being the question of Aboriginal sovereignty. Her first recommendation was a very broad one:

The Correctional Service of Canada with the Commissioner, the Ministry of the Solicitor General and the Solicitor General of Canada must actively lobby the federal legislature to secure future meaningful negotiations with Aboriginal governments who are now willing to take over full or limited jurisdiction in the area of criminal justice.

One of the civil service respondents replied that the Task Force was 'a very narrow plank upon which to rest such a broad recommendation', and pointed out that the Department of Indian Affairs and Northern Development (DIAND) was responsible for Aboriginal self-government negotiations, rather than the federal legislature. She abruptly dismissed the idea that either CSC, the Commissioner, or the Ministry of the Solicitor General, themselves relatively small cogs in the larger federal wheel, should be encouraged to 'lobby' the federal legislature.¹¹ Prof. Monture's nine recommendations were subsequently omitted from the final report, but the debate is included here as it is further evidence of the difficulties faced by some Working Group members in attempting to balance their official positions – as government representatives – against the insistent political manoeuvring of some of the Aboriginal Task Force members (even if those Aboriginal members did not always see their actions as 'political', but as a necessary reaction to intransigence). Looking at the civil servant's response to these recommendations it is possible to see how the bureaucratic imperative impinged upon her reply; she knew the impossibility of making recommendations which could not be implemented by the department to which she was answerable. Yet her response would have dismayed the Aboriginal members of both the Working Group and the Steering Committee, and it emphasised the gulf in understanding still to be bridged. Throughout the work of the Task Force, Aboriginal members had sought to 'educate' the others regarding the reality of Aboriginals' experience of the dominant society. As a

¹⁰ Working Group Minutes 25th – 27th October, 1989

group within the Task Force they knew that they were ‘an afterthought’ and that they had ‘had to fight for meaningful recognition’.¹² They had not been part of the discussions about the Mandate, and the *Terms of Reference* were only amended to reflect the over-representation of Aboriginal women in the criminal justice system at a later stage. It seemed to them that at every point in the deliberations they had to remind the rest of the Task Force of the Aboriginal perspective. This was encapsulated in the response of an Aboriginal Task Force member to a draft section, then entitled ‘The Special Needs of Aboriginal Women are Not Met’. She wrote: ‘We do not understand what special means. Can someone define it for us? Our needs are culturally unique but they are basic to what every human being needs to survive. Does special mean we are somehow handicapped? or disadvantaged? or perhaps not as ‘good’ as white people?’

Had Aboriginals been uniformly represented in other government initiatives the dissension regarding the Mandate might have been better anticipated by both Aboriginals and civil servants, but the Aboriginal women on the Task Force were mostly newcomers to such a government-sponsored enterprise – and the civil servants were largely unaccustomed to working with Aboriginals. While some of the Aboriginals might not necessarily have been aware that the published Mandate customarily could not be altered, others simply would not accept the political reality. Therefore, to fight for change seemed logical, whereas the mainly Euro-Canadian CAEFS, with its greater exposure to political stratagems – having been part of the initial Task Force discussions – would have recognised the apparent impossibility of changing what had already been agreed upon. Additionally, CAEFS had no accountability to a wider constituency, although it was, of course, indirectly answerable to CSC because of its need for government funding. However, it might also be said that, having recognised the limitations of the Mandate early on, the Aboriginals found it a very convenient political bargaining point and one to which they could turn whenever they thought it necessary. As we shall see, they were ultimately successful in ensuring that self-government was referred to in *Creating Choices*.

¹¹ 1st November, 1989

¹² Taken from undated chapter comments, submitted to editors of TFFSW.

Achieving consensus?

The November Steering Committee meeting, also attended by the Working Group, was held in Ottawa, some two hours drive from what remained a very troubled Prison for Women in Kingston, where the repressive lock-down policy continued.¹³ There had been no official response to the Committee's Motion following the death of Sandy Sayer, which left the question of provincial transfers unresolved, and further underlined the impotence of the Task Force when it came to effecting immediate change. The Working Group accepted the need for external guidance, but some members were unhappy about having to defend what they had struggled so hard to achieve. The Steering Committee was not required to meet so often and membership was far from consistent, yet the Committee was commenting on work which had required enormous effort to produce. The Working Group was constrained by the wish not to appear divided, so could not be as vociferous as perhaps it might have wished in defending its decisions. As one Group member commented, 'how could there be a *dialogue* with fifty people around the table?'.¹⁴ Nevertheless, the Steering Committee and its joint chairs played an important role in supporting the Working Group, adding a further perspective to the deliberations, especially with regard to francophone, Aboriginal and provincial needs. The Steering Committee was the only means – apart from the public consultations – through which individual interests, such as other minority ethnic groups and religious organisations, could be heard. Yet there was a tension between the roles of both sections of the Task Force, which undoubtedly added to the burden of the Working Group.

It was important that the final layout of the report should be decided, and it is worth noting that James Phelps, Co-Chair of the Steering Committee and a Deputy Commissioner of Corrections, suggested that the Aboriginal chapter should be placed close to the beginning, ensuring it an eventual centrality which no-one at the outset would have envisaged. From a practical point of view the most important section of the report concerned the proposed new facilities: their siting; their

¹³ Until otherwise indicated, all quotations which follow are from the Minutes of the Steering Committee, 20th November, 1989.

¹⁴ Interview 19

design; and the proposed new style of management. All the careful garnering and presentation of information regarding what had previously existed were therefore fundamental, for the foundations of the new would arise from a controlled demolition of previous penal rationales. As a member remarked, 'some of the concepts were in need of greater development and were not ready for operationalization, but would receive more attention at the *implementation stage*' (emphasis added). (In this the Minutes show a prescience which would later return to haunt many on the Task Force because CSC took charge of implementation, unhindered by outside scrutiny, except at the Healing Lodge, as chapter 6 outlines). Most decisions had already been taken regarding the new prisons so the Steering Committee was more in the position of fine-tuning than recommending, but some important points were still raised. Specifically: the need to provide for the majority of the mentally ill within the new institutions, rather than within existing secure settings; the possible difficulty in providing programmes for *all* women in *all* of the prisons; the need to plan for those behaving aggressively towards other inmates. And perhaps most importantly, in the light of what happened subsequently, that the 'areas [of] security and staffing should be clearly discussed [so as] to direct the implementation committee, and to avoid undesirable traditional responses'.

One of the Task Force's lengthiest discussions focused on the Principles section and, in particular, what some took to be the characterisation of women offenders as 'victims', rather than as women who had also themselves created victims through their offending behaviour.¹⁵ The Committee feared the report would be 'rejected as fantasy' if it did not address the issue of personal responsibility for offending, yet also agreed that the social factors behind some offending should be acknowledged. As has already been made clear, the Working Group was less certain that this was how the women should be viewed, and the apparent framing of the women as victims themselves is an aspect of the final report for which the Task Force was later criticised.

The Healing Lodge itself was considered separately, with the Steering Committee being cautioned that it remained 'a concept, an idea to be developed' and that, for

¹⁵ The Principles have been alluded to on a number of occasions and are an important part of the final report. They are discussed more fully at the end of this chapter.

the Lodge to become a definite option, 'the matter of trust, which ha[d] been lacking between the Aboriginal community and parties of the criminal justice system must be addressed'. The Aboriginal members of the Task Force stressed the importance of the 'ownership of the initiative' and asked for 'support and flexibility', while they returned the concept to the Elders and the Aboriginal community at large. It is remarkable quite how completely the initial planning of this prison was left to these Aboriginal members. Even though the principle of consensus applied to them all, this was not an area to which the non-Aboriginal members of the Group felt they could contribute expertise. Yet the reverse did not apply when it came to the planning of the other prisons. Aboriginal members of the Task Force were involved in planning for all the women, because Aboriginal women would continue to be part of the wider federally sentenced population as some would not wish to go to the Healing Lodge.

However, the Task Force had been struck on the premise that it would be planning for what was initially assumed to be a homogeneous group of federally sentenced women, even if the Terms of Reference recognised the 'unique ... aspects of the experience of [federally sentenced] Aboriginal women' and the 'unique needs of [all] these women (including, but not limited to, different abilities, race, culture, religion, sexual orientation, language)'. Nowhere in the accompanying Terms of Reference did it say that these different needs could only be addressed by those with specific knowledge, so there has to be another explanation for the reluctance of the non-Aboriginal members of the Task Force to be directly involved in planning the Healing Lodge. Perhaps the following comment by a civil servant gives some indication of what was happening within the Task Force: [it had been made clear to us] *'you have been speaking for Aboriginal people for some time. It's time to stop and let Aboriginal people speak for themselves'. I didn't have a whole lot of difficulty saying 'you know if we were doing such a good job speaking for Aboriginal people maybe we wouldn't have had all those incidents, all those deaths, all that over-representation, so what do we have to lose by standing back and saying 'ok, we'll speak for this and we'll let you speak for that and we'll see where it comes together and where it doesn't'.*¹⁶ Part of the answer to the profound

¹⁶ Interview 30

reluctance to comment on Aboriginal issues may be found in the history of Euro-Canada's relations with Aboriginal nations and the growing understanding within the dominant culture that this engagement had been unjust and oppressive. While most on the Task Force would have known this Aboriginal reality theoretically, it did not mean that they had individual contact with many Aboriginals or knowledge of Aboriginal communities. Yet during the life of the Task Force they were all sharing the same table, and the Aboriginal members spoke with a personal authority and experience of living as an Aboriginal within an often hostile dominant society. What can most easily be described as post-colonial guilt paralysed any possibility of extensive critical examination of Aboriginal perspectives. Mercredi (1994: 119) referred to the guilt harboured by some Canadians and suggested that, while it was not the 'basis for a future relationship', it was still 'quite a powerful force when ... harnessed for changing the socio-economic conditions' of Aboriginals. I would suggest that guilt and a concomitant paralysis was the main reason for non-Aboriginals' reluctance to engage in criticism of Aboriginal perspectives, rather than simply the internalised racism suggested by two members of the Task Force – although this undoubtedly also existed.

It had long been planned that writing of the report would be completed by November and two members of the Working Group were due to be closeted in a hotel room in Ottawa while doing it.¹⁷ At the end of November's joint meeting one of the designated writers from the voluntary sector decided that she would be better removed from the project, because of her earlier difficulties when working with a co-writer. Consequently, another of the civil servants was unexpectedly required to fill the gap, thus leaving the final draft of the report (apart from the Aboriginal chapter) in civil servants' hands, even though members of the Group individually provided extensive comments. Drawing all the information together, particularly as some of the research material was still unavailable, presented the writers with enormous challenges, bearing in mind that the Task Force wished to produce something radical and strikingly different from other task forces. The Steering Committee received what was termed the 'first major draft' prior to their meeting on the 18th December 1989, albeit a draft which did not include the Aboriginal

chapter. In discussing the report, many of the comments from participants reflected the interests of the organisation or department each was representing, but three areas of concern predominated.¹⁸

Federally sentenced women and mental health

As earlier discussed, the Working Group had spent considerable time debating how best to provide for those needing higher levels of security. Lacking details of the number of women in that category, the Group had worked out its own figures.

Within that specific group, there was a sub-group of those termed psychiatrically / psychologically ill but, looking at the whole federally sentenced population, there was a larger group of women also requiring help with mental health needs. By the time the report was being written the Working Group had been able to read the preliminary findings of the *Mental Health Survey* (CSC Research Branch, 1989), which had been commissioned by the Correctional Service of Canada, but was not part of the body of research commissioned specifically for the Task Force. The Survey differentiated between the ‘types and incidence’ (TFFSW, 1989: 42) of mental health disorder displayed by men and women, making clear that many of the problems experienced by federally sentenced women could be ‘linked directly to past experiences of early and / or continued sexual abuse, physical abuse and sexual assault’ (TFFSW, 1989: 42).

Some on the Steering Committee were concerned that they had been unable to read the Survey themselves, or question its conclusions, and that reference to it in the final Task Force report might imply agreement with the findings. Felicity Hawthorn thought it ‘appropriate to be aware of the findings’ which ‘support[ed] a general impression that there are many women with mental health problems which need to be addressed’ and she was backed by Jane Miller-Ashton, who suggested that failure to mention the Survey might ‘work against’ the Task Force. It was believed prudent to retain the reference, if only to keep open the programming capacity, which would need to be funded by the Treasury Board. Again, the ‘pay-

¹⁷ The outside assistance of Linda McLeod as the final co-ordinator / editor of the transcript had already been agreed.

¹⁸ Subsequent quotations are taken from the Steering Committee Minutes, 18th December, 1989, unless otherwise indicated.

master' rather than broader concerns informed their decision-making. The Committee asked that the report should be amended to show the 'limitations to [the *Mental Health Survey's*] impact in the deliberations of the Task Force', which *Creating Choices* failed to do, simply saying that the Survey 'underscore[d] ... the urgent need to provide appropriate mental health services oriented to the specific needs of federally sentenced women' (TFFSW, 1989: 42).

Nowhere does *Creating Choices* quantify the numbers of women who might be requiring significant help with mental health issues, although it might have been deduced from the figures *Creating Choices* quoted from Jan Heney's research on self-injurious behaviour – 55 percent of a sample of 44 women self-harmed (TFFSW, 1989: 42) – that the numbers would not be small. The actual section on mental health services in *Creating Choices* implied that most women with mental health needs would be able to continue living 'in their own cottages', 'in a stable environment and familiar surroundings' while receiving psychiatric care. Those who were 'severely psychotic or certifiable' would be 'referred to a local mental health centre' (TFFSW, 1989: 119). Looking back, a Working Group member said: *What we missed the boat on was the whole issue of mental health. Are they mental health needs [first] and offenders second – or vice versa? I feel it's very unfair to the general community out there who treat women with mental health needs to say that the women who come to us are just like them. They are not ... they committed a criminal act and I don't think we can get away from that, because there are a whole lot of people out there who have been abused who do not go out and hurt others.*¹⁹ This failure can partly be linked to the Group's reluctance to label federally sentenced women, as we have seen in their discussions about women as victims. The extraordinarily high number of women identified by the 1990 *Task Force on Mental Health, Special Needs of Female Offenders* as having 'serious disorders' – 95 percent – presented the Group with yet more difficulties. They believed that a new environment would benefit most federally sentenced women and that individual behaviour would be modified by a less stressful location. Having found it impossible to suggest that maximum security women should live in anything other than a conventional cottage, albeit with extra staff in situ, they were

¹⁹ Interview 30

unlikely to adopt a different approach for women with mental health needs. The figures provided late in the day by the *Task Force on Mental Health* would also have appeared suspect, because women's problems were frequently pathologised and given a psychiatric label, rather than seen as being a result of their socio-economic status in the wider community. This failure to address the issue fully – or perhaps an unwillingness further to label an already labelled group – was to have consequences once the new facilities were running, and it left a further area of the report vulnerable to reinterpretation by CSC.

Criminals or victims?

Women's 'criminality' was also much discussed, as it had been during the November joint meeting, when a member of the Task Force feared the report would be 'rejected as fantasy' if it did not address the issue of personal responsibility for offending²⁰. One member of the Committee declared that the draft 'read as a victim's report' and another said that 'if she were "an outside reader" she would be left with the impression that all federally sentenced women are victims, that there is no criminality among women, and that they are there [in prison] only because of their past experience [of victimisation]'. She believed that there was 'an element of choice involved in their behaviour'. Whilst one member had understood the report to be writing of women as 'survivors' rather than victims, it was clear that the Committee felt a need for more clarity on the subject. This, however, was something the Working Group had struggled with and related to the difficulty they all had in reconciling differences of opinion. As is by now very clear, their early commitment to a consensus model of operating meant that the Group was reluctant to identify publicly areas of dissent. It was impossible for them to agree on what constituted 'the criminality of federally sentenced women' and they felt that 'not mentioning it was preferable to showing the diversity of views and lack of resolution on this issue'. It is curious that the Group had felt their collective expertise was sufficient to allow them to plan the new facilities, but that it was insufficient to allow them accurately to define this problem.

²⁰ Steering Committee Minutes 20th November, 1989

It is not unreasonable to suggest that the demands of consensus and the absorption of Aboriginal perspectives had by then coloured the Task Force's view of what actually constituted criminality and victimisation. But something else was also going on, as I have earlier suggested; a crossing of the boundaries which had initially separated members of the Task Force from the women at the Prison for Women. Perhaps the issues had, for some, become more blurred than could ever have been anticipated. A Working Group member from the voluntary sector attempted to crystallise her impressions regarding changes wrought in some of the civil servants during the life of the Task Force. She had earlier spoken of the impossibility of hearing the women and not being 'touched' by what was said: *I really think that for the CSC women it was the same. ... I think they were seeing it through different eyes. Before, the visits [to] the institutions had kind of been more in the bureaucratic line. This time they were coming to really talk to the women ... I think probably it was very different [for them] and my guess is that it was probably an eye-opener. I don't think that they had spent any time around the prisons with the actual inmates – they had been in prisons to go to the Warden's quarters, to go to different meetings, to see the files, but to sit down in the common rooms with the women and drink their coffee and listen to their stories, their pain and anger, I would expect that they were probably pretty touched by that.*²¹ The women had stepped off the pages of the files and become women of infinite variety. They had also become more than 'offenders'; their individual histories now had a familiar face – and any one of them could be at risk the longer they stayed at the Prison for Women. So the language of 'victimisation' prevailed in a way that would have been incomprehensible some months earlier. And, as we shall see, the final language was influenced by the Aboriginals' experience of victimisation and racism within the dominant Euro-Canadian society.

Québec

At this very late stage in the Task Force's deliberations the question of Québec was again raised. CSC's Québec representative made it clear that the province did not support the proposals for a new regional facility and hoped for a 'modification' of the situation at Maison Tanguay by means of an 'enhanced Exchange of Service

²¹ Interview 28

Agreement'. Although the conclusion that none of the existing facilities were adequate had already been reached by the Working Group, the Steering Committee debated the possibility of making an exception in the case of Québec. If Tanguay were exempted from the regional plan and remained in provincial control, jurisdictional issues would have made it almost impossible to enforce 'the principles and standards' enshrined in the Task Force's report (a point already reluctantly conceded with regard to British Columbia). The federal government could not order a provincial government to build a facility, housing both provincial and federal women, matching standards elsewhere, so the federal government had to set the standards itself.²² Were the provinces to be given the option of individually 'modifying' their existing provision the result would be delay and 'a nail in the coffin for a truly new future for federally sentenced women'. When the Committee was asked if they agreed with the idea of an exemption for Québec no-one, apart from the Québec civil servant, supported it. Arguably, had a Québec representative been on the Working Group, such debates would have been forestalled because the issue would have been discussed at an earlier stage.

Putting a woman at the top table

As *Creating Choices* was later to highlight, the *Ouimet Report* had suggested as early as 1969 that a woman should be appointed to 'a position of senior responsibility and leadership', and CAEFS had suggested in 1981 that 'a Deputy Commissioner for Women should be appointed'. This position had been bolstered by Lee Axon's research suggesting that 'the successful implementation of woman-based corrections is dependent on the appointment of a woman to a very high level management position' (TFFSW 1989: 95). How could the Task Force ensure that women's interests were not again subordinate to the numerically more pressing interests of men once the new facilities were built, and monies allocated by the federal government incorporated into the budget of the provincial correctional authorities? For once the Task Force acknowledged its lack of consensus. CAEFS still favoured the appointment of a woman Deputy Commissioner, but the

²² To an extent, this did happen at the Burnaby Correctional Centre for Women, where the federal government shared responsibility with the provincial authorities. The crucial difference was that the federal government paid the provincial government to provide programmes and services equal to

'decentralised, management of CSC was alleged to make that difficult' (TFFSW 1990: 95). CSC was not called to account until 1996.²³

The report was at last returned to the writers and the Task Force was able to present a draft copy to the Commissioner, with the Steering Committee's comments appended in a letter. The Aboriginal chapter was missing and the crucial Short Term Recommendations (Emergency Measures, see below) were still to be finalised, but Mr. Ingstrup would have been in no doubt as to the radical nature of what was being proposed.

Consensus founders

A start had to be made on drafting the Emergency Measures to accompany the report. These were intended to provide immediately for those detained at the Prison for Women, as the Task Force knew that action should not be forestalled while the report was being considered by CSC. After an exhausting run-up to the December Steering Committee meeting, in early January some of the Working Group were involved in re-writing the report. It therefore fell to two others, again civil servants, to draft the Emergency Measures, based on what had been discussed (but not minuted) during their October meeting in Edmonton. An administrative oversight led to an incomplete copy of the preliminary Measures being sent to Patricia Monture, and she was astonished to note the lack of reference to Aboriginal women and their distinct culture. The content was so alarming as to prompt an angry letter from her, saying she had reached a conclusion that she had 'been avoiding'. 'You have used our participation to say that the First Nations were consulted. That consultation and our participation was meaningless'.²⁴ This incident occurred at a particularly crucial time, when it was essential that the Task Force should present a united front to the Commissioner upon presentation of their

those available to federally sentenced women in the new prisons. However, the federally sentenced women held in British Columbia remained subject to provincial rules and regulations.

²³ In 1996 Madam Justice Arbour recommended the appointment of a Deputy Commissioner for Women and Nancy Stableforth was appointed later that year. However, the Wardens of the new prisons reported directly to their Regional Deputy Commissioners, rather than directly to Ms Stableforth, so women still remained at a remove from the top level of correctional administration.

²⁴ 4th January, 1990

report. The civil servants on the Working Group realised this and advised the Solicitor General, to whom Prof. Monture had also written, that the 'goal' must be one of 'maintaining the active participation of Aboriginal members in advancing the work of the Task Force'.²⁵

Agreement on changes was eventually reached, but the question of incorporating Aboriginal perspectives did not end there. The Aboriginal chapter had been completed and submitted to the Working Group for inclusion in the final report. In one crucial paragraph, when discussing the interlinked nature of being both Aboriginal and a woman, the chapter stated: '... it is important to understand that we also share a common Aboriginal history. That common history is the history of racism, oppression, *genocide* and *ethnocide*' (TFFSW 1989: 15, emphasis added). One of the Working Group, Joan Nuffield, was later to say: 'My understanding was and is that while the United States' government might reasonably be accused of having such a policy [of genocide], this was never the case in Canada'.²⁶ Further, Ms Nuffield doubted whether anyone on the Task Force was qualified to state definitively whether this had been Canadian policy.²⁷ There was some discussion about the options available to her: that she should simply remove her name from the report; that she should leave it, but have an added footnote showing that she had withdrawn from the Task Force prior to finalisation of the report; that the issue should be treated with greater clarity in the chapter itself.²⁸ However, by the time she received her copy of the draft report it had already been decided that time constraints made further alterations to the text impossible and, as a consequence, Ms Nuffield decided that she could not sign the final copy. This decision meant that the report could be published without any hint of dissension attached to it and, publicly, the goal of consensus had been achieved. The omission of Ms Nuffield's

²⁵ Briefing Note 16th January, 1990

²⁶ Note to author 20th September, 1999

²⁷ For an alternative view see Chrisjohn & Young, with Maraun (1997) who present what they term the *Irregular Account* of Indian Residential Schools, suggesting that genocide does not always involve killing. Forced assimilation can also be seen as a form of genocide, with the Residential Schools' policy being seen by some as an example of this.

²⁸ 12th March, 1990

name means, however, that few are now aware of her contribution to the Task Force.²⁹

The task completed

The final report could not, and did not wish to, avoid the issue of suicide; the death of Sandy Sayer had been fundamental to the Working Group's unanimous decision that the Prison for Women should be closed. The December draft had opened with almost the complete text of Ms Sayer's submission, followed by: 'Her death, her life and her words became a touch-stone ... a reference point whenever we were tempted to put our words and ideas before those of the women living through a federal sentence' (draft, 14th December 1989). It was, however, eventually thought 'wrong and insulting to use her words [in the report] since she should not even have been at the Prison for Women' [as a provincially-sentenced, involuntarily transferred prisoner]. An even earlier draft had dwelt in some detail on her death and concluded by saying that such 'tragedies ... create profound doubts regarding the humaneness of the current system'.³⁰ The completed report referred to suicide very briefly and contained an unfortunate editing error, which reads: 'The questions posed around these tragedies leave *no doubt* about the humaneness of the current system' (TFFSW 1990: 71, emphasis added). Nothing could have been further from what the Task Force saw as the truth.

Task Force members received the final draft of the report just prior to their final, joint meeting on the 19th February, 1990. All had been invited to submit comments earlier and one respondent from the Working Group wrote to the editors: 'I want to say that I have some appreciation for the difficulty you must be having in pulling this together while pleasing us all. In reading it through I see so many points that really didn't get our fullest attention as a group and yet need to be dealt with in this brief. Two or three days with copy in hand and all editing together for consensus sake, (not to mention clarification) would have made quite a difference'.

²⁹ The front cover of the first edition of *Creating Choices* carried a hazy photograph of all the Working Group and Ms Nuffield is seen standing amongst them. However, as the members were not individually identified many readers of *Creating Choices* would have had no idea who any of those women were. Additionally, because the number of women in the photo exceeded those listed in the report as belonging to the Working Group, the connection would not necessarily have been made.

Indeed it would, but they had not been granted the time and the report was consequently more open to subsequent reinterpretation than anyone would have wished. There were some members who felt that the report left too much to chance, that it 'unfailingly glossed over how the inevitable problems would be addressed once they began appearing' and 'that it painted a rather idyllic picture of how smoothly these new institutions would operate'.³¹ But in producing their report the Task Force ultimately achieved what had eluded other previous Inquiries; the closure of the Prison for Women. Although it had been a co-operative endeavour between the Steering Committee and the Working Group, the key members were the eleven women on the Working Group. At times uneasily co-existing, they had attempted to cover every conceivable facet of imprisonment for federally sentenced women. By means of commissioned research, public consultations and their own individual expertise they had assembled a mass of data, which had had to be absorbed, processed and presented to the Commissioner within an extremely short period. It was inevitable that their best endeavours would in some areas be insufficient, given that they had only nine months in which to repair the damage occasioned by fifty-five years of federal imprisonment at the Prison for Women. It was also inevitable that the differing perspectives they individually brought to the deliberations should impinge on their ability to deal fully with all the issues raised.

On the 26th February, 1990 the Task Force Emergency Measures were presented to Commissioner Ingstrup and that same day another Aboriginal woman from Saskatchewan committed suicide in the Prison for Women. The Measures contained eight recommendations and perhaps the most important one, bearing in mind the suicides which had taken place during the lifetime of the Task Force – and again directly afterwards – was that transfers from provincial correctional institutions to the Prison for Women should be stopped. That recommendation was implemented almost immediately.

³⁰ Undated draft of what was then Chapter VI.

³¹ Letter to author 1999

Creating Choices was published on the 20th April, 1990 and on the 30th September, 1990 Mr. Ingstrup publicly accepted the report in its entirety. Work on implementation could begin.

Creating Choices

The previous chapter described the process by which the Working Group decided what should be done with the Prison for Women. They chose: closure; that the prison should be replaced by regional prisons, including a Healing Lodge; and where the new prisons should be located. In this chapter we have read something of what the Group envisaged as a new physical model of imprisonment. We already know that the 'cottage' had apparently returned to reclaim its historic place as an exemplar for women's imprisonment, while the congregate-style penitentiary had been abandoned. The fruits of the Task Force's deliberations were placed in the public domain with the publication of *Creating Choices*, and it is to this document we now turn to see if some of the questions raised in earlier chapters were warranted. In particular, we need to examine the truth of the supposition that the old prison had been displaced as an exemplar and ask if prisons are ever truly remodelled. We should also consider whether, as Shaw (1996: 195) has suggested, the report has contributed to the diverting of attention from '*rethinking* the use of imprisonment', by disguising the true disciplinary intent of the prison.

We need to be clear, however, about the scope of the report itself. It attempted to paint a very broad picture of what had led to the formation of the Task Force. An analysis of the history of federal women's imprisonment, and previous efforts to do something about its inequities, was set alongside the voices of imprisoned women themselves. The Task Force-commissioned research was used to provide a fuller picture of the women, their backgrounds and histories. We already know that an entire chapter was devoted to the *Voices of Aboriginal Peoples*. Voices from the community were added to show that prisoners were also the responsibility of society, rather than solely CSC's. There was less emphasis on the responsibility of the women themselves, for reasons which have already been discussed. It was a carefully developed schema intended to lead logically to the crux of the report, which was that the Prison for Women should be shut and replaced by new regional

prisons. The Task Force wanted to demonstrate that they had covered all possible ground and that their final decisions were well-argued – and irrefutable. They expected those responsible for implementation to be able to proceed, confident of being on the right path.

I do not propose examining in great detail what the report recommended, as much of this has already been covered here and elsewhere (see Shaw, 1993, 1996a, 1999b; Hannah-Moffat, 1994, 1997, 2001; Faith, 1993, 1995; Kendall, 1999, 2000; Monture, 2000; Pate, 1999). We know that the Task Force recommended:

- five³² new prisons and a Healing Lodge;
- spacious grounds to which the women would have access;
- a cottage-style of architecture, where women would live independently in small groups, while preparing for their eventual return to the community;
- cottages which could also accommodate children with their mothers;
- carefully selected and trained staff;
- innovative, holistic programmes, appropriate to the needs of the women, as well as programmes recognising cultural differences;
- planning and management of the Healing Lodge by Aboriginals, with Aboriginal ceremonies and programming being central to its day-to-day running;
- a complementary package of community-based services for women, including half-way houses and addiction treatment centres.

I do, however, want to look specifically at the use of language in *Creating Choices*; and then at the way particular perspectives consistently appeared throughout the report, while asking how and why this might have occurred.

³² Although the Task Force had accepted that the Burnaby Correctional Centre would not be replaced, they still recommended that a fifth prison should be in 'the lower mainland of British Columbia' (TFFSW 1990: 114).

Explaining the choices

Much of the critical debate about *Creating Choices* has centred on the way in which the language of feminism was incorporated into a penal strategy and subsequently had its original meaning reinterpreted. The Principles (chapter 10, TFFSW, 1990), which I have not previously discussed but have mentioned at various points, were central to the integrity of the report itself and its subsequent implementation. The Task Force always intended that, should questions arise at a later date, the Principles would provide a context for any decision-making.

Although the Task Force does not appear to have made a minuted decision about this *Creating Choices* was, apart from one paragraph, remarkably free of references to feminism, choosing to describe itself as ‘women-centred’ instead (perhaps because they knew it would be easier for CSC to adopt the report if it were not seen as polemical). Nevertheless, the writers of *Creating Choices* believed they were espousing a largely feminist vision, even if the language used was not entirely ‘owned’ by feminism, and this was particularly evident in the Principles (which are here briefly paraphrased).

1. *Empowerment* Federally sentenced women had been ‘dis-empowered’ by ‘inequities’ and ‘reduced life choices’. Women were to be empowered through the provision of programmes which would help raise self-esteem and enable them to ‘accept and express responsibility for actions taken and future choices’ (TFFSW 1990: 105–107).
2. *Meaningful and responsible choices* This was linked to the principle of *empowerment*, in that raised self-esteem could be achieved through the availability of ‘meaningful options’ which would ‘allow them to make responsible choices’. The ‘options’ included better programmes within the new prisons and better community alternatives post-release. These ‘choices’ were to be relevant to their own needs, and in learning to make better personal choices women would be better equipped to avoid the cycles of dependency ‘on men, alcohol or drugs and / or on state financial assistance’ once their sentence was completed (TFFSW 1990: 107–108).
3. *Respect and dignity* This assumed the need for ‘mutuality of respect’ among ‘prisoners, among staff and between prisoners and staff’; that ‘if people are

treated with respect and dignity they will be more likely to act responsibly'. It also recognised the importance to individuals of spirituality and cultural identity (TFFSW 1990: 109).

4. *Supportive environment* *Empowerment, responsible choices, respect and dignity* could only be aspired to – and achieved – in an environment which was positive and conducive to good physical and psychological health. This principle stressed that 'equality ... cannot be reduced to equality of treatment in the sense of "sameness" of treatment, but must be understood as equality of outcome' (TFFSW 1990: 110).
5. *Shared responsibility* This principle acknowledged that none of the others could be achieved without understanding that both corrections and the outside community shared responsibility for federally sentenced women (TFFSW 1990: 111).

All of these Principles were later reinterpreted by CSC and moved some distance from what the Task Force, which remained faithful to its largely feminist roots, had intended. Perhaps the most immediately contentious appropriation of language centred on the use of *empowerment* and its relationship with *meaningful and responsible choices*. Kendall (1994: 3) wrote that she was: 'concerned that the language of feminism [was] being appropriated and stripped of its subversive potential by corrections in order to facilitate the correctional agenda'. Hannah-Moffat examined the way in which, post-publication of *Creating Choices*, the interpretation of the language changed from the feminist or woman-centred approach of the Task Force, which assumed that women's offending could not be divorced from 'their life circumstances and the social context of their offences', to one which had been defined anew by CSC, wherein a woman was 'responsible for her own self-governance and for minimizing and managing her needs and the risk she posed to herself and the public' (Hannah-Moffat 2001: 175,155; also see Balfour, 2000). The complexity of Hannah-Moffat's analysis cannot be paraphrased here but, drawing partly on work by O'Malley (1992), she teased out the connection between what he referred to as 'prudentialism' (whereby individuals have responsibility for managing their own risk) and CSC's assumption that, given appropriate options, imprisoned women would be able to make appropriate choices.

Moreover, that they would voluntarily choose to make these within the constraints of an environment in which they had been involuntarily confined and where the available options had been determined by CSC. In adopting this ‘responsibilising’ strategy CSC moved beyond the older ‘welfare strategies of rehabilitation [wherein] the state is responsible for the offender’s reformation’ to a position where the woman herself is entirely responsible (Hannah-Moffat 2000: 32).

In the *Creating Choices* model an interesting aspect of taking responsibility was the relationship between Hannah-Moffat’s ‘self-governing’ woman and staff, a connection characterised as ‘dynamic security’ which contributed to the smooth-running of the prison (TFFSW 1990: 117). Although a member of the Steering Committee had, at their concluding meeting, urged that the section in the report on staffing should be strengthened, the final version did not dwell at great length on their role. It recognised that there would have to be changes in the way staff were both selected and trained, but did not fully address the inherent inequality between women and staff and the fact that it was ‘the authority of the position [of guard] which exact[ed] co-operation (Faith 1993: 163; also Kendall, 1993). It certainly did not address the possibility that new staff would require intense support from CSC as they coped with new jobs, in untested prisons, with prisoners also adapting to a new environment. One of the expectations of staff was that they should ‘create an environment where relationships based on role-modelling, support, trust and *democratic* decision making’ could thrive (TFFSW 1990: 88, emphasis added), ignoring the point that coercive environments could never be democratic environments. The tension between the security and supportive role of a guard would always be resolved in favour of security, because the prime function of a guard was to retain control (Liebling & Price, 2001). Much of the Task Force’s planning was contingent upon the success of staff / prisoner relationships: the levels of physical security; how many, if any, staff should be in each living unit; the willingness of the women to respond to a different type of guard. The self-governing woman became, in effect, an integral part of the governance of the prison because her ‘responsible’ choices – made possible through the benevolence of CSC – contributed to its good order. Her choices could never be made entirely in what she perceived to be her own best interests, because the welfare of others also had to

be taken into account, as did the probable judgement of staff. Additionally, the final judgement as to what was an appropriate choice was made by others, rather than herself, so in correctional terms, 'consequence' appeared to be the obverse of 'choice'. While this might be said to replicate the choices made on a daily basis by those living outside prison, the crucial difference is the loss of autonomy. This applies to everyday events where, in certain situations, the expression of anger may be construed as an entirely appropriate response, yet in the confines of a prison it may be seen as inappropriate. Within an abnormal environment – and the involuntary discipline attached to prisons means that they can never be anything other than abnormal by comparison with life on the outside – prisoners are expected to behave in an abnormal fashion in order to be seen to be behaving responsibly. For prisoners to resort to normal human behaviour is to risk the possibility of its being interpreted as failure to address the reason for their imprisonment. To *resist* within an abnormal environment, especially when the resistance is focused on choices which the prisoner might feel are inadequate, is not seen as a positive response. It is again seen as failure, whereas Shaw argues that 'in such circumstances, the actions of prisoners should be regarded as rational responses rather than character flaws' (Shaw, 1994 cited in Kendall, 1998; also, see Bosworth, 1999). Eaton suggests that women 'preserve something of the self' by 'withhold[ing] that self from engagement with the world of the prison. ... [and that the women's] 'way to make a choice [is] *to choose not to choose*' (Eaton 1993: 42, emphasis added). Under the model first presented by the Task Force, and later defined by CSC, the right to choose could not be declined. To fail to choose was ultimately to act irresponsibly, with consequences that could reverberate as far as Parole Board hearings. Yet choice was the cornerstone of the Task Force's plan.

As I have earlier suggested, the notion of 'responsible choice' was predicated on its interpretation by a largely middle-class Task Force, whose members assumed that individuals should, and could, make choices which balanced the competing needs of those around them. Such rationality is not always easily achieved, especially amongst women who have not experienced much order in their own lives, and the rhetoric to which federally sentenced women were exposed prior to being removed to the new prisons did not, generally, touch on the new responsibilities they were to

assume. 'Choices' were obscured by the larger vision of the new physical style of the prisons and, as we shall see, some of the women arrived at the prisons with inflated expectations of the degree of freedom to which they would be exposed, largely because of the enthusiasm of staff who had discussed the new prisons with them prior to transfer. The question of involving federally sentenced women in responsibility for their own imprisonment is something to which I will return in a later chapter, but more particularly in relation to the Healing Lodge, where the degree of responsibility and self-governance demanded of the Aboriginal women is potentially greater than for non-Aboriginals because of the added dimension of culture and spirituality.

Hiding the reality

Such discussions are of particular importance in terms of what emerged following the implementation of the report, but they have also been dealt with by others in some detail (see Shaw, 1993, 1996a, 1999b; Hannah-Moffat, 1994, 1997, 2001; Bruckert, 1993; Faith, 1993, 1995; Kendall, 1999, 2000; Monture, 2000; Pate, 1999). Here I want to look at the fundamental use of language by the Task Force. We already know of the Working Group's ambivalence towards helping create new prisons and this showed in the way they discussed them. In the October Minutes, when the Working Group was in the midst of planning five new prisons, the actual word 'prison' was not used at all (apart from the times when the Group referred to the Prison for Women). Instead, the prisons were transformed into 'facilities' or 'new accommodation', each having a 'milieu' or 'environment'. One member went so far as to stress that her 'support for construction is contingent on not building a bars and cells penitentiary but rather a place where troubled people live while learning to deal with their problems'. It was a remarkable linguistic sleight of hand, echoing the language used to justify the rebuilding of Holloway (see Rock, 1996) and the detention of women at Cornton Vale in Scotland (see Carlen, 1983). The eventual report conjured up an image of prisons having the 'milieu' of a 'facility' run by social workers (as, indeed, many of the new staff had previously been).

Such circumlocution – or Controltalk (see Cohen, 1985) – continued with the publication of *Creating Choices* and subsequent CSC policy documents. When the new prisons opened they were named ‘institutions’, and spoken of as ‘facilities’, and the new Aboriginal prison remained a ‘Healing Lodge’, in itself an extraordinary euphemism for a place of confinement. The prisons consisted of ‘cottages’ and the cottages contained ‘bedrooms’, rather than cells. The originally-named Assessment Cottage became an Enhanced Unit – and was actually a maximum security complex. When the report portrayed the community aspect of the new plans for federally sentenced women, the accommodation was described as ‘community release centres’, ‘half-way house’ and ‘satellite units’, avoiding the fact that there remained elements of supervision (or discipline) at each. By the implementation stage, guards or correctional officers had been transformed from ‘staff’ into ‘primary workers’ (also see Bruckert, 1993; Faith, 1993). The custodial relationship had been made to disappear by a feat of linguistic engineering. I would suggest that this can be directly related to the Task Force’s and, more specifically, the Working Group’s reluctance, thanks to the demands of consensus, to dwell too much on the fact that they were building prisons. Culhane referred to such usage as: ‘“system” language which denies prisoners the reality of their own existence [and] also serves to cloud public perception of life behind prison walls’ (Culhane 1991: 20). Faith also commented: ‘... to the women themselves, the euphemisms are offensive. To the person who is forcibly confined within them, these places are prisons and they are prisoners’ (Faith 1993: 123). Ross added that such ‘euphemisms are too gentle and subsequently, misleading in the description of the experience of imprisoned women’ (Ross 1998: 126). Yet such soft language helps legitimate the prison, conferring upon it an apparent normality, while the actual discipline imposed by the prison – assisted, in the Canadian case, by the anticipated self-discipline of the prisoners – is very far from normal. ‘Controltalk’ is not a recent phenomenon (Cohen, 1983 & 1985); it has a long and dishonourable history in disguising the reality of imprisonment and, as Bruckert (1993: 17) contended: ‘... obscures the harsh reality of coercive social control [and] allows middle class reformers and workers to justify (and conceptualise) their roles as benevolent’. Yet, in adopting such language, the Working Group had found a device by which they could disguise, or at least minimise, the reality of their

endeavour – and finally produce a plan. The ‘facilities’ and ‘institutions’ were the very end of the road paved by consensus; the prison had disappeared.

Different voices; absent voices

Alongside the language so consistently embraced by the Task Force there is another highly visible strand. To explore this we must look back at the formation of the Task Force and remember that the original vision was of a partnership between CSC and CAEFS. With the addition of the Aboriginal members a ‘distinct’ dimension of culture and ethnicity was added to the profile of federally sentenced women, dividing them into two groups. At the same time another ‘distinct’ society, that of Québec, was not separately represented on the most influential of the Task Force’s two parties, the Working Group, and francophones were eventually planned for as though they had no identity other than that of Euro-Canadian. Despite subsequent CSC protestations that it would have been impolitic to have allowed separate representation, we have seen that during the life of the Task Force itself an unsuccessful attempt was made to co-opt a Québécois civil servant on to the Working Group. I asked in chapter 2 if there might be some importance attached to the original suggestion that ‘*a native person [as well as] ‘two provincial representatives’’³³ should be on the Task Force. At the time their inclusion was suggested it was no more than a recognition of the significance of the two constituencies, but how they were both subsequently dealt with raises questions about inclusion and exclusion within Canadian society and the complex nature of ethnic identity in a colonised country. I now suggest that *Creating Choices* itself forces us to think anew about the way marginalised groups may capitalise on opportunities presented to them – and that the Aboriginals exploited the opportunity provided by the Task Force in a manner not previously recognised.*

The bare facts speak for themselves. In its 133 pages *Creating Choices* contained a separate Aboriginal chapter, alongside twelve substantial sections addressing Aboriginal issues and perspectives. Additionally, there were innumerable references to Aboriginal concerns throughout the report. *Creating Choices* was quite frank about what was intended: ‘... it was agreed that every effort would be

³³ 16th September, 1988

made by the non-Aboriginal members to understand the Aboriginal perspective and to integrate this understanding, with support from Aboriginal members, throughout the report' (TFFSW 1990: 98). Consequently, each new idea introduced by the Task Force was also examined from an Aboriginal perspective. The Principles, with only one exception, also referred to Aboriginal concerns and began with a preamble which further highlighted the specific injustices experienced by Aboriginal women. The Healing Lodge was initially introduced with a caveat not extended to the other proposed new prisons: 'It was clear from the outset however, that this conclusion [that there should be a Healing Lodge] was only the conclusion of this Task Force. In order to be accepted, this idea must not only be embraced by the Correctional Service of Canada but must be developed by and connected to Aboriginal communities' (TFFSW 1990: 100). However, when the Task Force introduced the 'Recommended Plan' they wrote: 'it is a plan which must be seen, assessed and implemented in its entirety. Isolating parts of the plan, and adopting or rejecting these parts without seeing their vital interrelationship to the whole, would destroy the integrity of the plan' (TFFSW 1990: 114). Taken to its logical conclusion such a statement – in association with the previous one – implied that, should Aboriginal communities refuse to be associated with the Healing Lodge, the entire plan would be scuppered. This, of course, was not the Task Force's intention; it was simply a failure of editing, because the Aboriginal members had already made it clear that the Healing Lodge, while contingent upon the support of the Elders and Aboriginal communities, had in principle been backed. But it illustrates the deference accorded Aboriginal participation – and was a deference not shown to others.

All of this was in marked contrast to the attention paid to that other distinct group, the francophones of Québec, who might have been considered eligible for at least provincial consideration. *Creating Choices* had no separate chapter devoted to francophone needs and aspirations. In all, there were eight references to Québec and only one paragraph focused specifically on the province. That, however, was set in the context of what had happened historically, rather than what might happen in the future. Of the 60 quotes which opened the report, from women who had been or were federal prisoners, 26 were from women identified as Aboriginal; there were

no quotes recognisably from women from Québec. Of the 54 quotes used to identify 'the voices of others who care', 14 came from representatives of Aboriginal organisations and one was from Québec. There was a brief reference to the need to reduce language and cultural barriers for francophones, issues which had largely been won in the province during the 1980s, but, overall, Québec's needs and aspirations were almost totally ignored. The francophone women were not seen as a distinct cultural group meriting separate attention; rather, they were incorporated and seen as being no different from other Euro-Canadian federally sentenced women from across the country.

Did this matter? The most obvious point to make is one provided by a member of the Task Force: *There was no doubt. If there was an institution in Québec there was no doubt in any of our minds that it was going to be French. ... If you have the institution here, we'll take care of it, it will be culturally ours. There's no way, because of the people who will be staffing it, because of the environment, that it will not meet cultural needs ...*³⁴ In the event, because of the National Implementation Committee's decision that the new Québec prison would not be built in Montréal but in the small, almost totally francophone town of Joliette, this was even more true than anticipated, yet it also reflected a characteristically Québécois pattern of quiet subversion. Québec might have been omitted from the Working Group, but the francophones would continue doing what they had been doing for centuries in the face of continued anglophone failure to recognise their distinct culture and status as a nation; they would cultivate their own francophone environment as the new prison emerged from the drawing board. This was an important lesson to be drawn from the omission of Québec from the Working Group, yet it fails to explain why they should have been neglected in the first place and why I have pursued the question of Québécois exclusion. Québec was not a province that the federal government customarily ignored and, in the decade leading up to the Task Force, Québec had seldom been absent from the wider Canadian political debate. The conclusion I have reached is that the civil servants were initially so focused on forging a partnership with CAEFS, partly in order to legitimate the venture, that the broader political perspectives, which generally

³⁴ Interview 32

prevailed whenever Task Forces were formed, were no longer seen to be pre-eminent. CAEFS was *essential* to the public success of the venture; Québec was not. What this demonstrates is the way in which political considerations alter over time. Québec has always been – and will conceivably remain, unless demographic factors affect the province disproportionately – both an integral, yet consciously separate, part of Canada. Its cause has been publicly espoused over centuries of dissension but, as Canada has become more cosmopolitan, the debate over Canadian identity has had to encompass many diverse groups. As the country has started to come to terms with its changing face it has also had to confront its engagement with those peoples who were stripped of their heritage by the successive colonisation of the French and the English. The civil servants charged with assembling the Task Force were unexpectedly faced by an able and forceful group of Aboriginal women, and the civil servants' knowledge of Canadian history enabled them to recognise the strength of the Aboriginals' claim for membership. As it eventually transpired, the Aboriginals' participation became essential to the legitimacy of the Task Force, in the same way that CAEFS had legitimised the venture at the outset. For once, the Aboriginals' claims took precedence over those of the colonisers – and the less powerful of the colonisers, the Québécois, were assumed to be little different from other Euro-Canadians.

When subsequently asked to justify the omission of Québec from the Working Group the civil servants' explanation relied on the difficulties associated with acknowledging one province ahead of another, but this was disproved by the attempt to co-opt a Québec correctional official. When pressed further, it was suggested that conceivably CAEFS should have selected a Québécois representative for the Working Group, as this would have removed the possibility of a federal department causing offence to the provinces, while still allowing Québec perspectives to be heard at the most influential table.³⁵ This was not the function of CAEFS – and it could not be assumed that all their representatives would have been concerned about Québec, either. As one CAEFS' representative said: *From where I sit in the west, Québec is another province like the rest of us. To me, there is another province that has its idiosyncrasies, as we do here. We*

³⁵ Private notes 2000

*struggle with some things, they struggle with others. ... It's not like the Aboriginal population who have a separate identity that has really gone unheard – that really matters very, very strongly. In Canadian history we have not heard them, paid attention, and we absolutely were so committed to putting a document together that heard them, that said you are a part of this experience, of what we need to learn, of what we have to do.*³⁶

The civil servants then became involved in the unanticipated issue of Aboriginal representation and became further distanced from federal – provincial dilemmas. Part of this can best be explained from a francophone perspective: *I'm saying that the Aboriginal question was taken more seriously than the French question because they're [civil servants] used to the French. We've been saying things since day one ... they've heard everything! This body of Aboriginal strength, and what it represented in terms of loss for Canada ... obviously they [Aboriginals] are sitting on an awful lot of land, so what I'm talking about is that all this can be lost, the consequences are enormous. And in the midst of this was a particularly important point; that the civil servants were dealing with an unfamiliar group and were not as sure-footed as usual. Obviously the French are important, but it is more frightening to be confronted by people you are more estranged from. Certainly the English are less estranged from the French than they are from the Aboriginal groups. So the fact that they did not know where they [Aboriginals] were coming from, what to expect, how organised they were, where they were going, made it much more threatening to the civil servants in Ottawa. And the guilt, also, that has been there forever. They have never felt guilty about the French!*³⁷

Remembering the shared aspirations of both the Québécois and the Aboriginals – that they should be recognised as 'distinct' societies and have the right to self-determination – it could perhaps be assumed that, together, they might have been effective allies on such a Task Force. This would be to ignore the legacy of distrust felt by Aboriginals towards the 'dominant culture' (of which Québec was perceived to be a part) and a fundamental linguistic divide between themselves and the

³⁶ Interview 28

³⁷ Interview 32

Québécois.³⁸ Relatively few Aboriginals speak French: *It's so different because of the language barrier, because most of the Aboriginals are English speaking. ... the language barrier is enormous. It was almost felt, from the Québec point of view, that the Aboriginals were mostly English-speaking – so they were separate in two ways.*³⁹ Moreover, the francophones had always had provincial representation of their perspectives, even if these were not always heard in the federal arena. This sense of Québécois territoriality was not one permitted the Aboriginals who, in many cases, had been removed from their historic homelands. Additionally, the Aboriginals had no official parliamentary base to use as a platform for their grievances and were taking advantage of an opportunity – fortuitously provided by the Task Force – both to work for the good of Aboriginal federally sentenced women and to publicise their wider political aspirations.

So by the time the report was being written there was a group of civil servants, some of whom had been hand-picked because they were there as unofficial representatives of the Commissioner, who found themselves unexpectedly outnumbered by those from the voluntary sector. The civil servants early on discovered that the Aboriginals had an agenda which exceeded the Mandate; they wanted to discuss self-government and a system of criminal justice which reflected Aboriginal custom. Above all they wanted to discuss the issues which contributed to the disproportionate criminalising of Aboriginal women – and that meant exploring the period before ‘commencement of sentence’, an area specifically excluded by the Mandate. Despite being told that this was not part of the Task Force’s remit the Aboriginal members used every opportunity to pursue these points. Moreover, their insistence that the other members of the Task Force should be ‘educated’ in an Aboriginal history of racism, abuse and poverty had the dual effect of simultaneously raising awareness and subduing debate on Aboriginal issues.

³⁸ This distrust was to explode disastrously during the standoff, lasting 78 days, between Mohawks and the army at Oka, in 1990. The conflict centred on 39 hectares of land, claimed by the Mohawks as historically theirs, and which the local municipality wanted to develop as a golf course. See Frideres (1993) for a chronology and discussion of the event. Also, see Wagamese (1996) for a more personal view of what happened.

³⁹ Interview 32

Bearing in mind that the final draft of the report was written by civil servants it is remarkable just how completely the Aboriginal message permeated *Creating Choices*.⁴⁰ What is perhaps even more remarkable is the way that this so influenced the debate on all federally sentenced women. The characterisation of federally sentenced women as ‘victims’ provided an illustration of this point. Although the Steering Committee at its final meeting had urged that greater emphasis should be placed on the part federally sentenced women had played in victimising others – and *Creating Choices* went some way towards doing this – the women’s offending remained situated in a social context which somewhat extenuated their behaviour:

The Task Force ... is built on the acceptance of responsibility by the women, by the justice system, by the government and by communities. But while this responsibility includes the need to address and repair harm done by federally sentenced women, *it puts these incidents into the context of social inequalities and structures which define and lead to crime* (TFFSW 1990: 132, emphasis added).

As suggested in chapter 4, much of the discourse surrounding ‘women as victims’ originated from the largely undisputed view that Aboriginal women were indeed victims of an unequal society. There was no apparent debate of the feminist view that to label women simply as ‘victims’ was to perpetuate paternalistic notions and disempower women prisoners even further’ (Kendall 1993: 29). As the Task Force, and particularly the Working Group, came to see the imprisoned women as individuals who had committed offences in certain circumstances, rather than as an amorphous group of federally sentenced women, it became harder to categorise them all as women who had created victims, despite the legal reality that they were. As they were working within the constraints of ‘consensus’, the Working Group could not label just one group of federally sentenced women, the Aboriginals, ‘victims’. They could not attach a caveat to their work and did not wish to. Additionally, the Working Group was determined that the final report should not be interpreted in a manner which might lead to groups of women being treated unequally. The acceptance of the Aboriginal rhetoric spilled over into how they came to view all federally sentenced women and, in the end, the Working Group found that they could not differentiate between them.

⁴⁰ As earlier noted, an external editor, Linda McLeod, was employed for the final draft.

In the light of the widespread Aboriginal influence apparent throughout the report, I believe that we should look at *Creating Choices* anew. Not just as a document on penal affairs, but as a political document and a subversive one at that. I think it is reasonable to say that *Creating Choices* is much more of an Aboriginal statement of intent than has ever been acknowledged. It is a robust riposte to the offensiveness of *The Task Force on the Reintegration of Aboriginal Offenders as Law-Abiding Citizens* and to the failure of the Women in Conflict with the Law initiative, from which the Aboriginals had withdrawn. The Aboriginals were not expected to be part of the Task Force; two were then included on the most important of the two parties, the Working Group, and a further three were placed on the Steering Committee. Federally sentenced women were to be consulted, but not included on the Task Force; the Aboriginals ensured that two Aboriginal federally sentenced women joined the Steering Committee. Commissioned research was to 'have a sound empirical basis' so as to satisfy the demands of the Treasury Board⁴¹; the Aboriginals were eventually encouraged to undertake their own forms of research. Discussion of an Aboriginal justice system was outside the remit of the Mandate; this impossibility was addressed frankly at various points in the report and therefore put the question of Aboriginal government, self-determination and justice firmly in the public domain. In short, Aboriginal influences permeated *Creating Choices* and the reasons were made explicit in the report: 'Just as we cannot tack women on to a men-oriented system of corrections, so we cannot tack Aboriginal women on to any system be it for men or women' (TFFSW 1990: 99). Yet who wrote the final draft? With the exception of the chapter *The Voices of Aboriginal People*, that final draft was written by the civil servants. While it could be suggested that the civil servants resorted to expediency and incorporated Aboriginal perspectives in order to add political legitimacy to the document, I believe that, largely, they had come to accept the validity of the Aboriginals' case. They had sat through lengthy, often painful, meetings with the Working Group and were in no doubt that *Creating Choices* 'had to reflect / be consistent with Working Group discussions – and the Aboriginal fact was very strong in these discussions'.⁴² The civil servants' conversion, bearing in

⁴¹ Memorandum 28th April, 1989

⁴² Personal letter August, 2001

mind the genesis of the whole project and their expected supervisory role, was an extraordinary turn of events.

One of the civil servants was asked if she thought that the Aboriginals viewed the Task Force as a political opportunity: *It seems to me that [they] would have and [they] would have been foolish not to have seen it as that.*⁴³ Another senior civil servant was asked the same question and the reply was: *Yes, you can see from the results that they brought forward the Aboriginal agenda, then adding, ... the other element was very clearly that we were lucky with the Aboriginal representatives, that they made their points and got their issues on the table. Their agenda was fully understood and if we had more shy people it wouldn't have happened.*⁴⁴ A member of the Steering Committee perhaps best encapsulated this when she said: *I would say that those who have gained most out of Creating Choices are the Aboriginals. That was not the original intention – the original intention was to have all women gain from Creating Choices. When you look back at what has happened I would say that certainly the Aboriginals are the great winners.*⁴⁵

Yet all of this still does not answer why I have pursued the exclusion of Québec from the Working Group. I would suggest that in doing so the civil servants – most probably inadvertently – continued the pattern, begun at the time of the Conquest, of assuming that the Québécois could be absorbed into the larger anglophone body politic. Although the *British North American Act 1867* had specifically (and inaccurately) referred to the British and French as the ‘founding nations’ of Canada, the reality had been that they had not lived as two equal nations within the Confederation. Québec had consistently needed to assert its unique cultural identity and in the 1980s was finding it increasingly hard to do so as more anglophones moved in to the province. The 1980 referendum on ‘sovereignty-association’ had been lost, but the debate continued (and was to be the subject of another narrowly-lost referendum in 1995). Québec was of paramount importance to the rest of Canada because its departure from Confederation, even with economic ties remaining, might have impelled other provinces to consider similar action to

⁴³ Interview 30

⁴⁴ Interview 27

safeguard what they saw as ‘their’ resources, such as oil. The subject of the Task Force was of little importance to the vast majority of Canadians, including Québécois, but it was yet another in a seemingly unending line of government-sponsored initiatives which ignored Québec’s wish to be sovereign. The anglo-Canadians were once again taking charge of matters which, in Québécois’ eyes, were sovereign. To the civil servants of CSC, intent on planning a relatively obscure Task Force, the participation of CAEFS appeared to be the main prize. But to those Québécois aware of the initiative, the failure to consider their needs – especially once the Aboriginals had been included in such numbers – was yet another instance of their being sidelined, another instance of their culture being disregarded. In short, the civil servants’ political antennae deserted them. I do not believe that, had the Québécois been included on the Working Group, the final report would have been *significantly* different, but it would have reflected in a distinctive fashion the perspectives of those two groups of original colonisers. The quest for sovereignty, culture and distinctiveness as separate nations is what binds both the Aboriginals and the Québécois, even though Aboriginals might dispute the legitimacy of Québec’s claims to sovereignty. The civil servants recognised neither claim in planning the Task Force, and subsequently found their carefully balanced enterprise disrupted once the Aboriginals gained seats at the table. The Aboriginals took their opportunity and indeed might appear to be ‘the great winners’.

Conclusions and looking ahead

In the light of what has subsequently happened, following the implementation of *Creating Choices*, this last statement needs to be tested. In the next chapter we look at what happened once *Creating Choices* passed into the hands of the National Implementation Committee and assess how faithfully the report’s intentions were interpreted. I touch briefly on two seminal events which occurred prior to the opening of the new prisons; the decision by CAEFS to withdraw from the implementation process, and events at the Prison for Women in April 1994, which led to the Arbour Commission. After this brief summary – which is no more than a bridge to later developments – we look at the opening of the new prison in Edmonton and, in the following chapter, the opening of Nova Institution for

⁴⁵ Interview 32

Women, in Nova Scotia. Both of these prisons were more fully envisaged by the Task Force, as were the other largely non-Aboriginal prisons. It is with an understanding of what they faced during their first years of opening that we finally move to the Healing Lodge, and attempt to analyse the view presented by that member of the Task Force, that the Aboriginals were the great winners of the Task Force's enterprise.

6. Edmonton Institution for Women

Having completed its work, the Task Force was disbanded and its painstakingly prepared plan for closure and replacement of the Prison for Women was returned to the civil servants for the next stage; implementation. In the following chapters we examine what happened as all the new prisons emerged from conjecture into physical reality, then pay particular attention to the first three of the new prisons to open. It is important, for the historical record, to document how those three prisons individually fared because the passage of time inevitably affects and clouds what is remembered of events. Commentators have addressed the initiative, producing compelling assessments of the philosophy underpinning *Creating Choices* and the way in which this was translated into a correctional rationale justifying later amendments by CSC (see Shaw, 1993, 1996a, 1999b; Hannah-Moffat, 1994, 1997, 2001; Faith, 1993, 1995; Kendall, 1999, 2000; Monture, 2000; Pate, 1999). Their analysis has not focused on specific prisons; neither have they compared and contrasted the development of each. Yet it is in such detail that we might find explanations for why things unfolded as they did and the next three chapters chart three different stories, all arising from the pages of *Creating Choices*.

Upon beginning the attempt to replace the Prison for Women, the Task Force found it had to devise a blueprint, rather than rely on precedent set by other jurisdictions. None offered innovation on the scale it was seeking and those apparent pockets of excellence which did exist were not always fully documented or evaluated.¹ As a Task Force member later said, ‘we were desperate to see what was new ...’.² This provides another reason for a close scrutiny of *Creating Choices*, because its implementation was watched with interest across the world, not least because CSC went to great lengths to publicise what they were doing. The report was potentially a landmark document for imprisoned women, and other jurisdictions were anxious to see what could be learned. For the moment we need to know just what happened in Canada. This was a specifically Canadian enterprise and the lessons – if, indeed, there are any to be learned – may partly be drawn from what happened on the ground in Canada. The Canadians involved in the Task Force, even those who

¹ Both Margaret Shaw (1991a) and Lee Axon (1989) provided comprehensive reviews of international trends and practices for the Task Force.

² Personal notes 2001

were civil servants, wanted to provide solutions for Canadian federally sentenced women, and it was only subsequently that CSC ‘marketed’ the work of the Task Force as a possible model for other jurisdictions. The following chapters sometimes rely on straight narrative, so that we are not distracted from this essentially Canadian story. But the account will also be situated in the context of other penal reform initiatives, so that we may appreciate what could conceivably have been learned – and avoided – by both the Task Force and those responsible for implementation as the new prisons were built and then opened.

The background to these chapters is what has preceded them; the history of how and why the Task Force came together and what it jointly produced. To set the scene for what follows we must briefly return to the history of how the prisons were planned and what happened while they were being constructed. We do not need to know the role the individual correctional regions played in the planning process because, although they were undoubtedly partners in the construction, the prisons remained a federal venture.

Withdrawing from the partnership

The brief final chapter of *Creating Choices* outlined how the Task Force’s plan should be implemented. It was less than specific about the means, recommending that a ‘very senior management position’ should be created ‘for the sole purpose of implementing the plan’, and that ‘the Commissioner [should] establish an externally based implementation committee which would report directly to him’, and be ‘comprised of a federally sentenced women as well as representatives from the Canadian Association of Elizabeth Fry Societies, the Aboriginal Women’s Caucus and Status of Women Canada’ (TFFSW 1990: 130). CSC’s response was to establish a National Implementation Committee (NIC) in November 1990, consisting solely of civil servants and chaired by Jane Miller-Ashton, who was by then the National Co-ordinator for the Federally Sentenced Women Initiative. An External Advisory Committee (EAC) was later struck comprising representatives from CAEFS, NWAC and Status of Women Canada, but no federally sentenced women. The EAC was to have a role similar to that of the Steering Committee on the Task Force, but with very much less influence. (Aboriginal women were also involved in separate planning for the Healing Lodge undertaken by a NIC sub-committee.) There were no Aboriginal women on the actual NIC, even though Aboriginal women inevitably had to be provided for in all the proposed new

prisons. To begin with the NIC anticipated that all information (apart from Advice to Ministers) would be exchanged with ‘outside agencies’ so as not to undermine those agencies’ trust (NIC Minutes January 1991: 11), but within a few short months this position had changed dramatically. This is best illustrated in relation to decisions taken about site location.

At its first meeting the NIC immediately set about deciding the location and selection criteria for the proposed new prisons. As we know, the Task Force recommended five new prisons, in addition to a Healing Lodge, and had been specific about their locations, believing that the prisons should be placed close to established networks of community support and in locations most easily accessible for family visits. However, a new British Columbia prison was not contemplated, because of the newly built Burnaby Correctional Centre for Women. By their second meeting, in January 1991, the NIC had largely endorsed the areas chosen by the Task Force, but had identified Toronto as the preferred Ontario site, a city which the Working Group had already rejected. Other communities were not to be discouraged from submitting proposals, but were to be told that the ‘criteria’ pointed to a ‘location near a major urban centre’ (NIC January, 1991). In other words, the decisions of the Task Force were not considered conclusive by the NIC, which suggests that CSC assumed ownership of the project as soon as the Commissioner accepted *Creating Choices*. In March, however, the NIC’s Minutes became evasive; the ‘list of communities [to be considered for a prison]’ being mailed to members had to be treated as confidential. The April Minutes did not mention location at all – and 128 communities across the country had already asked to be considered for the new prisons. By July 1991 Corrections’ officials, knowing there had been a change in policy, were concerned that any site announcement could leave the Minister ‘open to some embarrassment’ if he were to hold a formal news conference. The communities earlier identified by the Task Force would be expecting confirmation of their selection, rather than news that the site radius had been extended. The matter was expected to be of ‘particular concern to members of the EAC [External Advisory Committee] and the Halifax Elizabeth Fry Society’ as those ‘individuals and their organisations ha[d] been reviewing CSC documents pertaining to the Federally Sentenced Women’s Initiative for the past six months [and] none of [those] documents ha[d] given any indication that CSC ... would

consider looking outside the vicinity of the recommended communities'.³ A further memorandum spoke of a reluctance to 'send out the June and July minutes due to the confidential content, yet we have no explanation to offer the External Advisory Committee [for any delay]' (13th July, 1991).⁴ On the 31st July 1991 it was announced that communities within 100 kilometres of each of the Task Force-specified locations (with the exception of the Healing Lodge) – Halifax, Montréal, central / south western Ontario and Edmonton – could submit bids to have a new prison in their area. In the prairies, Calgary was added to Edmonton as a possible area for consideration. As we shall see in the next chapter, there were immediate protests from organisations which had been closely allied to the Task Force, particularly regarding the Atlantic region locality.

CAEFS concluded it was being deliberately excluded from the decision-making process, and by the beginning of 1992 its new Executive Director, Kim Pate, was seeking advice from her Board as to whether CAEFS should consider withdrawing its support for implementation.⁵ CAEFS failed, as we shall see, to dissuade CSC from allocating the new Atlantic prison to Truro, rather than Halifax, and this added to their concerns. Yet their criticism had to be carefully weighed, not least because of ever-present worries about government funding should they be seen as too adversarial. It was suggested by a Board member that they had been 'politically naïve in failing to foresee how the site selection process could become so politicised'.⁶ Indeed, the signals that CSC would not share responsibility for the building of the new prisons with CAEFS had been present throughout the life of the Task Force, beginning with Mr. Ingstrup's announcement, during initial discussions with CAEFS about the structure of the Task Force, that he would be retaining financial accountability for the venture. There was also the indisputable statutory responsibility held by CSC for the penitentiaries in its care. Once implementation began, the fact that CAEFS was assigned to the EAC, rather than the NIC, further highlighted CSC's intentions. The Task Force's brief attempt to delineate the role of an implementation committee (see TFFSW 1990: 130) could not succeed in face of the hard fact that CSC was the paymaster. Yet, as a senior CAEFS' member of

³ Briefing Paper, July, 1991

⁴ The deliberate withholding of relevant information was already suspected by the EAC and later became part of the reason for the withdrawal of CAEFS from the Committee and the implementation process.

⁵ CAEFS' Report January / February, 1992

the Task Force noted, they 'were used to CSC having the money and the power' and CAEFS' initial decision to join the Task Force had been made knowing that the extent of their own influence lay in their 'ability to walk away', very publicly, if the initiative appeared to be failing.⁷ Their calculated choice to participate had been based on what they thought was best for those held in the Prison for Women, and the obverse of that choice was the risk of losing credibility should the venture fail to deliver improvements for the women.

CAEFS continued to debate its response during the months which followed and on the 14th June 1992, at its Annual General Meeting, carried a Motion:

That following immediate consultation with the women in P4W, Burnaby and Tanguay, that CAEFS withdraw from the External Advisory Committee created to oversee the implementation of the Task Force Report.

Only the Edmonton society opposed the Motion, as a decision was still forthcoming regarding the Alberta location and it was feared that the prison could be assigned elsewhere, by way of 'revenge'.⁸ CAEFS's President Dawn Fleming wrote to Solicitor General Doug Lewis, telling him of the organisation's immediate withdrawal, partly occasioned by his failure to keep them 'apprised of the progress of the implementation process' and their belief that 'the principles of the Task Force [had] not been adhered to'. CAEFS had decided to return to their 'traditional role as advocates with and for women who come into conflict with the law'.⁹

This decision left the initial planning of the new prisons firmly in the hands of federal civil servants, even though the regions were later to become heavily involved. CSC had overall control of five new prisons, with four having almost no voluntary sector involvement as the vision of *Creating Choices* was expanded and translated into physical reality. Yet even if *Creating Choices* had been more specific about an implementation strategy it is unlikely that CAEFS would have remained CSC's partner, not least because CSC's involvement with the voluntary sector was not statutorily mandated to continue. The organisation's ambivalence towards the entire project had shown at various stages during the Task Force, to the

⁶ CAEFS' Board Minutes 23rd February, 1992

⁷ Private letter 2002

⁸ CAEFS' Board Minutes June, 1992

⁹ Dawn Fleming, 18th June, 1992

point where 'on more than one occasion' they came very close to withdrawing.¹⁰ Those CAEFS' members who had been against the original decision to join the Task Force had always doubted CSC's motives in forming the partnership, and the outcome confirmed their belief that CAEFS had been used to legitimate the venture. Others were less happy with the decision to withdraw, because that left CSC to interpret *Creating Choices* as it wished, yet still able to claim that CAEFS shared responsibility for the document. This nightmarish scenario had always been CAEFS' fear, knowing that they would always be associated in the public mind with a venture that conceivably might have led to worse conditions for federally sentenced women. Their calculated gamble had failed, but the outcome might best be described as an unwanted, rather than an unexpected, consequence of the wish to re-form the prison. The outcome was not without precedent, in that penal reform initiatives have a history of being incorporated by the state. Indeed, it is the logical outcome of such endeavours, as prisons are generally financed and controlled by the state. Freedman (1981: 155) suggested that 'women's institutions which did not question the nature of the prison system' would end up equal to men's institutions because they helped to maintain the system. Of course CAEFS, while a partner in the Task Force, did question the prison system, but by trying to change it, rather than challenge its validity. To have done otherwise would have made participation in the enterprise impossible.

The April 1994 incidents

While planning continued for the new prisons the situation at the Prison for Women, which had been volatile throughout the life of the Task Force, deteriorated. In accepting the recommendations of the Task Force CSC had committed itself to a new operational philosophy for federally sentenced women, but this – inevitably, given that many of the same staff remained in place – had not been reflected in practice at the Prison for Women, despite the fact that a member of the Task Force's Working Group continued to be Warden. Planning for the new prisons had the effect of encouraging experienced staff at the Prison for Women to apply for positions in other prisons, because quite early on it had been made clear to them that they were not considered suited to the new philosophy of *Creating*

¹⁰ Personal letter 2002

Choices.¹¹ (This continued the Task Force's failure to explore in any detail the possibility that the staff of the Prison for Women, and elsewhere, might have positive and knowledgeable contributions to make to their deliberations). The long-term staff were replaced by employees with relatively little correctional experience, who had no long-term prospects at the Prison for Women and little emotional commitment to it. Budget cutbacks led to the curtailment of psychological services and contributed to tensions amongst the women, who were themselves worried about the changes they might have to face once the prisons were completed and they were transferred. Additionally, there were a number of 'lockdowns'¹² at the prison, which severely restricted the movement of the women on the ranges, particularly those on 'B' range.

Events came to a head in April, 1994. The following chronology is abbreviated from the official report of the Royal Commission of Inquiry, which dealt with subsequent events at the Prison.¹³

- on the 22nd April 1994 a brief, violent confrontation took place between six women at the Prison for Women and correctional staff. A member of staff believed herself to have been stabbed by a syringe and other staff were physically threatened. The women were maced and immediately placed in the segregation unit. They were not properly decontaminated (i.e. allowed to bathe, following being sprayed);
- tensions were extremely high and on the 23rd April three women who had not been involved in the earlier incident, but were in segregation, individually harmed themselves, took a hostage and attempted suicide. Staff had urine thrown at them. A further macing took place and that woman was also not decontaminated;

¹¹ Personal notes, 1996. However, it is government policy that staff should reapply for jobs when the work description is significantly altered, as was the case following the acceptance of *Creating Choices*. Additionally, some of the staff preferred not to move away from Kingston, as their partners were working in nearby prisons.

¹² Lockdowns must be authorised by the head of each prison. They are then scrutinised by CSC headquarters for reasonable grounds before being implemented.

¹³ Madame Justice Louise Arbour was appointed to head the Commission of Inquiry into Certain Events at the Prison for Women in Kingston in April 1995. Her report, of the same name, was published in March, 1996.

- many of the staff involved in the original incidents continued to work exceedingly long shifts in the Segregation Unit and reached peaks of exhaustion and desperation;
- on the 26th April correctional staff demonstrated outside the prison, demanding that the women in the original incident should be transferred. Staff also refused the Warden's request that they unlock the ranges¹⁴;
- on the evening of the 26th April a male Institutional Emergency Response Team (IERT) conducted a cell extraction¹⁵ and strip search of eight women in the segregation unit. The team wore combat-style protective clothing and carried shields, which were banged against the cell bars to intimidate the women. The entire procedure was videotaped. At that point all the women were securely contained in their cells, some were asleep and the extraction took place during the middle of the night;
- the women either had their clothing cut off them, primarily by males, or removed their own, and were marched, naked, from their cells, which were cleared of all furniture. The women were eventually left lying on their concrete cell floors, wearing paper gowns (which had the effect of a minimal 'bib') and in leg irons and body belts. The windows were left open for over three hours, despite the cold temperatures outside, and the women remained in those conditions until the following day, when they were given a 'security' blanket;
- the following evening seven of the women were subjected to body cavity searches, which took place on the cell floor while they remained in restraints. There were doubts as to whether free and voluntary consent had been given by the women. They were then permitted to shower and were returned, naked, to their cells;
- all of the women involved in the various incidents were denied access to lawyers. The water was turned off and toilets could not be flushed;
- on the 6th May five women were transferred to a wing of the Regional Treatment Centre within Kingston Penitentiary [for men];
- following a habeas corpus application they were returned to the Prison for Women, but remained in segregation for up to nine months.

¹⁴ The 'ranges' are described in chapter 1.

A National Board of Investigation was convened by CSC to investigate the various events. It comprised four correctional employees, including the Warden-designate of the Nova Institution for Women. Madame Justice Arbour strongly suggested, despite the denials of the Commissioner and the Senior Deputy Commissioner, that their appointments were compromised by the fact of their all being in the midst of 'review and promotion' supervised by those to whom they would ultimately be reporting (Arbour 1996: 110). The Board appeared to be confused by the extent of their Mandate and had a very short period of time when they could all be together to conduct the investigation. They did not review all the available evidence and, in particular, only briefly viewed the IERT tape. Their draft report was then revised and edited at least nine times at National Headquarters. The report gave a great deal of detail about all the women involved in the incidents, emphasising their prolonged records as violent offenders and, in a sense, providing justification for the way in which staff responded to them. The final report made no mention of the video tape and there were numerous omissions and errors of fact, most specifically with it being stated that the women were stripped by female staff and no indication being given that the women were left without mattresses and blankets (CSC 1994a: 22; Arbour 1996: 116).

In Canada a Correctional Investigator¹⁶ acts as an 'ombudsperson, independent of the Correctional Service of Canada' and 'reports directly to the Solicitor General' (Arbour 1996: 20). Soon after the incidents the Correctional Investigator met with the women, and thereafter consistently raised relevant issues with CSC. His requests for documentation from CSC were met with lengthy delays, and representatives from his office did not get to see the IERT video until late January 1995. On the 14th February, 1994 the Correctional Investigator sent a special report to the Solicitor General, chronicling – amongst other matters – his concerns about the use of the IERT team, the use of segregation and the failings of the Board of Investigation. The Solicitor General announced that there would be an independent

¹⁵ 'The purpose of [a] cell extraction is to remove and strip search an unwilling inmate and then to place the inmate in segregation if the prisoner is in the prison's general population, or to return him or her to a stripped cell if the inmate is already in segregation' (Arbour 1996: 67).

¹⁶ 'It is the function of the Correctional Investigator to conduct investigations into the problems of offenders related to decisions, recommendations, acts or omissions of the Commissioner or any person under the control and management of, or performing services for or on behalf of, the

inquiry. On the same day the CBC (Canadian Broadcasting Corporation) transmitted a *Fifth Estate* programme, which contained substantial extracts from the IERT video. There was a largely horrified reaction across the country, despite a *Toronto Sun* editorial which issued ‘congratulations to the all-male emergency response team that so professionally put down the April riot at Kingston’s infamous Prison for Women’ (23rd February, 1995).¹⁷ On the 19th April 1995 Madame Justice Arbour was appointed to head an inquiry. Her eventual report castigated CSC for its ‘deplorable defensive culture’ (Arbour 1996: 174) and showed, in forensic detail, how CSC chose to disregard ‘the Rule of Law’ whenever it suited its purposes and that the Correctional Service had a ‘disturbing lack of commitment to the ideals of justice’ (Arbour 1996: 198).

If we remember how recently CSC had accepted *Creating Choices*, and that it was in the midst of planning the proposed new prisons, one of Madame Justice Arbour’s comments appears to sound a particularly relevant note of warning: ‘... despite its recent initiative, the Correctional Service resorts invariably to the view that women’s prisons are or should be, just like any other prison’ (Arbour 1996: 178). In the chapter which follows I shall discuss the disturbing parallels between what happened in April, 1994 at the Prison for Women and what subsequently happened at one of the newly opened prisons, Nova Institution for Women. But I now turn to the new prisons themselves and deal with them in very general terms, before focusing upon Edmonton Institution for Women. It should be borne in mind that the Arbour Commission’s hearings were taking place as the first of the prisons were opening, and the publication of the subsequent report, with its damning conclusions, led to the resignation of the Commissioner of Corrections, John Edwards. He was replaced by an interim Commissioner, John Tait, who was himself replaced by Ole Ingstrup, who had been Commissioner at the time of the Task Force.

A new style of prison?

The new prisons were eventually to be sited in Truro, Joliette, Kitchener, Edmonton and Maple Creek – and the first three were some distance from the Task

Commissioner that affect offenders either individually or as a group’. *CCRA 1992* Statute 167(1). For a full explanation of his / her role see Arbour, 1996: 20-21, 162-171.

¹⁷ See Shaw (1999) for an extensive discussion of the public impact of the tapes and the way in which the media responded.

Force-specified localities. While it might have been anticipated that the Healing Lodge would have unique design features, it could have been assumed that the others would have features in common. Despite this, separate architects were commissioned for each prison and plans were produced which specifically suited each site. The one feature they had in common – apart from the Healing Lodge, which did not have one – was the inclusion of the Enhanced Units as an extension or integral part of the main administration building. All the prisons had ‘cottage’ style accommodation, in an attempt to introduce some semblance of community normality into the living arrangements. They were to incorporate ‘all environmental factors known to promote wellness ... natural light, fresh air, colour, space, privacy and access to land’ (TFFSW 1990: 115). The houses, apart from an eventual Supported Living Unit at Nova (Truro), were solely occupied by the women; staff visited to do ‘head counts’ but were not permanently placed in each house (which was a surprising and complete departure from the Task Force model). Overall, 285 regular and Enhanced Unit beds were provided for federally sentenced women. There were also a further 17 segregation cells which, officially, were not classified as ‘beds’.

Although the Task Force carefully considered the proposed physical layout of the new facilities, they were not prescriptive as to how each would look, but had noted Axon’s ‘speculative’ findings that there was a ‘connection between styles of security and the atmosphere within the institutions’. Axon said that while Shakopee prison (the exemplar for the new prisons) had no perimeter fence, it was fortunate in that it had the support of the local community and she concluded that the ‘optimal arrangement’ was for the new prisons to have ‘a perimeter fence to permit greater inmate freedom within its confines’ (Axon 1989: 10). With the exception of the Healing Lodge, which had none, all the new prisons had relatively low fences, conveying to the community the low risk federally sentenced women generally presented. Only around the exercise yards of the Enhanced Units were more substantial fences used and these were generally not visible to the public. As it turned out, staff considered the low fences inadequate and resorted to escorting women within the prisons.

Living conditions within each of these houses were radically different from anything previously offered at either the Prison for Women or in provincial

prisons.¹⁸ The women were expected to clean and cook for themselves, having budgeted for and ordered food, and could choose to cook communally or individually. They were expected, with the assistance of staff, to co-exist with women with disparate needs and from widely varying backgrounds. Disagreements were to be resolved through house meetings and the ultimate sanction for infraction of the rules was removal to the Enhanced Unit. Each woman had her own room and within the house she had some degree of choice about how she might live. For their ‘ideal prison’¹⁹ the Task Force had also idealised women.

Providing for the ‘difficult to manage’ woman

In planning these new prisons there was an assumption that most women would be capable of responding to the demands and responsibilities placed upon them. With hindsight, this seems a curiously naïve and contradictory view to adopt, but it was linked to the Task Force’s reluctance to label women. While they referred to ‘*all federally sentenced women*’ as being ‘high needs’ and requiring a ‘supportive environment’ (TFFSW 1990: 90, emphasis added), these needs evidently did not preclude their being capable in other, supposedly ‘womanly’, spheres. It was, once again, the rhetoric of the reformatory, which emphasised the femininity of both prisoners and those women charged with their guidance. As we know, certain women did not fit the profile ascribed to them by the Task Force and providing for them was problematic. *Creating Choices* was predicated on the assumption that federally sentenced women, were ‘high-needs / low risk’ women and the Task Force concluded that a changed environment would make the management of such women less challenging. Enhanced Units were not actually part of the vocabulary of the Task Force, which had envisaged the houses being used for different functions; one was described as being for women who were ‘especially high risk or high need ... requir[ing] high levels of staffing, support, counselling and other aspects of dynamic security’ (TFFSW 1990: 116). The Task Force suggested a separate ‘assessment cottage’ and did not envisage that cottages would have multiple functions, as the Enhanced Units devised by CSC later came to have.

¹⁸ While such changes in living conditions were radical, insofar as Canadian prisons were concerned, the communal living did not differ greatly from what was sometimes available in other jurisdictions, if only with limited frequency. See, for example, Coyle’s (1994) description of the Barlinnie Special Unit in Scotland. The major difference lay in the fact that such changes were expected to be made available to *all* federally sentenced women, rather than a selected few, and the physical specification of each prison was linked to community standards of accommodation.

¹⁹ See Hannah-Moffat & Shaw, 2000

It was not until June, 1994 (two months after the events leading to the Arbour Commission) that CSC *officially* decided to increase the number of maximum security beds to ten percent, having been left free to impose its own solution.²⁰ Yet it is clear that this figure of ten percent high-needs women had been acknowledged by July 1992, when the Operational Plan announced that ‘approximately 10 percent of the women will require accommodation that appropriately reflects their increased security needs’ (CSC 1992: 69).²¹ The same document appeared to contradict itself because it contained no evidence for such a leap; rather, the reverse. The Operational Plan discussed the classification of women and said:

‘two separate methods [of classification] ... both demonstrated that less than 5% of the women warranted a maximum security classification, the large majority being either minimum or low medium. In 1991, only 4.6% of the in residence Prison for Women population were classified as maximum security’ (CSC 1992: 10).

In then going on to describe the envisaged Enhanced Units the Operational Plan inaccurately cited the Task Force as being the source of the ten percent-figure (CSC 1992: 38). At no time did the Task Force commit itself to a figure of ten percent. It would appear that CSC either had their own, unpublished, figures upon which they were relying – or had their own plans. That initial Operational Plan suggested that ‘the presence of vigilant, interactive staff ... should preclude the need for escorts between the enhanced unit and the general program area’ (CSC 1992: 38), something which did not happen once Edmonton Institution for Women (EIFW) and Nova Institution for Women (Nova) opened. The Plan also indicated that the Enhanced Unit would be solely for ‘difficult to manage’ women, and that most women would be immediately assigned to a house, rather than to ‘potentially inappropriate accommodation (e.g. enhanced security unit)’ (CSC 1992: 30). By July, 1995 CSC had changed tack, acknowledging that the units were by then intended to house ‘those who were acting out, serious escape risks ... and new admissions’ and that the smallness of the new prisons precluded separate provision for these disparate groups (CSC 1995: 7). At the ‘Brainstorming Session’ at which

²⁰ *Board of Investigation Report into a Suicide in February 1996, and other Major Incidents at Edmonton Institution for Women* (1996b: 3). Additionally, CSC was concerned that the maximum security women should be separated from those with mental health needs.

²¹ *Regional Facilities for Federally Sentenced Women Construction Policy & Services / National Implementation Committee* July, 1992

these comments were made reservations were expressed about using Enhanced Units and the possibility that they would be ‘re-introducing and entrenching a “jailhouse culture” ’ (CSC 1995: 13).

New philosophy; new staff

‘Jailhouse cultures’ are not only encouraged by the type of prison building; the quality and commitment of staff plays a crucial role in promoting or forestalling such climates. The Task Force had been vague, but recommended that staff should be recruited from ‘a wide variety of backgrounds and educational traditions’ (TFFSW 1990: 116). The draft Operational Plan amplified this: ‘staff must be creative, demonstrate understanding of and empathy toward (sic) women and multi-cultural groups’ (CSC 1992: 16). In the event the majority of staff recruited as Primary Workers (guards) for the new prisons had no previous experience of corrections; a large number were very young and many had backgrounds in social work or equivalent spheres. They underwent the basic correctional training and had an additional period of training in ‘women-centred’ issues. At the Healing Lodge, however, staff training had a further component; they all participated in a month-long treatment programme, allowing them to experience a programme similar to that which imprisoned Aboriginal women would undergo, as well as to deal with issues in their own lives. In line with the philosophy of *Creating Choices* there was a flatter structure to the staffing hierarchy, with a Warden (reporting to her Regional Deputy Commissioner), Deputy Warden, Team Leaders and Primary Workers, as well as a number of other professionals and support workers.

In employing such staff it was anticipated that the new prisons would rely, to a great extent, on ‘dynamic security’, ‘based upon active and meaningful staff / offender interaction [which would] be the primary means of ensuring safety and security’ (CSC 1992: 69). In other words, direct and frequent contact between staff and women would facilitate the staff’s understanding and prediction of the women’s likely behaviour and the need for static security, such as fences and electronic detection systems, would consequently be minimised. Although it might be assumed that attitudes have changed greatly from the days when a former Governor of Holloway Prison could write ‘many prison officials begin by trying to treat ... prisoners as ordinary human beings, but are compelled by their experience to do otherwise’ (Kelley 1967: 58), there is nevertheless a truth within the

statement. Prison guards' attitudes to prisoners change, irrespective of what their training might have led them to expect. Their need for personal safety means that 'some wariness (or even mistrust)' creeps into their relationships with prisoners (Liebling & Price 2001: 90). Yet their growing knowledge of some of the prisoners may also lead to a blurring of the professional barriers and 'they may come to like and respect certain of their charges ... sometimes more than they like and respect their own managers' (Liebling & Price 2001: 124). These changing relationships have an inevitable effect on the day-to-day management of a prison and it could not be assumed that dynamic security at the new Canadian prisons would remain free of such influences. The concept of dynamic security also implied that the women would be responsive to and trust such interaction and would, voluntarily, wish to modify their own behaviour in the interests of the prison's security. But this is to assume that prisoners are passive and, as Harding et al suggested, that 'through architecture and regulations a particular form of discipline ... [might be] *imposed* upon prisoners' (Harding et al 1985: 176). In Canada federally sentenced women were being asked to share responsibility for the security of the prison in which they were imprisoned (see Hannah-Moffat, 2001). What we shall now examine is whether such theorising survived the reality of the new prisons, using Edmonton Institution for Women (EIFW) as our first example.

Edmonton Institution for Women

In the Prairies²² many towns had sent unsolicited bids for the prison as soon as the Task Force was published, even though the Task Force had stipulated where the new prisons should be sited. Some of the submissions were united by a common thread; they claimed that their communities were dying as a consequence of recession and changing employment patterns. One town wrote: 'A recent mill closure has sent us into a crisis situation, economically. ... This could be the chance [for] the Federal Government to be the saviour of a town in trouble'.²³ Another town echoed the sentiments: '... it could mean the difference between growth and the death of our community. Our children are leaving upon high school graduation and we have nothing to offer to bring them back. Edmonton doesn't want this facility. They don't need it. We do!'.²⁴ Others towns were keen to

²² The Prairies, as a Correctional region, covers Manitoba, Saskatchewan, Alberta and the New Territories.

²³ Town of Hudson Bay Economic Development Committee 15th September, 1990

²⁴ Canora Economic Development Commission 4th June, 1991

emphasise the savings that could be made, should the prison be built alongside other correctional institutions in the town, an argument that was also to be used in the Atlantic region.²⁵ Yet Edmonton won in the end and on the 23rd November, 1992 Solicitor General Doug Lewis announced that, despite hundreds of applications received from across Alberta, the city had been successful in its application. (The Atlantic and Ontario sites had been announced eleven months earlier). Four months later the Assistant Warden for correctional programmes at Saskatchewan Penitentiary, Jan Fox, was appointed Warden of Edmonton Institution for Women.²⁶

‘A town that doesn’t want the prison, never wanted the prison’²⁷

Edmonton’s successful bid did not necessarily mean that local citizens backed the initiative, as was soon to become apparent. In choosing a locality for the new prison CSC were obliged to look at all available federally owned properties in the area. Seven properties were identified, with only one meeting the criteria, and in April, 1993 it was announced that undeveloped military land would house the new prison. Public reaction was instantaneous and almost unanimously unfavourable. Local residents demanded that the facility should be moved to a non-residential area and that it should not ‘invade their community’. The *Edmonton Sun*, not known for its liberal views, took the campaigners to task in an editorial headlined ‘Stop the whining’:

They’re ba-a-a-ck. That old NIMBY gang is once again in full cry. ... [Castle Downs] has ... the Griesbach military base on which the proposed prison would be located. That’s a real break for the taxpayer who for once isn’t paying big bucks for expensive real estate.²⁸

CSC found that its failure to consult before deciding upon a site rebounded, although it is debateable whether prior discussion would have changed the views of local communities reluctant to have a prison in their midst (see also Faith, 1993). Despite a series of public meetings addressed by Jan Fox, residents remained concerned about public safety and the effect of the new prison on property prices.

²⁵ Taken from a transcript of a programme broadcast on CBC Radio Calgary on the 26th November, 1991

²⁶ Ms Fox was appointed on the 17th March, 1993, as were the Wardens for Nova, Joliette and Grand Valley.

²⁷ Connie Sampson March, 1996

²⁸ *Edmonton Sun* 14th March, 1993

Local opposition prevailed and the site selection process was expanded to include other levels of government and private sector land. From the beginning of her appointment Ms Fox was the public face of the new prison, frequently being asked to defend and explain what was proposed. Decisions were made by correctional officials, yet she was held responsible, in the public mind, for any new developments. As much of the argument about where the prison should be sited took place through the media, the Warden continued to speak for CSC, emphasising that the prison would house 'high needs' rather than 'high risk' women and stressing the limits on the women's movements, saying 'it's not like we're opening up the doors every morning and saying 'Go for it ladies, have a good day at the mall'. I'm accountable for what happens if one of them commits an offence. Guess who will lose her job?'²⁹

Eventually, 61 sites were proposed and a shortlist of six emerged. Peter de Vink, the Prairie Region Deputy Commissioner for Corrections, said 'the site that will be chosen after consulting with the involved communities will be the one that has the least local opposition'.³⁰ CSC then spent \$17,000 distributing an eight-page newsletter on the proposed prison and the selected sites to 172,000 households, only to be further criticised by some community groups for 'distorting' the facts. CSC continued its information offensive, explaining the economic benefits that the prison would bring to the city, while also emphasising the importance of community links if federally sentenced women were to be successfully reintegrated into society.³¹ In December, 1993 CSC finally announced that the prison would be built on a 17.5 acre site, in a light industrial area, to the west of the city. Federally sentenced women were to be kept physically apart from any community, hitherto seen as an essential component of the Task Force's original plan.

A particularly tight building schedule envisaged the prison being ready for occupancy in November, 1995 – and the local papers kept abreast of each stage. Jan Fox continued to speak on behalf of Corrections and in July the *Edmonton Journal*, reflecting the fears of local residents, quoted her as saying that there would be rigorous security for the few high-risk inmates. A pre-opening audit of

²⁹ *Alberta Report (The Law)* 25th June, 1993

³⁰ *Edmonton Journal* 6th August, 1993

the prison was conducted by the National Headquarters' Audit Team between the 25th – 29th September, 1995. At that stage, less than seven weeks before opening, none of the buildings was completed, so the team's comments were necessarily restricted.³² However, some specific points relevant to issues which later emerged were addressed:

- the number of women classified as medium and maximum security – and due to arrive at EIFW – exceeded those provided for when the facility was being designed;
- the perimeter fencing did not reflect the security needs of that larger-than-anticipated group;
- contracts for the provision of programmes were not agreed;
- the Health Care Centre was not built, nor the staff for it hired;
- Standing Orders³³ were incomplete. (CSC 1996b: 26)

In mid-November the *Edmonton Journal* described preparations for the opening of the prison and Ms Fox was quoted as saying 'things are really shaping up. There may still be a few problems, but nothing life-shattering'. The opening ceremonies were held on the 18th November, 1995, and on the 20th November the prison formally opened with the arrival of four women, who were followed by several small groups from the Regional Psychiatric Centre in Saskatoon during December, January and February.

From concept to physical reality

We now explore what happened at EIFW during the first year of its opening. At this point, the prison's design needs clarification because it was fundamentally linked to subsequent events.

³¹ *Mill Woods Newsletter* September, 1993

³² *Board of Investigation into a suicide on February 29, 1996, and other major incidents at Edmonton Institution for Women 1996*

³³ Prisons are governed by a series of measures: *Corrections and Conditional Release Act (CCRA 1992)* statutes and regulations; **Commissioner's Directives (CDs)**, which apply universally to all prisons operated by the Correctional Service of Canada and are issued under the authority of S 98(1) of the *CCRA 1992*; **Regional Instructions (RIs)**, which may enlarge on CDs or be specific to regional issues; **Standing Orders (SOs)**, which are specific to a particular prison and; **Post Orders**, which are specific to a 'post' within a particular prison. Additionally, there are policy manuals dealing with issues in even greater detail. For a fuller explanation see Arbour 1996: 3-4.



Edmonton Institution for Women, Alberta. Part of the living accommodation.
photo: S. Hayman

As initially constructed, with its two metre high chain-link fence, the prison could easily be mistaken for a light industrial or office complex. Seen from the road, there was a very large semi-circular frontage to the front of the prison, which contained all the working / administration areas, as well as workshops, education rooms, the gymnasium, chapel, aboriginal spirituality room and Health Care Centre. This frontage hid a large grassed and paved courtyard which contained five double-storey living units, outwardly similar in style to much Canadian civilian housing. The Private Visiting House was on the right, but scarcely seen because of the Enhanced Unit placed directly in front of it.³⁴ Each living unit could house eleven women and included provision for children's accommodation. A large, well-equipped kitchen was adjacent to the communal living area. Bedrooms were on both the ground and first floor and each was fitted with standard Corcan³⁵ furniture, with the light coloured wood giving the effect of a well appointed student hall of residence. The women had keys to their own rooms (cells) and each could purchase her own television. When the prison first opened all living unit doors and windows, although alarmed, could not be locked because of fire regulations. Staff were not permanently positioned within the houses and the women were living in almost a reverse panopticon, where the continuous disciplinary surveillance of staff was absent and replaced by the self-surveillance of the women themselves.

The Enhanced Unit, attached to the administration building, was a maximum security unit and, when the Institution first opened, was intended to house:

- new arrivals;
- those in segregation for purposes of discipline;
- those in crisis;
- vulnerable women (in need of protection from other prisoners);
- those whose escape could possibly place the public in danger.

³⁴ The Private Visiting House was used by women with the right to a (largely) unsupervised private visit from her family or someone acknowledged as having a close tie. Visits could last up to 72 hours. At Edmonton women needed to be on Management Levels One to Three to qualify. Those on Level Four were taken to Edmonton Institution for Men for private visits and those on Level Five were not entitled to visits. The right is defined in the CCRA (1992) under Sections 59, 60 and 71. CD 700 applies to Private Family Visits.

³⁵ Corcan is the trading name of Correctional Service of Canada's industrial arm.

The Enhanced Unit (then) consisted of two euphemistically named wings, Sunbow and Sky Spirit, with the entrance to both being clearly visible to those sitting in the Unit's central command room. Sunbow was the more secure and its six cells – the use of this word reflected the difference in appearance and style compared with the minimum / medium living units – had steel beds and integral lavatories. One cell was for observation. The Sky Spirit wing contained a kitchen and all six cells had wooden furniture, with the women using a shared bathing facility. The only room available for programming was small and needed for both wings, with the added complication that it also provided access to the small exercise yard. The control post for the whole of the prison was also placed in the Enhanced Unit. From this post control staff had to oversee all of the houses (alarms went off and had to be checked whenever house doors were opened), as well as monitor radio transmissions. Inevitably, control staff could not concentrate solely on the women living in the Enhanced Unit.

The prison was rated for a regular-bed capacity of 56 women. Additionally, the Enhanced Unit had 12 cells, which were double-bunked, so could actually hold 24 women. Six of the Enhanced Unit cells were segregation cells and not considered part of the prison's official capacity. As we shall see, however, they were used when the prison opened and it meant that the prison had an *unofficial* capacity (which could be used during emergencies) of 80. Yet in September, 1993, when the site of the prison was still undecided and CSC were anxious to allay fears about the proposed prison, the *Mill Woods Newsletter* said: '... if the prison were to open today a total of 44 women would be incarcerated ... *The larger number is intended to meet our needs well into the next millennium. There are no plans to expand the facility*' (emphasis added). As the Newsletter made clear, these figures were '... based on [the then] 74 Prairie Region offenders, 30 of whom will be incarcerated in an [sic] facility for Aboriginal offenders in Saskatchewan. ... Only a small number of women are expected to need extra security measures'. This 'facility' for Aboriginal women was the Healing Lodge, originally planned as a multi-level facility, but later to be restricted to minimum- and medium-security women (see chapter 8), which meant that EIFW would have to take all the Prairie maximum security women.

At the time the Institution actually opened it was still far from complete. The large administration building was unfinished, so both the Private Family Visiting House and offices some distance from the prison had to be used by staff instead. The Health Care unit, workshops, gymnasium, chapel and aboriginal spirituality room, education room and library were all within the administration building – and largely unavailable to the women. The Enhanced Unit, where all new arrivals were placed, irrespective of classification, had been completed just two days prior to opening. Building debris cluttered the grounds and a particularly harsh Edmonton winter added to the difficulties all faced in coming to grips with the new prison. Programmes were scheduled to be held within the administration building and the failure to have it ready on time meant that until mid-January, 1996 all programmes had to be held in the Enhanced Unit, where the majority of the maximum security women were also living. By early 1996 the prison had converted House D to a living unit for maximum security women because of the overcrowding within the Enhanced Unit. The minimum and medium security women – and eventually some maximum security women – had to go to the Enhanced Unit for programmes and each time they did so they were strip-searched in order to prevent the passage of drugs.

An unmanageable prison?

By the end of February, when there were 25 women in the Institution, there had been ten incidents of self-injury, with four requiring visits to hospital; one attempted suicide and one attempt to swallow an unnamed substance. Only one of these incidents had taken place outside the Enhanced Unit. On the 29th February, 1996 Denise Fayant, 21, was found in her cell in the Sky Spirit wing of the Enhanced Unit with a ligature around her neck, one day after arriving at Edmonton. She died on the 2nd March, after life-support was turned off.

A National Board of Investigation was then set up to investigate Ms Fayant's death and other incidents at the prison. Such investigations have:

... three levels of investigation: local, regional and national. *The most serious incidents are the subject of national investigations.* In these cases, the Board of Investigation is appointed by the Commissioner. To ensure the objectivity of the

investigations, all National Boards of Investigation have a community member as a full Member of the Board (emphasis added).³⁶

Before the investigation could begin three further incidents at the prison – separate assaults on a nurse and a doctor and an attempted suicide – caused the terms of reference for the investigation to be enlarged. The Board of Investigation began work at the Institution on the 18th March, 1996 and by then two further incidents had occurred, so the Board finally investigated one suicide, two attempted suicides, two assaults on staff and thirteen incidents of self-injury. These had all happened within a period of a little over three months, and the prison, at that stage, had been open for just under four months. (There had been an incident in December, 1995, but this was outside the Board’s remit). The Board was also asked to comment on ‘underlying factors that may have played a role in these incidents’ (CSC 1996b: 4). By the time the Board reported they knew that the cause of Ms Fayant’s death was murder, rather than suicide, but had not addressed it as such. Meanwhile, in February there had been another suicide at the still-functioning Prison for Women.

As outlined in the Board’s report, 25 women were held at the prison while the team was investigating: ten were in the minimum- and medium-security houses; fifteen were in the Enhanced Unit and House D, also maximum security. These fifteen maximum security women represented 60 percent of the then population of the prison. As has earlier been explained, the Enhanced Unit had multiple functions and was expected to house other than just maximum security women. Ten women were involved in the eighteen separate incidents, of whom seven were classified as maximum security and eight were Aboriginal. Eight of the women were known to have a history of self-injury prior to arriving at Edmonton. The overcrowding in the Enhanced Unit had an important part to play in events leading up to the death of Denise Fayant. We need to look at her death in some detail, because the circumstances reflected the physical difficulties faced by staff when providing for women in an incomplete prison. They also reflected the struggle to implement the actual philosophy of *Creating Choices* and the manner in which women reacted to their changed circumstances. In discussing this event I will be referring to the

³⁶ Convening Order and Terms of Reference, signed 13th March, 1996. *Board of Investigation Report into a Suicide in February 1996, and other Major Incidents at Edmonton Institution for Women* (CSC 1996b). Unlike the report provided by the Board of Investigation (CSC 1994a) into the April 1994 incidents at the Prison for Women, which prominently displayed the offending

Board of Investigation's report and a subsequent Fatality Inquiry³⁷, both of which provided retrospective views of events.

The death of Denise Fayant

Denise Fayant arrived at Edmonton on the 28th February, 1996. Ms Fayant had made five suicide attempts since 1994 and been involved in 21 violent incidents, many of which had targeted her. Concern had been expressed at the prospect of her arrival at Edmonton because she was known to be 'incompatible'³⁸ with a large number of women on the Enhanced Unit and was due to testify in court against a prisoner also held in the Unit. Not only was Ms Fayant incompatible with many of the women in the Enhanced Unit, some of those women were also incompatible with each other, a phenomenon unanticipated in the 'supportive environment' of the new prisons (TFFSW 1990: 90). This left the staff at Edmonton with no clear alternatives; they could not separate everyone. Further, although one of the 'houses' had been redesigned to accommodate maximum security women, it was only available to those who had demonstrated their reliability, as the doors could not be locked because of fire regulations. According to an exhibit presented at the Fatality Inquiry Ms Fayant had written on the transfer form that she did not want to go to 'inhance' (sic) and that she preferred to be sent to the 'house' (House D, where the more reliably behaved maximum security women were held). As she had not been formally assessed and was considered a risk to the community, that was not an option.

In the new spirit of *Creating Choices*, whereby the imprisoned women were informed and consulted, three meetings were held with them and the staff to attempt to explain the difficulties posed by Ms Fayant's arrival and obtain their co-operation. Not only were the women being asked to take responsibility for their own behaviour within the prison, they were also being asked to guarantee the safety

histories of the women concerned, this 1996 Report largely blacked out all information relating to the women involved in the incidents at Edmonton.

³⁷ *Report to the Attorney General: Public Inquiry into the Death of Denise Fayant* 14th January, 2000. The Inquiry was conducted by Judge A. Chrumka, of the Provincial Court of Alberta. Although it was held in September 1998, the Report took seventeen months to appear and was composed largely of direct quotations taken from the transcript of the Inquiry. Its strength lay in the fact that it clearly set out what had happened during the days preceding and following the death of Ms Fayant, showing the ill-prepared state of the prison and the inability of its staff to provide adequately for the women in the Enhanced Unit.

³⁸ This term is used by CSC to indicate that a prisoner cannot easily live alongside, or has clashed with, another prisoner or prisoners.

of another prisoner. It was a further step in the 'responsibilising' of the women (see Hannah-Moffat, 2001). At the last meeting – attended by all the women at Edmonton – they agreed, in the presence of an Elder and Warden Fox, to 'take care' of Ms Fayant. As one woman present at the meeting said two and a half years later, this phrase was ambiguous, a point also made in the Inquiry Report.³⁹

On arrival at the Enhanced Unit Ms Fayant was visibly frightened by her reception. She was later advised to remain in the view of staff if she was concerned for her safety, and given the choice of being locked up for the night, but declined. Just prior to lock-up a staff member went into Sky Spirit to tell the women to return to their cells for the night and noticed that Ms Fayant was not in her room. She was eventually discovered lying between her bed and the wall with a ligature around her neck. Artificial respiration could not begin immediately because the first aid bag did not contain a mouthpiece and oxygen could not be supplied, because keys were unlabelled and staff could not find the correct ones for the Healthcare Centre. Ms Fayant was eventually taken to hospital, where she died on the 2nd March. The police, having been told by prison staff that Ms Fayant had been suicidal in the past, assumed that this time she had succeeded and conducted no immediate interviews, nor did they collect any possible evidence. Their theory was passed on to the hospital and to the medical examiner, who then made the same assumption. Consequently, no forensic autopsy was conducted; simply an external examination of the body, following which Ms Fayant was cremated. As later emerged, a member of the prison's staff told police the night of the suspected suicide that she was unsure Ms Fayant had killed herself. A homicide inquiry was not launched until May, when an anonymous phone call to a local radio station suggested that her death was suspicious. Two prisoners (one of whom Ms Fayant was due to testify against) were later charged and convicted of her murder.

As Remi Gobeil, the Deputy Commissioner for the Prairies testified at the Fatality Inquiry, there was no option for Ms Fayant but Edmonton. The whole thrust of federal correctional policy was that women should be moved to Edmonton from the Regional Psychiatric Centre (RPC) (where they had been detained for expediency, rather than because of a need for psychiatric treatment). Following CSC's acceptance of the Emergency Recommendations accompanying *Creating Choices* it

³⁹ Personal notes October, 1998

was not federal policy to move Ms Fayant to the still-functioning Prison for Women, and Burnaby, in British Columbia, had declined to take her. Mr. Gobeil elaborated: ‘... we were operating under a philosophy that we did not want to use those places. We were going to use our own facility in Edmonton. ... It was a program that had been accepted by our Minister, had been accepted by Treasury Board; had been accepted by anybody who can say yea or nay to such a thing in our system. And that was the total thrust of our philosophy on how to manage women offenders in the Correctional Service of Canada’ (Chrumka 2000: 68).

Nevertheless, Ms Fayant was consulted about the move in a manner which suggested that she had choices. Mr. Gobeil clarified that position: ‘... the review [of Ms Fayant’s proposed move was] largely to fulfil the requirements of a paper world, you know. It was very clear to everyone that we were closing down the RPC with reference to a Women’s Unit’ (Chrumka 2000: 68).

We should see that decision-making process in the context of what had been happening elsewhere. As noted at the beginning of this chapter, Madame Justice Arbour had begun the public hearings into the April 1994 events at the Prison for Women in August, 1995. These continued for some months and she was expected to submit her findings no later than the 31st March, 1996. CSC could not have failed to anticipate that Justice Arbour’s conclusions might be unfavourable, because of what emerged during the hearings, and was under considerable pressure to proceed with the new prisons and demonstrate that it remained committed to the closure of the Prison for Women. Indeed, Arbour noted that her reporting deadline was constrained by the fact that ‘the two largest new regional facilities will open in the coming months, while the others have started their operation in late of fall of 1995 (sic)’ (Arbour 1996: xvi), which suggested that her report could be expected to have an impact on their running. It has been proposed that Arbour ‘scared, rushed and revealed’ CSC and it is not improbable that the pressure to open Edmonton on time was related.⁴⁰

We already know that Edmonton had been asked to take a larger than anticipated number of maximum security women; that the prison was not designed to cope with such numbers; and that management had no choice in the matter. The difficulties were compounded by the fact that the prison was not completed by the time the first

women were transferred – which led to the institutionalising of strip-searching for all the women – and there was a great deal of pressure on the few facilities available within the prison. As the Fatality Inquiry into the death of Ms Fayant revealed, one of the women already held in the Enhanced Unit at Edmonton had been involved in the 1994 incidents at the Prison for Women. Although many of the staff at Edmonton were new to corrections, it is unlikely that they would have been left unaware of the woman’s history – and the histories of other women classified as maximum and transferred to Edmonton. This knowledge would have added to the worries of new staff as they struggled to apply a new philosophy of corrections, while lacking many of its components, such as adequate accommodation and the ability to provide consistent programming.

But Gobeil’s statement was important in another sense, too, because it highlighted the limits of ‘choice’ at that stage. Some five and a half years after the Task Force had completed its work CSC was unable, within a newly-built prison, to provide ‘at risk’ or ‘vulnerable’ women with safe accommodation. Protective custody was not part of the philosophy of *Creating Choices*. Previously, the constraints of choice had been illustrated by the dilemma facing federal women held provincially, who had to choose between location and programming. Women such as Denise Fayant faced a much starker choice – safety, through being confined to a cell for 23 hours each day in protective custody, or risk of physical harm. The dilemma was one shared by staff, as explained by Ms Fox during the Fatality Inquiry:

Q: And when you were looking at some of these prisoners coming to your place, did you have another realistic option as to where they could go other than Edmonton?

Ms Fox: I did not believe that I did.

Q: Could you go to Mr. Gobeil and present him with another realistic option?

Ms Fox: I would not have been able to present him with a realistic option (Chrumka 2000: 65).

At that point Edmonton was alone in being unable to refuse women. Both Nova and the Healing Lodge had exercised the right to do so.

Further incidents

Incidents at the prison did not cease with the death of Ms Fayant. On the 7th March an inmate was charged with aggravated assault. Inevitably, the attention of the media was once again focused on the prison and a television reporter, who had been inside the prison preparing a series of news reports, later commented on air about what had happened during the two days she had been filming – the nurse assaulted, a doctor assaulted, a rumour of an attempted suicide and a further slashing. In the same way that the Task Force had expected the new prisons to make dealing with the ‘difficult to manage’ women easier, they had expected incidents of self-injury to decrease because of the assumed less stressful prison environment.

On the 12th April three medium security women escaped over the fence at Edmonton. One was at large for two days and two for a week. On the 27th April another prisoner climbed out of a window in the maximum security house, scaled the fence, spent three hours out, then phoned the police and asked them to come and get her. This was the first ever escape by a maximum security woman from a federal prison in Canada. During this period there were a number of calls for the resignation of Jan Fox, who still had the task of responding to the media. On the 25th April Ms Fox explained that security had been heightened at the prison; there was an eye-in-the-sky-surveillance camera, the women were no longer allowed outside after dark and additional head counts were being carried out. Medium security women were also being escorted throughout the prison and ways of improving the perimeter security were being examined. But Fox wanted the public to know that a bigger fence did not guarantee that there would be no future escapes, saying ‘I don’t want people to think, ‘well gee, we have a fence therefore this will never happen again’. That would be misleading’.⁴¹ As the public ‘face’ of the prison Ms Fox was now having to defend situations which the local community had been told were most unlikely to arise.

On the 30th April three other maximum security women, including one later convicted of the murder of Denise Fayant, walked out of an unlocked door in the gymnasium, but were caught almost immediately. With public concern continuing to mount, the pressure on officialdom finally proved too much and on the 1st May, 1996 it was announced that the prison would be closed. The manner of its closure

was devastating for both staff and prisoners. At 10.00 am the women were sent back from work to their houses, accompanied by staff and members of the Citizens' Advisory Committee. The women were told not to listen to the radio or watch television, but did so, and heard the closure news, by which point the perimeter fence was surrounded by news teams. Jan Fox later visited the houses to say that she was doing all she could to ensure that the minimum security women would be allowed to stay and there was a (failed) attempt to lower the security rating of one of the medium security women. Late that evening the maximum and medium women, in the full glare of the television cameras, were removed from the prison and staff were left to pack up their belongings and forward them. Ted Bailey, the Chair of the Citizens' Advisory Committee, was quoted as saying that four inmates slashed themselves after they learned from news reports that 19 women were to be removed from the prison. Bailey blamed the provincial correctional authorities for the self-harm, citing the inappropriate manner of making the announcement. Eight women remained at the prison during the closure period and were housed in the Enhanced Unit for much of that time, under constant supervision and with levels of security that their classification did not justify.

On the 2nd May Alberta's Minister of Justice, Brian Evans, said he had been asked by the Federal Justice Minister, Herb Gray, to take charge of the more 'dangerous' inmates until the prison renovation and a security review could be completed. It was also announced that CSC would be spending \$400,000 to make Edmonton more secure – and that maximum security women were expected to return to the prison once the up-grade was completed.⁴²

Ms Fox continued to take the brunt of sustained media criticism and the debate about EIFW spilled onto the floor of the House of Commons in Ottawa. But it was not only local and national politicians who were calling for Ms Fox's departure. The *Edmonton Journal* vociferously called for Fox's resignation, but also apportioned the blame more widely: '... Fox shouldn't shoulder the whole blame

⁴¹ *Edmonton Sun*

⁴² *Edmonton Journal*

for the women's prison fiasco. Everyone, from Corrections Canada to the prison staff, to the prisoners themselves, bears some responsibility'.⁴³

The staff of the prison found themselves in limbo, managing a prison reduced to holding eight minimum security women in a maximum security Enhanced Unit, not knowing when the other women would be allowed back to the prison. Edmonton residents wanted to know just which categories of federally sentenced women would be returning once the prison was functioning again and no-one, publicly, knew what would happen to the women who had been removed from Edmonton. A perturbed Kim Pate wrote to Commissioner Ingstrup on the 16th July, having discovered that CSC was once again withholding information from CAEFS: 'I ... find it most disturbing to have been advised on the afternoon of July 8, 1996 that the options for the Prairie women were not clearly elucidated, only to now have a document, dated July 9, 1996, which details said 'options', including a draft press release and allusion to a strategy regarding the manner in which our organisation should be dealt with'. She wanted to know: 'what other impact has or will the EIFW situation have upon the transitional planning, opening, programming, staff training and accountability mechanisms for the other women's prisons?', a question voluntary agencies from across Canada were also asking.

Individual CAEFS' groups added their voices: '... the security and other institutional problems there [at EIFW] are the result, not of the implementation of a model based on *Creating Choices*, but rather are the result of failure to implement a model faithful to *Creating Choices*', wrote the Director of the Ontario Region, Elizabeth Forestell, to Solicitor General Herb Gray.⁴⁴ CAEFS' President, Susan Hendricks, also wrote to Gray: '... despite all you have learned about the manner in which the senior managers of the Correctional Service of Canada have consistently and unabashedly mislead you in the past [as revealed at the Arbour inquiry], you appear to be once again accepting their notions and exculpatory explanations of the configuration of events in Edmonton over the past six months'.⁴⁵ Once again, CSC was imposing its own solutions. Once again, the lessons of history were being relearned (see Cohen, 1985).

⁴³ *Edmonton Journal* 17th May, 1996

⁴⁴ 28th May, 1996.

⁴⁵ 10th June, 1996

Changing the image of federally sentenced women

The focus of the official discourse was starting to change. Whereas the previous emphasis had been on the low risk of the women, whom the local community could welcome, by the 23rd July Ole Ingstrup was writing to Kim Pate: ‘internal and perimeter security enhancements [at Edmonton] are being put in place ... safeguarding the community from undue risk’. Ms Pate remained a consistent observer and critic of developments and her interventions were not always welcomed, as in this letter from Remi Gobeil: ‘If indeed you have new solutions, I would like to discuss them, but to simply reiterate that everyone should simply be returned to the EIFW, in my view, demonstrates the E. Fry Society’s lack of appreciation for what occurred there over the winter months, an underestimation of the inmates we deal with and lack of responsibility vis-a-vis the safety of the public, the staff and inmates’.⁴⁶ Just who was responsible for this ‘underestimation’ – and whether it was ‘underestimation’ rather than failure to plan adequately, or interpret faithfully, as CAEFS had alleged – was not addressed.

Nearly three months after the women were removed from Edmonton they still had not been told their final destination, but on the 22nd August the *Interim Instruction: Placement of FSW in the Prairie Region* (CD [Commissioner’s Directive] 500) was issued: ‘Placement of female inmates in the Prairie Region may ... be made to an institution other than a women’s institution’. This paved the way for placing federally sentenced women back inside men’s prisons, an option which the Task Force had entirely rejected on the basis of federally sentenced women’s histories of physical and sexual abuse at the hands of men.

The openings of Grand Valley Institution, in Ontario, and Etablissement Joliette, in Québec, were delayed as a consequence of events at Edmonton. Ole Ingstrup wrote to Kim Pate, saying that a decision had been made that maximum women would not be transferred to EIFW ‘at this time’ as EIFW would have enough to cope with in accommodating the approximately 20 medium and minimum women waiting to be transferred, as well as new admissions. Mr. Ingstrup added: ‘the FSW [federally sentenced women’s] population has increased significantly during the last two years. The three regional facilities do not have the capacity to house all the

⁴⁶ 9th August, 1996

women in their respective region of residence'.⁴⁷ Yet some three years earlier Edmonton residents had been told that the maximum bed occupancy of the prison would not be needed until 'well into the next millennium'. Again predictions were being disproved.

In the same letter Mr. Ingstrup commented on the women's mental health needs, citing work undertaken by Dr. Margo Rivera during the first three months of 1996. She had interviewed 26 women imprisoned at Edmonton, Nova Institution for Women and the Prison for Women, because there had been concerns that: 'a minority of federally sentenced women would not be able to participate constructively in such an environment [at the new prisons] without very specialised attention being paid to their need for an enhanced level of psychological support services' (Rivera 1996: 1). Mr. Ingstrup, in citing her work, was adding to the reconstruction of the image of some of the federally sentenced women. Moreover, he was pathologising the women and their alleged failure to cope at Edmonton was attributed solely to their own shortcomings, rather than to the failure of CSC to be adequately prepared for their arrival. (See Sim, 1990 for an account of similar medicalising of women prisoners in the United Kingdom.) While it might be said that the original failure stemmed from the Task Force's reluctance to define and label more women as being both 'high needs' and 'high risk' (TFFSW 1990: 116), by 1995 the final responsibility lay with CSC.

Almost four months passed between the prison's almost complete closure and its reopening on the 29th August, 1996. The staff underwent retraining, but this had not been fully completed by the time the women returned.⁴⁸ The prison passed its security audit and had: a higher fence, topped with razor wire; motion sensors; video surveillance; a new master control room separate from the Enhanced Unit; and lockable doors in the living units which did not infringe fire regulations. Throughout, the minimum security women continued to reside at Edmonton, with some reaching parole eligibility and returning to the community. Pending the completion of a national study on the future of high-risk females, no maximum security women were allowed to return to the prison. They were placed in either Saskatchewan Penitentiary or the Regional Psychiatric Centre (RPC), both of

⁴⁷ 29th August, 1996

⁴⁸ Training schedule provided to CAEFS on 12th September, 1996

which were male prisons and in Saskatchewan, rather than Alberta. Corrections spent \$289,000 on upgrading facilities at the Penitentiary and a further \$220,000 at the RPC. A Corrections' spokesman said 'we've learned from our mistakes. We know from the experiences at the Edmonton Institution for Women that we received too many maximum-security inmates and those with mental health needs at once'.⁴⁹

On the 12th September, 1996 the *Interim Instruction: Regional Women's Facilities are not Reception Centres (CD 500)* was issued:

The current policy of the Correctional Service of Canada is that no federally sentenced woman who is designated as a maximum security inmate will be accommodated at any of the new regional facilities.

A single Commissioner's Directive swept away a central plank of *Creating Choices*; the idea that all federally sentenced women, irrespective of their security level, would – and could – live in the same prison, sharing the same facilities. On the 19th September all maximum security women were removed from Nova Institution for Women, the only other prison to hold maximum security women (with consequences that will be explored in the following chapter). All such classified women, until alternative plans could be formulated, would be detained in men's prisons, with the isolation and high levels of security consequent upon such a move.⁵⁰

Kim Pate continued her correspondence with Ole Ingstrup:

'we ... are aware of the millions of dollars you are spending on new security measures for the regional women's prisons, as well as the preparation of units for women in men's prisons. ... we are extremely concerned that such short-sighted and excessive expenditures are being needlessly spent in this manner. CAEFS continues to urge you to focus upon readying the staff and ensuring the availability of appropriate programs and services ... rather than engage in the regression of women's corrections in this country'. (24th September, 1996)

Having returned to its advocacy role, CAEFS was unlikely to acknowledge that its own representatives had contributed to the Task Force's failure to countenance the

⁴⁹ *Edmonton Sun* 29th August, 1996

⁵⁰ These units were discrete units within the larger men's prisons. They were separately managed and had their own programme staff.

possibility that more than five percent of federally sentenced women might need extra help and / or extra security in the new prisons. Neither could the organisation even hint at repudiating the report – nor would it have wished to, because of the light *Creating Choices* shone on federally sentenced women – as it well knew that a number of its own members had counselled against the initial enterprise on the grounds of the possible risk of incorporation.

It was not until the 19th September, 1997 that CSC released the National Board of Investigation's report.⁵¹ For the first time since the temporary closure of the prison Jan Fox was publicly interviewed. She admitted she had made mistakes, saying 'I've never denied that and I never will, but I still believe in the philosophy ... You can call it naive if you want, but we – the Correctional Service of Canada – believe that all these women can successfully reintegrate into our society. That's our mission'. There were further calls for Fox's resignation. In October the Edmonton police confirmed they were investigating charges of criminal negligence causing death and failing to supply the necessities of life in connection with Denise Fayant's death.⁵² On the 23rd October a lawsuit was filed against Ms Fox and CSC by Ms Fayant's mother, alleging negligence in that they 'failed to provide extra security for her when they knew or ought to have known that her life was in severe jeopardy'.⁵³

The Report of the Fatality Inquiry was not published until January 2000. It contained seven Recommendations, one of which read:

Members of Correctional Service of Canada ought to be compelled to read the transcript of the Fayant Inquiry for its educational merit. The evidence demonstrates a lack of fore-thought, a lack of administrative accountability and a callous and cavalier approach within Correctional Service of Canada which cannot be condoned or tolerated (Chrumka 2000: 73).

It also referred to Denise Fayant as being 'helpless, a victim of a process intent upon implementing an untested concept to manage federally sentenced female

⁵¹ *Board of Investigation into a suicide on February 29, 1996, and other major incidents at Edmonton Institution for Women* CSC 1996b

⁵² *Edmonton Journal* 9th October, 1997

⁵³ These charges were dropped in April, 1998. The case had been thought so sensitive that, unusually, four senior prosecutors were involved in the decision not to proceed.

inmates. She was the test. The process failed tragically and inhumanly. Her death was avoidable' (Chrumka 2000: 71).

The burden of expectation

This chapter has outlined the most prominent events during the first year of the prison's opening. It is clear that none of these events happened in isolation. The situation was perhaps best summed up by a newspaper columnist, writing earlier, but encapsulating what happened:

'I have been reading about human sacrifices recently. ... We think of them as relics of the ancient world but really, they aren't ... If anything, today's human sacrifices are more cruel. We sacrifice the person publicly and then let them live to endure it all. Last week the recently opened Edmonton prison for women made the news again. ... And this in a town that doesn't want the prison; never wanted the prison and shows no sign of ever thinking a prison for women in Edmonton is anything but a bad idea to be terminated soon. ... But as the criticism of Canada's new policy grows, who do you think will go on the chopping block? Will it be the people who insisted on the policy? Those who put it in place? The government who awarded the new prison as a prize to Edmonton? The inmates? The people who designed a prison that can't hold prisoners? Or shall we sacrifice Jan Fox?'⁵⁴

Edmonton Institution for Women was the first of the new prisons to open. It had taken five and a half years for the vision of *Creating Choices* to take physical shape and, inevitably, Edmonton carried a huge burden of expectation. The events which have been outlined here had a profound impact on all the other new prisons, if perhaps less visibly, but no less deeply, at the Healing Lodge. Why was the labour of five and half years so precipitately derailed, judged and found wanting as a result of the presumed failings of one prison which had been open for only five and a half months? Further, why did this particular prison cause so many individual women to respond to it in such a distressed manner?

It is reasonable to assume that certain factors did not help Edmonton during those first months:

- pressure to close the Prison for Women, largely occasioned by what was heard during the Arbour hearings, led CSC to open Edmonton before it was physically complete;

- the local community largely did not want the prison and the media interest escalated with every incident;
- the prison was not designed to cope with the number of maximum security women it eventually had to take;
- the prison appeared – to the public, at least – to be insufficiently secure;
- there were insufficient programmes in place at opening to provide for the varying needs of the women.

As we shall see, there were other factors at play, such as: inexperienced staff; a demanding communal life for those women who were able to move from the Enhanced Unit to the houses; a lack of Standing Orders. There were also some factors specific to Edmonton, such as excessive use of strip searching and a preponderance of Aboriginal women who had not been allowed to transfer to the Healing Lodge. I address those two now, because they were so intimately linked to Edmonton. In the following chapter I deal with issues which were common to both Edmonton and Nova Institution for Women.

Strip searching

One of the immediate consequences of failing to have the prison completed on time was that, in an effort to ensure that drugs did not pass into the Enhanced Unit all women coming and going from the Enhanced Unit were routinely strip searched each time they moved. This meant as many as eight strip searches per day for some women, irrespective of their security rating. CAEFS believed that the ‘notion of dynamic security did not contemplate regular and routine invasive searches’:

CAEFS regards the strip searches of the women in Edmonton as an illegal practice that is antithetical to the principles of *Creating Choices*. Given that the enhanced units are not classified as segregation units, the stripping of women in and out of those units contravenes your policy (CD #571) and the legislation governing this area (s.48 of the *CCRA*: s.7 of the *Canadian Charter of Rights and Freedoms*).⁵⁵

Mr. Edwards replied that ‘the interim practice of routine strip searches prior to entering the temporary program area in the Enhanced Unit was completely terminated on January 29, 1996’. He also added that women on Security

⁵⁴ Connie Sampson March, 1996

⁵⁵ Letter from Susan Hendricks, CAEFS’ President, to Commissioner John Edwards 21st February, 1996

Management Levels One and Two were never stripped 'as it was considered that their minimum security classification implied a level of trust and self-responsibility which should be recognised'.⁵⁶ Further, CSC had decided that the definition of what constituted a 'segregation unit' was flexible and Mr. Edward's reply explained that the law did not reflect the reality of the multi-purpose design of the new institutions. It appeared from his letter that CSC had adopted a policy of having a moveable segregation area; this meant that wherever a Level Five (Administrative Segregation) woman happened to be at a given time became, for that period, a segregation area.⁵⁷ CAEFS' response was to label his explanation 'legal gymnastics'.⁵⁸ As the Board of Investigation made clear in their report, all women *were* stripped, and 'thus minimum security offenders were subjected routinely to procedures normally reserved for maximum security individuals' (CSC 1996b: 2), so the Commissioner was ill-informed. It became apparent that strip searching had not ceased in January, and in March the Calgary E. Fry Society wrote to Jan Fox to complain. At the end of April strip searching was still continuing, prompting a letter from all the Prairie E. Fry Societies to Ms Fox, commenting on how negatively this affected the women's relationships with staff.⁵⁹ The practice continued until the removal of the majority of the women from the prison.

Strip searching was particularly important both because of the impact it had on the way women and staff related to each other and the way in which it diminished the influence of the new correctional philosophy. Irrespective of how strip searching is carried out, it involves the public display of parts of the body normally kept hidden from public gaze (see Carlen, 1998; Scraton et al, 1991). A strip search can never be carried out sensitively because the whole manner of exposing the body is fundamentally insensitive, denoting relations of power between those being stripped and those responsible for the stripping. The prisoner is in a position of abject humiliation. Unsurprisingly, the women at Edmonton detested being stripped (as they saw it, unnecessarily) and were particularly resistant to being stripped by a correctional officer who was also their Primary Worker. The practice was out of step with what women had been led to expect at Edmonton and immediately affected their relationships with staff. Yet the situation was largely

⁵⁶ 27th February, 1996

⁵⁷ 30th February, 1996

⁵⁸ 30th April, 1996

⁵⁹ Ibid

beyond the control of staff, who felt themselves just as much affected by CSC's failure to provide them with a completed prison and were perturbed by being part of an exercise so far removed from the concept of dynamic security. Having resorted to stripping as a control measure because the prison was not finished, the instinct to check women was already inculcated in officers and management by the time the women finally returned to the prison. Although strip searching was then reserved for cases such as suspected harbouring of offensive weapons, the women at Edmonton continued to be frisked as they left the administration building at the end of each work session, and this was still the practice here in 1998, unlike that at the other prisons.

Aboriginal women

A high proportion of the women first accommodated in the Enhanced Unit were Aboriginal. Some had applied to be sent to the Healing Lodge and not been accepted, mainly because their security rating was above Management Level Three. The Board of Investigation made an important point of discussing this:

- the proportion of medium- and maximum-security [Aboriginal] offenders at EIFW, relative to the whole population, will be larger [because of numbers of Aboriginals in the Prairies];
- Aboriginal women who are not accepted by the Healing Lodge may feel less commitment to engage in the programme at EIFW because they are "stuck" there' (CSC 1996b: 141).

This was supported by Rivera:

... it is extremely important that the Edmonton Institution is not perceived of as a dumping ground by Aboriginal women who are not accepted into the Healing Lodge. If more integration is not effected between the Healing Lodge and the EI4W, some Aboriginal women ... will make little effort to buy into its philosophy or programming (Rivera 1996: 28).

Edmonton was always going to have a disproportionate number of federally sentenced Aboriginal women as soon as the unpublicised decision was taken that the Healing Lodge would not accept maximum security women. It was an inescapable demographic fact. But many of the Aboriginal women themselves had assumed that they would be eligible for the Healing Lodge – and some of the maximum security Aboriginal women held at the Prison for Women had had their

security ratings reduced to facilitate their transfer, including one who had been involved in the April 1994 incidents. For those rejected women to find themselves subsequently accommodated in the small Enhanced Unit at Edmonton was to compound their disappointment and give them little incentive to participate at Edmonton. Moreover, Edmonton offered little by way of Aboriginal programming and scarcely differed, in that respect, from the prisons they had left behind. Once Edmonton re-opened many of these Aboriginal women were barred even from Edmonton, because of their maximum security status, and became yet more isolated within the federal system. As Morin (1999) made clear, CSC was unable to fulfil its own Commissioner's Directive on the treatment of imprisoned Aboriginals, leaving them with insufficient services.

Conclusions and looking ahead

We have now briefly covered the traumatic early history of Edmonton: its planning; its opening; its closure; and its re-opening. The story highlights the areas, such as providing for the 'difficult to manage women', which the Task Force had been reluctant to explore in depth. While the Task Force may be held responsible for its collective lack of foresight when planning its ideal prisons for idealised prisoners, we must also remember that the civil servants allowed some aspects of the plan to pass almost by default, because they assumed they would be able to change them once implementation began. As developments at Edmonton have demonstrated, this, largely, did not happen. This may partially be explained by the unanticipated pressures they faced from the public and, particularly, the politicians in the Prairies. But the civil servants also had to contend with a group of low-needs women at the RPC, forced to co-exist with a volatile group of high-needs women, and increasing numbers of federally sentenced women. With both the Prison for Women and Burnaby removed as an accommodation option, the civil servants had no choice but to send more women to Edmonton. Had these pressures been less intense it is conceivable that the prison would not have been allowed to open before it was physically complete, thus removing some of the complications of the opening process. But this did not remove the basic fact that more maximum security women than the prison could contain were due to be held at Edmonton. In dealing with the aftermath the larger organisation behind the civil servants – CSC – attempted to move responsibility for its own failings on to the shoulders of federally sentenced women, rather than acknowledge its own shortcomings.

Edmonton's opening was closely followed by that of Nova Institution for Women, in Truro, so it is instructive for us to see how that prison fared during its first year of opening, a period of time roughly contemporaneous with that of Edmonton. Did any similar situations arise? Are we able to note parallels? Did events at Edmonton influence policy at distant Nova? Above all, did the two prisons embody the vision of *Creating Choices*? We need to understand the successes and failures associated with these two prisons because their genesis was so very different from that of the Healing Lodge. They were largely the result of correctional officials' planning, divorced from the influence and scrutiny of the voluntary sector. The Healing Lodge, by contrast, was conceived and inspired by Aboriginals during its transformation from concept to physical reality. Correctional officials facilitated the transformation, but were not its entire source. Potentially, then, we have the possibility of two different correctional outcomes. The question arises whether the continuing influence of the Aboriginals at the Healing Lodge has enabled a radical model of imprisonment to emerge from *Creating Choices* – distinct from that of the largely non-Aboriginal prisons – or whether the hand of corrections might still be seen as the Healing Lodge's pre-eminent guiding force. To begin the journey towards answering that we now turn to Nova Institution for Women.

7. Nova Institution for Women

Canada is a vast confederation of provinces, the majority being geographically larger than most European countries. Federal departments will not necessarily separate one province from another administratively and, for correctional purposes, the 'Atlantic Region' covers the smaller provinces of Nova Scotia (NS), New Brunswick (NB), Prince Edward Island (PEI) and Newfoundland (NF).¹ During the consultations undertaken by the Task Force in these provinces a great deal was heard about the inadequate facilities available for provincially sentenced women and the enormous distances between some communities. Federally sentenced women were particularly disadvantaged, generally having little option but confinement at the Prison for Women for the major part of their sentence. As one presenter at the Consultations said: 'it was not just Aboriginal women who were 'dislodged from their culture [by imprisonment at the Prison for Women], but Maritime women as well'.² Those who returned from the prison to complete their sentences under provincial jurisdiction had great difficulty in adapting to the regimes of the local prisons and, eighteen months after the publication of *Creating Choices*, the Solicitor General of Nova Scotia appointed a special committee to examine the needs of provincially sentenced women. Their report, largely echoing the methodology and findings of *Creating Choices*, provided specific information about women 'in conflict with the law' in that province.³

¹ At times I will refer to the women from this region as being from the Maritimes, which is an area covering the first three of the 'Atlantic Region' provinces. Newfoundland is not part of the Maritimes but, for the purposes of this chapter, can be assumed to be included when the term is used.

² August, 1989

³ *Blueprint for Change: Report of the Solicitor General's Special Committee on Provincially Incarcerated Women* (1992) The Committee acknowledged the ground-breaking role of the Task Force on Federally Sentenced Women (TFFSW) and adopted 'many of the Task Force's principles and methods, and found [its] work made easier by these pioneers in systemic change' (1992: ii). Whilst being an examination of *provincial* provision for remanded and sentenced women, the conclusions reached by the final Report, *Blueprint for Change*, revealed that many of the problems encountered by provincially incarcerated women were similar to those of federally sentenced women. Importantly, the Report highlighted the plight of black women within the correctional system, pointing out the neglect of their needs in correctional planning. (The TFFSW was criticised for failing to consider this group separately in *Creating Choices*). Although there was a fairly sizeable Aboriginal population living in the Atlantic region, the sentenced population did not reflect the Canada-wide trend of disproportionate Aboriginal representation in the prisons. The Maritimes also has a distinct group of Acadians, with different cultural needs. Little in the Report was subsequently implemented.

Everyone wants a prison?

As we know, the Task Force had identified a site ‘in or near Halifax’ (TFFSW 1990: 114) as its preferred location for a new prison, reflecting the fact that most federally sentenced women from the Atlantic Region came from Nova Scotia.⁴ While the Task Force’s recommendation would not lessen the geographic dislocation for many other women – St. John’s (NF), for example, was approximately 600 miles from Halifax – it would ensure that a greater proportion of women remained in their home province. However, by May 1991, some eight months after Mr. Ingstrup had accepted the report, thirteen communities across Nova Scotia were already competing with each other to attract the proposed new prison. The Atlantic provinces had significant unemployment problems compared with other parts of Canada and there was intense political lobbying for the prison to be sited in various areas, because of the associated financial benefits. Communities such as Springhill (NS) and Dorchester (NB), which already had federal penitentiaries, stressed the savings on administrative costs that the federal government could make were it to build in their area, in much the same way that Drumheller had, in Alberta. There was an awareness of the benefits Kingston (Ontario) derived from the several prisons located in its vicinity and an assumption that some of those benefits could be enjoyed in the Maritimes.

In chapter 6 we learned of CSC’s July, 1991 decision to allow communities within a hundred mile radius of the Task Force-designated locations for the new prisons to be considered as possible sites, and towns in the Maritimes who had not already done so were encouraged to submit bids. The Halifax MP, Mary Clancy, immediately said that no further time should be wasted ‘listening to people ... from Truro or Bridgewater or whatever. ... Let’s start looking right away for sites within the metropolitan [Halifax] area that are close to the facilities these women need’. She was echoed by Felicity Hawthorne, a co-chair of the Task Force, speaking on behalf of CAEFS, who said that if the Government were truly addressing the criteria laid down in *Creating Choices*, then it had no option but to choose Halifax as the site, [as] ‘we certainly don’t want those facilities out in the sticks so that every time a women wants to go to hospital or her counsellor or whatever it’s a

⁴ These two cities face each other across a shared harbour. Halifax is the capital of Nova Scotia, while Dartmouth is the province’s second largest city.

major performance to get her there'.⁵ Halifax was becoming more vocal in its lobbying for the prison and much of the public comment focused on the economic benefits the prison would bring to any area. Dartmouth, Nova Scotia's second largest city, situated just across the harbour from Halifax, voted to pursue its own case with the federal government, with the city council's administrator speaking of the 'multi-million dollar economic development opportunity for the city' which the prison would be.⁶ An irate resident countered, 'no way ... It's going to blow our property prices to you know where! If you want to sell your house, you wont have a snowball's chance in hell if that prison comes in'.⁷

In November 1991 Halifax City Council publicly released its bid for the new prison and revealed that it included a list of eight possible sites, some of which were residential and had owners who had not been consulted.⁸ There was an immediate, negative response from residents, who feared that land might be expropriated. Shortly afterwards the Council barred the prison from any residential sites, removing five of the eight proposed sites from contention. Halifax's Deputy Mayor said that, by removing all residential sites from the list 'we might have sealed our own fate'.⁹ That same month CSC's evaluation team assessed the various submissions, and public expectation was that either city could readily fulfil the location criteria stipulated in *Creating Choices*.

CSC's decision was not long in coming and the small town of Truro, on the very edge of the extended search radius, had unexpectedly won out over all the other Nova Scotia contenders. Solicitor General Doug Lewis travelled to Truro on the 17th December 1991 to confirm the news, telling townspeople that the prison's \$5 million budget would create between forty and fifty jobs during construction, with 26 permanent positions eventually being available at the prison. The Minister was unable to specify exactly where the prison would be built and went so far as to say

⁵ *Chronicle Herald* 1st August, 1991

⁶ *Chronicle Herald* 22nd August, 1991

⁷ *Daily News* 26th August, 1991

⁸ *Daily News* 20th November, 1991

⁹ *Daily News* November, 1991

that, if programmes were not in place by the time the facility was scheduled to open in 1994, then ‘we’ve got a problem’, but he was convinced it was one the local community could solve.¹⁰

Few outside Truro had ever considered it a possibility, either. Elizabeth Forestell, then Director of the Halifax-Dartmouth branch of the E. Fry Society, said they were ‘deeply disturbed’ by the selection of Truro, which had no women-centred programmes for healthcare, mental health and substance abuse. There was intense anger over the decision and immediate assumptions that the decision was a political one. In January 1992 Ms Forestell complained that Solicitor General Lewis and the conservative (Tory) government of Brian Mulroney had put political favouritism ahead of women’s rights in deciding to award the prison to Truro, noting that the Cumberland-Colchester (Truro) MP, Bill Casey, was a Tory whereas Mary Clancy, MP for Halifax, was a Liberal. The Native Women’s Association of Canada (NWAC) added its voice, pointing out that the criteria specified in *Creating Choices* had been ignored and, fearing that a similar disregard might be exhibited when it came to selecting the Prairies’ site, asked for the Steering Committee to be reconvened urgently.¹¹ By February 1992, however, CAEFS had recognised that the decision would not be reversed. Kim Pate, CAEFS’ Executive Director, having met with Doug Lewis and Commissioner Ingstrup, said that the Association (through its Halifax branch) would work with Truro in order to ensure that the best possible services would be available.¹² This position of cooperation – in a sense coerced because of the needs of federally sentenced women – survived the 18th June, 1992 decision by CAEFS and its nineteen member societies to withdraw from the External Advisory Committee (see chapter 6), and the Halifax E. Fry Society continued to work with those planning the new Truro prison.

There were behind-the-scenes negotiations during the summer months of 1992 in an attempt to locate and agree on a site and in July an application for re-zoning of land in the east of the city was made, without any prior public consultation. (This failure to consult with the local community before making decisions was repeated a year later in Edmonton, where CSC did not appear to have learned from the

¹⁰ *Chronicle Herald* 17th December, 1991

¹¹ Letter 16th January, 1992

mistakes made in Truro.) After protests, the re-zoning request was withdrawn and plans were announced for 'a series of public meetings to explain how the prison [would] be built and which sites [were] most appropriate'.¹³ On the 28th October, 1992 Corrections announced that a site in a suburban area whose residents had expressed little opposition, would house the new prison, and approval was finally given by the Truro council in April 1993. Thérèse LeBlanc was appointed Warden on the 17th March, 1993¹⁴ and throughout the site selection process she was the 'face' of Corrections, as was Jan Fox in Edmonton.

The local MP, Bill Casey, represented the Solicitor General at the sod-turning ceremony in James Street on the 12th October, 1993. The prison, at that stage, was expected to provide 21 beds. Casey lost his seat in the election which followed later that month and his Liberal successor had to deal with rumours in December that the prison had been put 'on hold' because of calls from Liberals in Dorchester (NB) that the prison should be re-sited there. Thérèse LeBlanc attempted to allay fears, explaining that there would be considerable costs should the prison be relocated, because the design work was specific to the site already chosen.¹⁵ This 'hiccup' overcome, tenders were expected to be let by February 1994, but in March there was a further delay when the prison was again put 'on hold', following allegations that Ottawa was considering locating the prison in the military base in Chatham (NB), the riding [constituency] of the Liberal Premier of the province, Frank McKenna. The matter was finally resolved when the new Solicitor General, Herb Gray, intervened, confirming that Truro would indeed house the prison.

In examining the way in which the prison site was selected what becomes apparent is that the prison was much sought after. Although residents in Halifax and Dartmouth, as well as in Truro, voiced disquiet about certain aspects of the prison, it was largely perceived as a desirable acquisition for whichever community happened to win in the end. This was in stark contrast to what was rumbling on in Edmonton, a largely prosperous city, where the local community had huge misgivings about such a project and anticipated that there might be some danger attached to it. The extending of the search radius was an economic blessing for a

¹² *Daily News* 8th February, 1992

¹³ *Chronicle Herald* 9th July, 1992

¹⁴ *CSC News Release* 17th March, 1993

small town like Truro beset by recession and the drift to the cities. This also explains why other Maritimes' communities did not see the awarding of the 'prize' to Truro as the end of the matter and why members of parliament continued to lobby for the prison to be assigned elsewhere. Had the smaller communities been bidding for a saw-mill the reaction would have been the same, because any new businesses meant jobs; the prison was seen as benefiting the community. Whether the community had anything to offer in return, apart from a potentially willing work-force, was not part of the debate. Whether the federally sentenced women would benefit from being accommodated in their community seemed to be entirely lost from view. This was admitted by a member of the local steering committee which had originally worked to bring the prison to Truro: 'Originally our focus for bringing the Correctional Centre to Truro was based solely on what it would mean for our town in employment opportunities and other spin-offs'. ... 'The balance quickly changed, however, as the community became more involved. Now there is no question the correctional facility will definitely realise benefits from being located in Truro'.¹⁶

Building begins

Construction of the prison commenced some three years after the planning for a new Atlantic facility began. In September 1994 Warden Thérèse LeBlanc (who had recently been a member of CSC's National Board of Investigation into the April 1994 events at the Prison for Women, see chapter 6)¹⁷ left the prison to take charge of the Prison for Women. An interim successor held the reins at Nova until Christine Manuge was appointed Warden on the 17th February, 1995. At that stage some of the senior team members were already in place, but the bulk of staff were still to be appointed and the nine-week training programme for those selected was due to begin just two months later. It was subsequently suggested that the hiring authorities rejected any applicant at the outset if they did not have a university education, thus losing the potential talents and life experiences of those who had pursued other career paths, and ignoring the wishes of *Creating Choices* (Manzer, 1996).

¹⁵ *Daily News* 15th December, 1993

¹⁶ *CSC Communiqué* 27th October, 1995

¹⁷ See chapter 6 for Madame Justice Arbour's comments.

In April 1995 Thérèse LeBlanc returned to Truro to address a meeting of the Nova Scotia Criminology and Corrections Association. She thought the women who would be arriving at the new prison might find it harder to be there than at the Prison for Women, saying ‘this will be very frightening for them. They’ll be losing friendships, leaving what has been their home for several years and they will have to rekindle their family relationships’. With a degree of foresight, she added that ‘the first six months will make or break these new facilities. ... If we fail it will have consequences on our communities’.¹⁸

At the beginning of August the federal government officially took possession of the new prison, which was almost completed. A census of federal women prisoners had revealed the need for increased capacity for Atlantic federally sentenced women, so a fourth living unit – which had been dropped from the original plan for economic reasons – was added to the prison, increasing regular bed capacity to 28. Officials inspected the prison to ensure that it met federal standards and a spokesperson said ‘it’s now a matter of getting familiar with the surroundings and carrying out training onsite to ensure all staff know the facility and what to do in the event of an emergency’. To assist the opening process, women were to be transferred in groups of four.¹⁹ The Truro public was encouraged to tour the prison and reaction was divided, as was encapsulated in an article in the *Chronicle Herald*: ‘Prison or country club? That’s the question under discussion over coffee in many places around Truro as tours of the soon-to-open prison move into high-gear’. Ms Manuge said that while some might see the facility as excessive, the majority supported the approach, arguing that it was less costly to build a prison in a residential style.²⁰ This theme was expanded upon by Commissioner John Edwards, who came to Truro for the prison’s official opening on the 27th October 1995. He said ‘it would be so much easier, perhaps, to build the more traditional type of penitentiary, with high fences, cell blocks full of steel and concrete surrounded by all the latest in high-tech security systems and hardware. ... For a number of inmates such institutions are and will continue to be required. They are also very expensive to build and operate. These new units cost about two thirds of

¹⁸ *Daily News* 24th April, 1995

¹⁹ *Chronicle Herald* 3rd August, 1995

²⁰ *Chronicle Herald* 21st October, 1995

what it would normally cost to build a traditional prison'.²¹ But Nova already contained a small section 'full of steel and concrete' for that group of women; an Enhanced Unit, which had not been increased in size when all the other prisons had their Enhanced Units doubled. Corrections had publicised the Enhanced Unit in a Communiqué it produced to mark the opening of the prison, explaining that it would be used both to assess new arrivals and to house those who were a danger to themselves or others. Yet the fact that some women might be a danger to others had rarely been part of the public debate about the prison. The four (unfunded²²) beds in the Enhanced Unit potentially added to the capacity of the prison, but it was still referred to as a 28-bed prison, in the same way that Edmonton was known as a 56-bed prison, whilst having a 12-bed (24, if double-bunked) Enhanced Unit capacity.

Both Edmonton and Nova opened at almost the same time, but Truro had been identified as the site of a new prison a full year before Edmonton was named. Site selection caused delays to both projects and construction at Nova started a little after Edmonton. Nova was half the size of Edmonton and the construction team did not have to contend with the ferocity of an Albertan winter, so Nova was completed on time and physically ready for the women when they first began arriving. However, there had been little time for staff to become accustomed to the new prison and to be able to test it. In examining the first year of Nova's opening we shall see if there are similarities between what happened there and at Edmonton. In describing Nova and subsequent events I continue to adopt the language commonly used by CSC, such as 'multi-faith spirituality room', 'special needs' and 'Enhanced Units', even when they might be thought of as euphemisms for other things.

'Not a home, but a prison'

The first three women arrived at Nova on the 9th December 1995. They had been carefully selected and all were minimum security women, even though one was serving a life sentence. They had flown from Kingston and, as an observer commented: *They were just in a state of shock* [at seeing the style of the prison and

²¹ Speaking notes for John Edwards at the official opening of the Truro (sic) Institution for Women

²² Beds in the Enhanced Unit were not 'funded' as regular living spaces for the women. The assumption was that they would be used, intermittently, by women who were normally accommodated in the houses. They were not considered to be part of the total capacity of the prison, even when they were used as such at Edmonton.

having to grapple with the degree of autonomy offered them].²³ Shortly afterwards CAEFS' Kim Pate was asked to comment on Nova. She hoped that the opening of the facility marked a new approach by CSC towards female offenders, but 'her Association fear[ed] that the new plan for communal living ... could be jeopardised by a lack of planning and support for the transition the women [would] have to make. Warden Manuge countered by acknowledging that there was bound to be conflict in the living houses, saying 'the residential housing mirrors community living. They will have to learn conflict-resolution so that they can solve their own problems and not end up screeching, swearing or smacking each other'.²⁴

The prison to which the women were transferring was in stark contrast to the high-security Prison for Women. Nova was designed specifically to take advantage of its sloping, wooded site and located at the end of a quiet residential street. The Project Brief provided a broad-brush outline of what was required but, beyond being specific about the number and type of rooms required in the living houses and the enhanced unit, left the architects with remarkable freedom to design the new facility.²⁵ As in Edmonton, the final design gave the initial impression of an office complex, which, indeed, the frontage was. The living units were not visible from the road and, even from within the prison, were partially hidden by the tree-filled central area, providing immediate problems of supervision for staff. Walking into the building, past the staffed control area, the open visits area was the first thing to be seen, with the paved outdoor visiting area beyond that. Part of the administration area was to the left of the entrance and, when the prison first opened, this was open-plan and easily accessible to the women, leaving administrative staff unable to work freely with confidential materials (a situation later amended by the addition of an extra wall). A corridor led around to the education, library, craft and other areas and eventually to the gymnasium. The second floor of the administration building contained the multi-faith spirituality room²⁶ (not easily accessible to the women), further office space, the health centre and the Enhanced Unit. This was the only part of the prison which came close to resembling a traditional prison, but still had no bars and was furnished with conventional porcelain washbasins and toilets, as well as mirrors (with the consequences being

²³ Interview 11

²⁴ *Thomson News Services* 8th November, 1995

²⁵ Correctional Service Canada, *Construction Policy & Services*: 11th September, 1992

seen some months later). The Unit contained four cells, one of which could be used for observation purposes. Its small, high-walled exercise yard was in vivid contrast to the greenery of the rest of the site, and when the pre-opening audit of the prison was carried out it took the audit team a very short while to scale the wall. Once the women were in situ, there was the added complication that the locks in the Enhanced Unit failed to function reliably.²⁷ For those few staff who had correctional experience, the first view of the prison was a shock. As one said: *I thought 'oh my, what are we going to do with this?' Because the way the buildings were all in line I thought 'how ever are you going to watch what's going on? It's going to be a security nightmare ... they could walk right out of the front door [of the administration building] or walk around the building' ... it was a little bit scary.*²⁸

The four living units and one family visiting house were in a semi-circle towards the rear of the site. Doors and windows were alarmed but, as at Edmonton, could not initially be locked because of fire-regulations. The same Corcan furniture furnished the prison, and the bedrooms (cells) again had the feel of a student-type residence. Two of the houses could also accommodate a child. The prison had a minimal fence, which acted more as a boundary marker and, in the eyes of the staff, compromised security. The women were consequently escorted between the administration building and their own houses, instead of being allowed to move freely, as had been anticipated by the Task Force. Staff were not resident in any of the living units, apart from the Enhanced Unit, and the houses were checked hourly, with a hand-held 'dyster' electronically recording each visit. This was a system not dissimilar to that highlighted by Harding et al (1985) when commenting on an early English prison which had a series of levers needing to be pressed at set intervals each day to ensure that regular checks took place. Male staff entering houses were meant to call out and alert the women and formal counts took place four times a day. Staff were permanently positioned in the Structured Living House when it opened in March 1996, providing support for a group of women with diverse needs.

²⁶ The term used to cover a room providing for more than one faith.

²⁷ Interview 11

²⁸ Interview 1998



Nova Institution for Women, Nova Scotia. Part of the living accommodation, seen from the administration building.
photo: S. Hayman

By mid-January 1996 there were eight women in the prison and the local community was not beyond drawing unfavourable comparisons with the perceived privileged lifestyle of the women at Nova, when economic difficulties forced cuts in local budgets, leaving the bus-service for the disabled under threat. ‘People with disabilities in Colchester County will become prisoners in their own homes [if they lose their bus]’, said the service co-ordinator. ‘The real prisoners at the new women’s prison will enjoy a more interesting life, needing only to walk down the hall to access gym equipment, computer training and the pending swimming pool’.²⁹

But life at the prison was not as easy as the papers would have their readers believe. It had been apparent almost immediately the women began arriving that a number would find living in the houses difficult. Nova was the only one of the new prisons not to have its Enhanced Unit enlarged from its original plan (the Healing Lodge had two ‘quiet rooms’), so was using its four-bed unit for: reception and initial assessment; administrative segregation; and maximum security women. This left little leeway for dealing with others whose behaviour required at least temporary accommodation within the unit and, consequently, some women in need of extra support were placed prematurely in houses, none of which had resident staff. As we already know from what we have learned of events at Edmonton, the houses demanded many social skills of federally sentenced women. Unlike Edmonton, where the houses were under-used because of the security classification of many of the women and the unfinished state of the prison, those at Nova were almost immediately occupied.

The Atlantic Region had – and still has – a disproportionately high number of federally sentenced women with ‘special needs’.³⁰ Indeed, some could not make the initial move to Nova because it was recognised that they did not ‘fit’ the new model and, unlike the situation for Ms Fox at Edmonton, Nova’s Warden was able to refuse prisoners. Before the prison opened CSC realised that special provision

²⁹ *Chronicle Herald* 15th March, 1996

³⁰ In a later report commissioned by CSC, Warner categorised these as covering: ‘those with basic skills and cognitive challenges ...; those with emotional distress needs ...; [those who] in maximum security environments may require intensive programming to assist them in changing anti-social attitudes and behaviour’ (Warner 1998: 6). The term ‘low functioning’ is used interchangeably with ‘mentally challenged’ in official documents, to describe women with lower intellectual capabilities lacking the social and educational skills necessary for many everyday tasks.

would have to be made for these women and commissioned a study of possible intervention strategies from Whitehall. An initial examination of records had identified ten women, out of the 24 due to move to Nova, who were ‘low functioning or [had] mental health problems’ (Whitehall 1995: 1). There were deep concerns about the women’s ability to cope with the communal living, particularly as some of them were serially incompatible with each other. Additionally, some had been known to set fires both in the community and in prison, which made kitchen safety an issue. Under the *CCRA 1992* prisoners should be housed in the ‘least restrictive environment possible’ (cited in Whitehall 1995: 7). Acting on Whitehall’s advice, CSC decided that Nova would be provided with a Structured Living House (SLH), specifically for ‘special needs’ women, who would be supported by resident staff and special programming. As Whitehall’s report was unavailable until October 1995, the SLH was not ready until March 1996, so the ‘special needs’ women who transferred earlier had a disproportionate impact on the women sharing their houses and on staff. Although most women in the houses were prepared to make allowances for their unpredictable behaviour, it could not be expected that the majority of prisoners would willingly assume the role of helper for an unlimited period. As made clear in a subsequent report prepared by Alan Warner³¹, the prison had little time to prepare for the SLH; an occupational therapist was hired to co-ordinate the changeover in March and contract staff were hired to provide round-the-clock support. Once the SLH was finally available in March it became home to three groups of women seen to be distinct: the mentally challenged, who needed extensive guidance in basic living skills; those with severe mental health difficulties, who exhibited self-destructive behaviour alongside very apparent emotional distress; and a small, but influential, group of women who were felt to be manipulative in the other living units. A programme co-ordinator was only hired on a part-time basis, making provision for each group even more difficult, and staff were challenged by the need to provide a programme which would adequately respond to such disparate needs. According to Shimmel,³² cited by Warner, ‘the Prison for Women culture was ever-present’ and ‘individuals who did attempt ... positive changes were taunted and / or threatened to conform by other inmates’. Warner stated quite unequivocally that:

³¹ Warner, A (1998) *Implementing Choices at Regional Facilities: Program Proposals for Women Offenders with Special Needs*

Largely, the structured living house was the only available supervised setting and thus the admission criteria (*sic*) became the need for *supervision*, rather than the need for a particular living situation and type of programming (Warner 1998: 19, emphasis added).

Creating Choices had anticipated that individual cottages might serve specific purposes, but had not expected that one cottage would need to provide for such multifarious needs, or that the combination of such needs would eventually prove to be so combustible. The staff – and not just those assigned to the SLH – had to cope with the outcome. The Primary Workers were almost entirely new to corrections and as part of their case management³³ tasks had responsibility for individual women. Their inexperience, and what was beginning to appear to be a significant underestimation of how many staff would be required to run such a facility, eventually became manifest in tiredness and stress. The wisdom of having selected Truro as a site was also being tested because the rush to open on time, combined with the late training of very new staff, meant that programmes had not been put in place as soon as expected; none was available locally and the women were under-occupied and, frequently, bored: *I was promised programmes, that's why I came here. I took the substance abuse programme [elsewhere] but there's no NA [Narcotics Anonymous] here. I need help with drugs. That's why I'm here.*³⁴ The women's inability to move freely around the prison, as they had anticipated, added to their frustration and they became increasingly disturbed by what they took to be inconsistency on the part of the staff: *They don't know what to do. They ask us. We tell them what to do.*³⁵

Although programmes were to appear as the prison got into its stride, the women who first arrived felt that they were part of a puzzling experiment. Even those women with a broader experience of coping socially found the new prison presented them with enormous personal challenges after the constraints of the Prison for Women. One said she spent the first weeks wishing that she could return to Kingston; not because she preferred the cramped, old building, but because she

³² Shimmel, L (1996) *The structured living house program: Nova Institution for Women* CSC (not obtained by writer)

³³ In Commissioner's Directive (CD) 701, section 2 reads: 'The case management process shall provide for the proper assessment, classification, counselling, programme planning and supervision of offenders throughout their sentence'. And, in Section 7: 'A team approach to case work shall be co-ordinated by the appropriate case management officer in the institution or the community'.

³⁴ Personal notes 1996

found the new frightening. She had grown unaccustomed to being given choices, to being treated with consistent courtesy; she found that she was longing for the certainty of the old structure, which she might not have liked, but where she at least understood the 'rules'.³⁶ So distinct groups began to emerge: women who wished for change (but were also fearful of it); women who resisted change because it undermined the power they had previously enjoyed; and of staff who wanted to effect change, but were unsure of how they could do so consistently. These groups were functioning within a physical environment which did not always appear to provide security and safety. Indeed, it could be said that the new buildings were potentially more dangerous than the Prison for Women, because of the lack of direct supervision and the ready availability of kitchen equipment which could be used as weapons.

If we compare developments at Nova with what was happening at Edmonton at about the same time, we can see some similarities. In the Edmonton Enhanced Unit there were problems with overcrowding and disparate groups being uneasily imprisoned together. The maximum security women took a disproportionate amount of staff time and energy, leaving other women with equally demanding needs feeling neglected and ignored. In those cramped quarters the women could not have 'time out' from each other and tensions were increased as some attempted to assert their authority by 'muscling' others. Undue levels of security affected all of the women indiscriminately. This situation was partially replicated at Nova, but in the SLH rather than the Enhanced Unit. As the SLH had been adapted, instead of specially designed from the outset, its design faults made adequate supervision difficult. Being in the house 'stigmatised' the women – the house became known as 'the crazy house – and gave them little sense of the possibility of being part of a larger community (Warner 1998: 20). Some of the women could scarcely cope with their own problems, let alone those of the other women with whom they lived in such close proximity, and Nova was quite unable to offer the degree of separation provided at the Prison for Women. At Nova the Enhanced Unit was not a long term option for anyone, so the houses were the last – and only – resort. In a sense, this replicated the situation at Edmonton where, as we have seen, the newly-

³⁵ Personal notes 1996

³⁶ Personal notes 1996

designed prison was unable to offer a safe environment for women known to be incompatible with others.

We can see from this comparison that: both prisons had specific groups of women providing management and accommodation problems; the accommodation was either not ready for the women or unsuited to its purpose; inexperienced staff had difficulties in dealing with women who were not conforming to the image of the federally sentenced women they had been trained to expect. Additionally, some federally sentenced women, who were themselves new prisoners, 'were affected and "infected" by the negativity'³⁷ of some of the women who had transferred from the Prison for Women.

Distant influences; instant reactions

In May 1996 the escapes at distant Edmonton (see chapter 6) overtook the other prisons, with the exception of the Healing Lodge. All the fences at the new prisons were to be raised to three metres and crowned by barbed wire. As Nova's Warden said at the time, 'a couple of the women felt it was unfortunate that they all have to pay the price for what happened in Edmonton'.³⁸ By contrast with Edmonton, the administration building at Nova was deemed to be part of the 'fence', so the frontage did not look remarkably different once the alterations had been made. These included enhanced electronic surveillance along the front, with window, door and roof alarms, plus infra-red cameras for night-time surveillance.

When a prison security review was announced on the 30th April one of the Nova women was quoted in the local paper as saying 'we ... prefer not to be compared to Edmonton. What happened out there is something that they are dealing with. What is going on here is something totally different and we would like to keep it like that'.³⁹ But some of the women thought the addition of the fence was a positive development for Nova because it provided protection from possible community aggression and lessened, in their eyes, the temptation to escape. Some also hoped that the higher fence would permit them greater freedom of movement, without the

³⁷ Personal letter to author 2001

³⁸ *Daily News* 30th May, 1996

³⁹ *The Record* 7th May, 1996

need for constant supervision as they moved from area to area.⁴⁰ These views were not necessarily shared, and CAEFS' Kim Pate was immediate in her condemnation of the decision, saying that 'despite a commitment to a more open, community based approach to the rehabilitation of women offenders, federal correctional staff are reverting to old solutions when problems at the new facilities arise'. This echoed the fear articulated by Madame Justice Arbour that: '... the Correctional Service resorts invariably to the view that women's prisons are or should be, just like any other prison' (Arbour 1996: 178). In an editorial, the local *Chronicle Herald* expressed disappointment that a high fence should be considered necessary for the prison:

It is a visible denial of philosophies and policies which were strongly expressed when the prison was announced. It has been suggested the fence will be made as inconspicuous as possible but the fact it is felt necessary to do that further underscores the anomaly of its construction. No matter how inconspicuous it may be made to appear it clearly affirms to all who pass by that this is not a home but a prison.⁴¹

The construction of a higher fence did much more. It was indeed a 'visible denial of philosophies and policies', but it also showed that CSC viewed all the prisons as being non-autonomous entities and had adopted a 'one size fits all' approach to them. I am not suggesting that CSC should have treated federally sentenced women differently from each other, depending upon the prison in which they happened to be confined. Rather, that CSC gave none of the other prisons the chance to see if the original model proposed by the Task Force worked for them – and, if it did, whether their experience could benefit practice at Edmonton. At times the women felt that there was a higher level of surveillance at Nova than had been the case at the Prison for Women, where the high walls allowed some freedom of movement, albeit within a confined space. Women were once again being subjected by CSC to the arbitrariness which they had hoped to leave behind upon returning to their home region. While women at Nova found the inconsistency of the staff hard to bear, at that point many were prepared to make allowances because they thought they might benefit. To find that the larger organisation, CSC, was prepared to allow events at a prison some 3,000 miles from Nova, to determine what happened to them was entirely different. The 1995 'Brainstorming Session'

⁴⁰ Personal notes 1996

⁴¹ *Chronicle Herald* 31st May, 1996

had anticipated that this might arise and warned that inconsistency could foster anger, as a reaction to 'powerlessness' (CSC 1995a: 3).⁴² The women's resentment was shared by the staff, whose idealism had been tested as they struggled to provide for women for whom they had been inadequately prepared. The women's unpredictable behaviour left many staff exhausted and unsure of their professionalism, but still largely committed to the vision of *Creating Choices*. Staff were 'flying by the seat of their pants, creating policies as circumstances arose, and then changing them when they did not work' (Rivera 1996: 21). The sudden appearance of much more overt security was unwelcome evidence of the fragility of the new philosophy they were meant to be pursuing. Additionally, the raised fences signalled to the communities that *all* the women were 'high risk', completely contradicting public assurances earlier given by CSC. Such official responses are not uncommon, as evident in the United Kingdom when escapes from male prisons (documented in both the Woodcock and Larmont inquiries) led to an escalation of security measures in women's prisons as well. (See Carlen, 1998 for a discussion of the most immediate impact of these decisions on women prisoners). To act unilaterally is the simplest way to implement policy, but when such actions appear unjust they undermine the informal structures of control within a prison. In the Canadian context such a heavy response undermined the 'dynamic security' so essential to the running of the new prisons. The relatively 'good' behaviour of the women at Nova was immaterial and they faced tangible proof, in the form of higher fences, that their cooperation was no longer essential to the security of the prisons.

Staff were increasingly under stress as their workload increased and Warner later highlighted some of their difficulties. When the SLH was opened the contract staff brought in from outside the correctional service had little – or no – experience of security and mental health issues. While these new staff were then spending up to eight hours each day with the women and building up a knowledge of them, they were not always able to communicate what they had learned to the Primary Workers, who retained responsibility for individual women, yet spent far less time

⁴² The 'Brainstorming Session' was held in Ottawa in July, 1995 and organised by CSC, which was attempting to develop a 'programming framework for federally sentenced women in the areas of anger and violence' (CSC 1995a: 1). CSC staff did not participate, but attended each session as 'observers'. The workshop was held against the unfolding backdrop of the Arbour Inquiry and the official participants drafted a Statement, which included: 'We cannot emphasise enough that these incidents and the manner of characterising them in the media have the potential to influence the

with them. The Primary Workers felt aggrieved that their direct contact with the women had been so minimised because they had come into their positions expecting to have responsibility for individual women. Instead, they were preoccupied with security and form filling and, as Warner highlighted, this gave some of the women in the SLH the opportunity to play staff off against each other (Warner 1998: 19).

Escalating difficulties

It was against this backdrop that the situation in the SLH came to a head on the 4th September, 1996. Following an attempted knife attack on one of the women living in the house, who had complained about alleged lesbianism, an attempt was made to remove the assailant. (The use of weapons is always taken seriously in any prison.) Some of the other women tried to intervene on her behalf and this resulted in four women being removed to the Enhanced Unit, where they were double-bunked because of lack of space. The following day they began to damage the two cells they were occupying and that evening an all-women cell-extraction team (CET) entered the Enhanced Unit and removed the women. They were then strip searched and removed to a prison in Saint John, New Brunswick. The whole procedure was video taped and a member of the Citizen's Advisory Committee was present. A CSC spokesman announced that the rest of the prison had been largely unaffected, except for the fact that all the women were confined to their quarters until late Friday, by which time a prison-wide search had been completed.⁴³ As we know, the houses were unlocked because of fire regulations and, had the other women chosen to leave their houses while the women were being extracted from the SLH, Nova's staff would conceivably have been unable to cope. That the women did not was never officially recognised. Nor was it recognised that some of the new staff were as frightened by the turn of events as some of the women observing developments from their houses.⁴⁴ One later reflected on the incident: *With a little support and consideration things could have been different. Indeed, it didn't have to happen at all and in fact it wasn't THAT big a deal. I've seen men riot and this was a bump in comparison. And do we not expect the occasional upset? These are people – and often disturbed people – enclosed in a space*

manner in which the public, CSC staff and the women themselves are inclined to view violence in women and understand how to most effectively address it' (CSC 1995a: Appendix C).

⁴³ *Chronicle Herald* 7th September, 1996

*together, one feeding on the other. What did they think? That this was going to be a tea party?*⁴⁵

Nova did not have a breathing space before national decisions, again stemming from previous events at Edmonton, affected the prison. It was announced that maximum security women would no longer be held at the new prisons. This only affected Nova since those at Edmonton had been removed, the Healing Lodge had never been allowed them, and the opening of both Joliette and Grand Valley had been postponed. The news was due to be relayed to the women on the 19th September. The Deputy Commissioner for Women, Nancy Stableforth, and the Regional Deputy Commissioner, Alphonse Cormier, were also scheduled to visit Nova on the same day. A dinner was to be held in the prison's gymnasium, to which a number of local residents, members of both the Citizen's Advisory Committee and the Regional Advisory Committee, representatives from the Elizabeth Fry Society and women from the prison were invited. The meal was to be a celebration; the prison had been open for almost a year and it was thought that its record compared favourably with Edmonton's, despite the recent incident. The Atlantic Region appeared, publicly, to be developing a prison with a style of its own and the attempt to provide a Structured Living Unit, while flawed, was seen as a creative attempt to find effective ways of dealing with women who had been insufficiently provided for by both the Task Force and, subsequently, the NIC. Yet Nova was also a prison under stress, with staff and women having taken the full brunt of opening in a very short space of time, without many of the requisite tools to hand, such as sufficient programmes and community contacts. Many of the high expectations had not been realised and for all involved there had been a very steep – and severe – learning curve.

Once it was realised that the planned removal of the maximum security women would clash with the dinner there were attempts to have the dinner cancelled, or at least postponed. Pressure from the Region meant this was not possible, as was explained to me by a number of people on the actual day. I was in the midst of fieldwork and had been asking why the dinner should be going ahead in such

⁴⁴ Personal notes 1996

⁴⁵ Personal notes 2001

circumstances.⁴⁶ The venue was moved to a local hotel and the women were eventually provided with a ‘takeaway’ ordered in as compensation for having been excluded from the meal. During that day the prison was in a ‘lockdown’ situation, with all movement suspended and the women confined to their houses. They were told during the morning that the three maximum security women were to be removed to Springhill Institution, a male facility holding some 400 men.⁴⁷ The women were eventually removed from the prison and taken to Springhill late on the evening of the 19th, arriving at a unit which had been hastily prepared for them. CSC’s spokeswoman was later to say that ‘the announcement created some *minor reaction* among the general population, but not those women classified as maximum-security risks (emphasis added)’. She stressed that the ‘three or four inmates’ being sent to Springhill were not necessarily those involved in the incident two weeks previously.⁴⁸

The dinner took place and, as one observer noted, the guests were told: *‘We’re just going to update you on what we’re doing and we’re just going to move the maximum women out of Nova and send them to Springhill Institution’*. *I just couldn’t speak ... I was just so angry. They have us there for what I thought was a nice little supper ... getting to know each other, kind of lighten the mood after the incident [on 4th - 5th September], end on a positive note – and this is what it is. It surprised everybody.*⁴⁹ What those at the dinner largely did not know, was what had actually happened at the prison during the day.

Much of what follows has been documented in a report prepared for the Atlantic Region Deputy Commissioner, Alphonse Cormier.⁵⁰ By contrast with Edmonton’s National Board of Investigation, this was a middle tier investigation, reflecting the assumption that the incidents were not at the same level of seriousness.⁵¹ The

⁴⁶ Personal notes 1996

⁴⁷ The *Interim Instruction* ‘Annexe “A” 006’ was issued on the 19th September, 1996. It reclassified that portion of Springhill accommodating women as ‘multi-level’, which meant that any troublesome woman could be transferred from Nova, irrespective of her security classification.

⁴⁸ *Daily News* 21st September, 1996

⁴⁹ Interview 2

⁵⁰ *Investigation of Minor Disturbance - Use of Force* Administrative Investigation, Nova Institution, 96-09-19

⁵¹ It is CSC’s policy to hold either national or regional investigations into incidents which might have a bearing on policy and/or legal compliance. The decision is based on an assessment of the seriousness of the incident. Investigations must be national if serious bodily harm, or a death, has occurred.

initial Board of Investigation's report was later to have an Addendum attached, signed by one of the members of a subsequent Disciplinary Board of Investigation, wherein certain events had been reviewed and discrepancies noted. These combined findings are now incorporated into the general chronology of events which follows.

On the morning of the 19th September the women were finally told of the removal of the maximum security women and later that morning two women in the SLH began to behave disruptively, to the extent that a CET was thought necessary to remove the women from the house. As the Addendum to the Board of Investigation made clear, this decision was taken by the Warden, in consultation with others. Once the CET entered the house, finding one inmate in her room and having managed to persuade the other to return to hers, the situation was thought to be 'calm and under control'. Further instructions were sought and it was decided that both women would be removed to segregation. One of the women agreed to go voluntarily and was removed without the use of force. The other woman was offered the same choice, but reacted by breaking a picture frame, cutting herself and finally barricading herself in her room. Once her door was forced open, she was pepper-sprayed then escorted to the Enhanced Unit in handcuffs and leg irons. Upon reaching the Enhanced Unit at midday the woman was strip-searched and, as noted in the Report:

When staff leave the cell, inmate --- is left handcuffed (behind her back) and in leg irons, lying on her stomach, on a bed frame without a mattress or blanket. She is naked with the exception of a towel that staff draped over her (CSC 1997a: 5).

Within half an hour the woman had managed to remove her handcuffs and place them in the toilet, refusing to retrieve them when asked to do so by staff. Again, as noted:

When staff leave the cell, inmate --- is lying on the floor, naked, with flexicuffs applied to her wrists behind her back with leg irons still intact. The cell is devoid of any mattress or blankets (CSC 1997a: 6).

An hour later the women managed to remove the flexicuffs, retrieve the handcuffs from the toilet and break the sink [hand basin] with them. This led to the further use of pepper spray and the woman's removal to a camera cell, while still naked,

but with a towel held in front of her. A brief attempt was made to wash areas of her body affected by the spray. The report noted:

In the camera cell, the CET removes the handcuffs from --- replacing them with a body chain (positions wrists at the sides). She is left naked, kneeling on the bed in the camera cell with leg irons secured to the foot of the bed. No mattress or blankets are given (CSC 1997a: 7).

An attempt by the woman to remove the body chain led to staff removing it and reapplying handcuffs, but again:

At this point inmate --- is still nude and left lying face down on the bed, handcuffed behind the back with leg irons attached to the bottom of the bed. There is no mattress or blanket in the cell (CSC 1997a: 7).

The woman was eventually supplied with a gown at approximately 14.15 hours and a mattress by 'at least' 15.00 hours (CSC 1997b: 1). It was not until nearly twelve hours after the original use of the pepper spray that the woman was (forcibly) decontaminated by staff, who held her under a shower, although a nurse had sponged small areas of her body earlier. During the latter half of these events the naked woman was clearly visible to a male member of the Citizens' Advisory Committee, who was an official observer. The woman was eventually removed to Springhill Institution⁵² at some time after 10.00 pm. Every procedure was video taped, as required by official regulations.

In the days that followed the newspapers kept abreast of the removal of the maximum security women without, at that stage, being aware of what had actually transpired. CSC continued to use a spokesperson from outside the prison, reflecting a policy change stemming from the events at Edmonton. On the 2nd October the four women involved in the 4th – 5th September incident were charged and eventually had extra time added to their sentences.

The Board of Investigation into the 19th September incident began its inquiries once the Regional Deputy Commissioner had signed the convening order. Their report

⁵² The Unit was next to the men's segregation unit and could hold up to ten women. Women-centred training was not provided for the staff until a year after the Unit first started operating. There were also problems in providing sufficient female staff so that the women would not be seen by male staff when in the observation cells. Fluctuating numbers meant that consistent programming was impossible. Men and women could shout to each other when in their (separate)

criticised aspects of the treatment of the woman involved and a Disciplinary Board of Investigation was assembled as a consequence. The Warden, Christine Manuge, was suspended on the 19th January, 1997 and eventually reassigned to other duties, as was a Team Leader. An official announcement was not made until the 10th February, when it was also announced that Jim Davidson would act as an interim Warden. He became the third Warden at the Institution in the space of nearly four years (and there had been a temporary one to cover the gap between the departure of Therese LeBlanc and the arrival of Christine Manuge). The fourth Warden, Mary Ennis, was appointed in May, 1997. The prison officers were demoralised and many felt badly let down by managers who, as they saw it, had attempted to shift responsibility for their own incompetence onto the staff.

Reflecting on the Investigation

When the heavily vetted⁵³ Board of Investigation report on the 19th September, 1996 events at the prison was eventually released by CSC⁵⁴, the many deleted portions encouraged speculation as to whose names fitted the gaps, leaving staff vulnerable to assumptions about their individual culpability. The *Disciplinary Board of Investigation*, generally dealing with management issues, was similarly vetted and consequently offered little explanation of why the Warden and Team Leader Operations subsequently did not return to the prison. The Reports as published allow us to have a very general idea of what transpired, but what they did *not* do was provide context by mentioning what else was happening at Nova on the 19th September. The Disciplinary Board 'felt that some components of effective management leadership and direction were lacking at Nova Institution during and prior to this incident' (CSC 1997b: 1). Both reports failed to make clear that the Regional Commissioner and the Deputy Commissioner for Women were both at the prison on the day when the events took place which, of itself, might be interpreted as CSC continuing to protect its more senior employees as it did during the Arbour inquiry (and for which it was castigated). The reports failed to clarify that a major event was planned at Nova itself for the evening of the 19th September. They did not follow the example of Edmonton's *Board of Investigation* and place events in

exercise yards and during the time the women were held at Springhill there were 'serious acting out behaviours' (Warner 1998: 23).

⁵³ All such reports are vetted under the *Access to Information Act 1985* and the *Privacy Act 1985*.

the context of the specific difficulties staff at Nova faced in dealing with the disproportionate number of 'lower functioning' women. They did not reflect on the difficulties women had in coping with such a different prison and whether these might have contributed to the tensions within the prison. They did not point out that the Warden had only been appointed eleven months prior to the opening of the prison; that most staff were still not selected at the time of her appointment; and that staff then had to undergo training before they could familiarise themselves with the prison.

The *Disciplinary Board* also criticised the fact that 'no comprehensive policies were available to staff on or before 96-09-19, regarding the operation and management of the Enhanced Housing Unit (EHU) or relating to the management of Use of Force or Cell Extraction situations. Staff working in the EHU learned the operational procedures for the area from other peers and improvised over time, but no formalised instructions were available' (CSC 1997b: 1). (This was a point also made by the *Investigation of Minor Disturbance* report). The *Disciplinary Board* did not point out that Edmonton had also operated without revised Standing Orders during the months prior to its closure, information which should have then been available to senior Corrections' employees, even if at the regional level. There were subsequent allegations of selective interviewing of staff at Nova, with the clear implication being that both Boards heard what they wanted to hear.⁵⁵

Whatever the truth of that, in having such a narrow view of the wider enterprise – the opening of five new, radically different prisons – both reports allowed all the failings at Nova to become solely the responsibility of Nova's staff and the women. That CSC itself might have shared some of this responsibility was never the point at issue.

While discussion of the incident is important because of the questions raised about the general preparedness of the prison, perhaps the most important question to be asked is why, and how, such an event could have happened following the release of the *Arbour Report* in April, 1996. (See chapter 6 for a fuller discussion of those April, 1994 events). A woman had been left naked and manacled to a bed, without

⁵⁴ The Board's report, *Investigation of Minor Disturbance – Use of Force*, was initially obtained and made public under the *Access to Information Act* by the local Truro newspaper, *The Daily News*. The paper published its account of the report on the 25th June, 1997.

a mattress to lie on, without having been decontaminated following being pepper-sprayed, and in full view of a male who later came into the Enhanced Unit. How could staff on that Unit possibly have thought such conduct acceptable, irrespective of whether or not they were being supervised by management? While it should be remembered that many of the staff were young, so had relatively little experience of coping with stressful situations wherever they occurred, it should also be borne in mind that many staff were totally new to corrections, so had only recently completed their training. It is unlikely that the training school would not have discussed the *Arbour Report* with them, particularly as Arbour had roundly criticised CSC for its failure to develop a 'culture of rights' within its prisons (Arbour 1996: 179).

The Board concluded, when examining each specific development during the 19th September, that the use of force had not been excessive. What it *did* find unjustifiable was the apparent lack of care in the treatment of the woman subsequent to each use of force. Arbour's examination of the strip searching of the women at the Prison for Women is important to what has been related here because those April, 1994 events showed CSC's complete disregard for the law. A similar disregard was shown at Nova – and by staff also largely new to corrections, as was the case with those primarily involved in the incidents at the Prison for Women. Would more experienced staff have defused the original situation before it developed, or would their employment have led to a replication of the Prison for Women's culture? Indeed, the event reflected that culture, which suggests that the training offered the new staff was not dissimilar from that previously offered. So, were the new staff ill-trained? The Board failed to address this point.

Also pertinent to what we are presently discussing was Arbour's dissection of the original Board of Investigation report into the April incidents at the Prison for Women; Arbour carefully showed how the report was edited at National Headquarters so that the most serious aspects of the April incidents disappeared from view. That original 1994 Board had been composed solely of CSC personnel and recommendation 10(a) of the Arbour report was 'that all National Boards of Investigation include a member from *outside* the Correctional Service' (emphasis

added, Arbour 1996: 256). Arbour had also suggested that the list of incidents eligible for a National Investigation should be extended to include ‘mistreatment of prisoners’ (Arbour 1996: 119). The Investigation at Nova contained a community member – but it was *not* a National Board; nearly six months after the publication of the Arbour Report the Atlantic Regional Commissioner, who was at the prison on the actual day, still thought it appropriate to investigate the Nova events as a ‘Minor Disturbance’. While I am not suggesting that there was any deliberate attempt to minimise the seriousness of what happened at Nova, it remains interesting and a matter of conjecture as to why, especially in the context of what had emerged during the Arbour Inquiry and the supposed spirit of *Creating Choices*, that Edmonton was dealt with one way and Nova another. And further, no heed was paid to Arbour’s recommendation that ‘the fact finding methods of Boards of Investigation be improved, and, more importantly, that the focus of investigations *include prominently the performance of the Service ...*’ (Arbour 1996: 120, emphasis added). In the case of Nova and the ‘performance of the Service’, two of the larger considerations were: the quality of staff training and whose responsibility this might have been; and the failure to have necessary programmes and staff in place, immediately the prison opened, to provide for those women with ‘special needs’.

All of this is equally relevant to the use CSC made of each Warden as representative of the ‘public face’ of each prison. The Wardens were encouraged to explain and justify these prisons to the local community, yet would have been unable to say what they knew from their own experience of working with prisoners; that the involuntary nature of co-existence meant that prisons were often places of stress and tension. The Wardens’ job was to smooth the passage of the new prisons into the local communities and to do this they had to emphasise that the majority of federally sentenced women were ‘low risk’. While this meant that the risk they posed to the community was low, their institutional behaviour was not always predictable and unproblematic, as was clearly shown at both Edmonton and Nova. In doing so, the Wardens reflected the views expressed in *Creating Choices*, but the Task Force’s initial failure to address how ‘difficult to manage’ women should be provided for (beyond suggesting a separate house for them), was exposed by events at the prison. Arguably, it can also be said that events exposed the failings of both CSC and the regions, as they were responsible for implementing the vision of the

Task Force's plan. Although the Warden at Nova had largely ceased to be the spokesperson for the prison by the time of the September incident (as a result of events at Edmonton), she was still 'the face' of the prison to the community at large. Lacking an adequate explanation of what had actually happened at the prison, Truro's community could simply guess at what had happened. The 'reassignment' of the Warden to other duties publicly implied culpability, but the complete story was never fully explained.

This discussion does not imply support for one side or the other. Rather, it is to explore the wider role assigned to the Wardens by CSC as *Creating Choices* was being implemented and the difficult position in which it potentially left them once things began to go wrong. The role of the larger controlling organisation, CSC, behind the Wardens was not always apparent to the host communities – and was certainly not made explicit in the reports. In the context of what happened at both Nova and Edmonton one of the main questions is why two Wardens were treated so differently. Had Nova's Board of Investigation followed Arbour's suggestion that 'the performance of the Service' should be scrutinised it is just possible that Nova's Warden, despite being legally accountable for what happened in her prison, might have remained in place, because responsibility for the event would have been seen as more widespread.

Shared birth; shared problems

Two prisons, thousands of miles apart, shared a common history. As we have seen, they also shared a common and very public birth. Edmonton and Nova bore the brunt of being the first of what I shall call the 'non-Aboriginal' prisons to open, (although Edmonton did, of course, have a very large number of Aboriginal prisoners). At this point we have an overview of what happened at both Nova and Edmonton during their first year of opening and there are immediate distinctions which should be made:

- Nova was built in a town which actively solicited its arrival, whereas the city of Edmonton was suspicious of its new prison from the start;
- Nova was a small prison, while Edmonton was (relatively) large;
- Nova was physically complete when it opened, whereas Edmonton was not;

- Nova, to begin with, had few maximum security women and the Warden had the right to refuse women. Edmonton had many more maximum security women than had been planned for, or it could accommodate, and the Warden had no right of refusal.

Yet these differences masked what united both prisons, which was the failure to have all the components of the new scheme in place before it was tested; *Creating Choices* was never fully implemented. With essential pieces, such as adequate and sufficient programming, missing, those which remained were immediately compromised, yet there has been a public tendency to blame both the document itself and federally sentenced women for any implementation failures, rather than CSC. We already know that *Creating Choices* was a visionary document rather than a complete plan of action. It had a fatal flaw in that it did not sufficiently and prescriptively enough address provision for ‘difficult to manage’ women, but this should not be allowed to disguise the fact that CSC had assumed ownership of *Creating Choices* and had taken five years to plan and build the new penitentiaries. Even disregarding the preparedness or otherwise of both prisons during their first year, what cannot be avoided is that CSC: was largely familiar with the institutional histories of the women due to be sent to the new prisons; had planned multi-purpose Enhanced Units; had trained the staff; had been responsible for preparing the women for the different and demanding institutional environments. I now examine several issues in more detail, because they are common to both these prisons and help us understand why things should have unfolded as they did. I focus on Edmonton and Nova because these two prisons emerged from largely the same planning processes, whereas the Healing Lodge – which I discuss in the following chapter – initially had less correctional input.

The fence as an image of risk

Creating Choices in rejecting traditional prison design also rejected the public symbolism of high walls and visible static security. The low fences surrounding both of the prisons did more than nominally ‘contain’⁵⁶ the women. They sent a message to the local communities that the women were ‘low risk’ and made the

⁵⁶ The Draft Master Plan for Kitchener stated that the ‘boundary’ was to ‘create an identifiable edge that will discourage unintentional movement on to the site. No containment capability is required’ (1992c: 34).

prisons appear to be a ‘normal’ part of each locality. The fences were also part of the ‘choices’ faced by the women and, for some, they presented a challenge to the women’s self-control – would they choose to escape, or not? They made other women feel less safe, because they were not high enough to deter potential intruders, so the messages conveyed by the fences were decidedly mixed. At Nova the fences were a nuisance, because staff thought they compromised security and would not let the women walk unescorted around the prison. For a few women at Edmonton they were simply a challenge to be overcome once the winter ended, as these comments from two separate interviewees indicate: *The women thought the fence was a joke. I spoke to this very wise Aboriginal woman who said ‘as soon as the weather gets warm ...’ [so] the first nice warm day and a Friday night and the women were at the fence. It was a lark, it was no big deal, they didn’t realise there would be consequences.*⁵⁷ And: ... *one of the inmates who got recaptured, she said to me ‘I told you to put a fence up so I wouldn’t do this!’ I wouldn’t have escaped, I just wanted to show you that I could’.*⁵⁸ For women accustomed to being able to walk relatively freely within the ultra-secure Prison for Women the fences seemed more restrictive of their freedom than the huge wall to which they were accustomed.

Once the fences were increased in height and more overt security was installed the message they conveyed to the local communities also changed. All the women confined by the fences were now characterised as ‘high risk’, whereas with the removal of the maximum security women from the prisons it might have been said that the women were even more ‘low risk’ than they had previously been. Paradoxically, the fences gave the women more freedom, but also left them less supervised, a nuance which might not have been apparent to the host communities.

Containing risk behind the fences

We know what happened in the Enhanced Units at Edmonton and Nova and that they were inadequate for the purposes to which they were put. The inadequacy begs the question of why they were built in the first place. The Task Force did not envisage Enhanced Units but, by refusing to be prescriptive about a more secure environment for those women whom they managed to classify as ‘high needs / high

⁵⁷ Interview 10

⁵⁸ Interview 8

risk', the Task Force left CSC free to define the environment considered appropriate for them. At the outset the Enhanced Units were not planned to assume the style they later adopted. A very detailed Draft Master Plan for the Grand Valley Institution, already available in November 1992, described what was termed the 'Enhanced Security House'. It was clearly intended that its design should be similar to the other houses, except that it would have 'containment capability in each bedroom and for the house envelope'. Women would retain 'the same responsibilities for food preparation, cleaning etc' as the rest of the houses (CSC 1992c: 50). The same Master Plan also clarified policy for newly admitted women who were to 'be assigned to a specific house' and 'within 4 to 6 weeks a complete assessment of [their] needs [would] be made' (CSC 1992c: 54). This largely replicated the language of the slighter earlier Operational Plan (CSC 1992a: 30). Yet by June 1994 the Enhanced Units had been 'modified and enlarged' (CSC 1995b: 4). It had also been decided that the Enhanced Units would house 'two different groups: inmates who behave violently and inmates who require a greater level of staff monitoring for a period of time, for example, new admissions and some special needs inmates' (CSC 1995b: 4 - 5). The curious point is that the June, 1992 NIC Minutes suggested that the Enhanced Units should become extensions of the administration building, rather than stand-alone houses with extra security, which suggests that those providing the blueprints were not being kept abreast of NIC decisions.

The size of the new prisons, relative to the Prison for Women and the overall size of the federally sentenced women population, ensured that provision could not be made for every group of women with distinct needs, and this basic fact eventually led to the concept of a multi-purpose / multi-level Enhanced Unit (albeit one built to maximum security standards). What both prisons created was essentially the same; a prison within a prison, separating some women from the others. As one interviewee observed: *How do you think it would feel if you were a really difficult-to-manage woman anyway and you really need healing and you're locked in a cell in that Enhanced Unit and you have a window and you get to look out ... and see all those other inmates tossing round a frisbee, planting a garden, interacting with staff, having visits ... How do you think you'd react to that? I might get a little*

*violent myself because I wouldn't see myself as getting there.*⁵⁹ This was a point echoed by Rivera (1996: 31), who referred to the 'status differential' of various women in the Enhanced Units, who 'saw themselves in the Enhanced Unit for the foreseeable future'. Prison managements have to make immediate, difficult decisions when admitting prisoners because they, and their needs, are sometimes unknown quantities. However, had the prisons been allowed to follow the original plan outlined in *Creating Choices* – even in part – then a separate house could have been used for assessment purposes, with staff permanently attached, and this separation of purpose might have made the management of the maximum security women at Edmonton somewhat easier. But was the fact that this did not happen surprising? Even the most superficial of utopian enterprises show that bureaucracy's plan for their own convenience (see Rothman, 1980; Cohen, 1985). It was conceivably easier and less costly to contain disparate groups together, rather than fund staffing of individual houses.

Adjusting to life behind the fences; the women and the staff

Immediate challenges

No amount of theorising was able to prepare the women for the communal living awaiting them at Edmonton and Nova. Hitherto their prison lives had been highly structured. They lived in small cells, had meals provided for them, had little choice of work or programmes and were supervised by correctional officers with few doubts about the precise nature of their role as correctional officers. Coming from such an environment, many women found the style of the new prisons unnerving and, at times, frightening.

At Edmonton it was estimated that it took an average of six weeks for a woman to complete her assessment and move from the Enhanced Unit to her cottage. During that time she had to come to terms with living with a diverse group of women, then make the switch to a very different type of accommodation and another group of women. Despite assumptions that being 'female' meant an instinctive knowledge of how to cook, clean and budget and having the social assurance needed to live successfully with a group of strangers, many lacked some or all of these skills. The relatively few who had experienced a settled home-life found it hard coping with

⁵⁹ Interview 8

others who had no idea of how to maintain a house, let alone the concept of preparing and having meals at fixed times. The stress the women experienced was compounded by the strip searching and the need to be escorted throughout the prison because of its unfinished state.

At the same time they were expected to work. Edmonton's management had decided that each day should reflect the most common working pattern on the 'outside', so work occupied much of the day. Programmes essential to the women's successful parole applications, such as anger management, had to be fitted in after work had finished. Consequently, there was the initial spectacle of some staff being employed to work with the women during the very hours the women were unavailable to them.⁶⁰ As an observer at Edmonton reflected: [the women said] *their treatment needs were completely ignored. Work was so important and the work they needed to do on themselves was when they were tired. ... There wasn't a single woman in the maximum security unit who had ever worked to this bizarre concept of 9 - 5, of eating meals at a particular time.*⁶¹

The needs of the maximum security and 'low functioning' women took up a disproportionate amount of time, and staff were unable to give sufficient support to *all* the women as they made the difficult transition from the conventional prison to the new prison. The women were expected to conform to values appropriate to life outside the prison, such as time-keeping and appropriate decision-making, without it being acknowledged that the absence of those values from their non-prison lives had perhaps contributed to their offending. To cite these 'values' is not to denigrate their importance – and they were certainly values 19th century reformers were keen to impart to imprisoned women – but they could not always be acquired immediately or easily and needed to be delivered as part of a structured and gradual programme. Without these skills many women could not take advantage of the changed environment, and their failure to do so was sometimes seen by staff as a *refusal* to do so. The staff did not always understand how much was being asked of the women (and how frightening some of the women found their changed circumstances). Conversely, the women had no idea that staff had been trained to expect different responses and were themselves sometimes frightened by the

⁶⁰ Personal notes 1996

⁶¹ Interview 10

challenges presented. Faith (1993) asserts that the idealism of such staff does not always withstand prolonged exposure to their work, and cynicism, in the face of the women's perceived obduracy, certainly began to affect how staff at the new prisons dealt with the women.

The women received were further confused by the level of supervision to which they were subjected and staff more comfortable in their own roles might have felt able to avoid escorting women throughout the prisons. Yet there is a more important aspect to be considered; the fact that staff were not continuously present in the houses. The new prisons were a reversal of the panopticon, where prisoners could always be observed. Indeed, the design of each prison prevented staff from seeing the women from a central point. The new houses required the women to be responsible for their own surveillance, and also for the surveillance of those sharing their accommodation. Surveillance, in the context of prisons, is a form of discipline. It may – or may not – encourage resistance and in these new federal prisons was part of the 'responsibilising strategy' (see Hannah-Moffat, 2001) imposed upon the women. It became an internalised discipline and part of the 'choices' philosophy, whereby women could choose whether to act responsibly. If a woman chose to ignore the need for self-surveillance this was interpreted as an act of indiscipline, rather than as an act of resistance to control imposed on an involuntary population. (See Bosworth, 1999 for a wider discussion of women's resistance within prisons.)

'Reading' the staff

Beyond the difficulties posed by life in the houses and the Enhanced Units lay those posed by the new staff themselves. Officers at the Prison for Women had more reflected the background of the women themselves. Staff were generally not highly educated, or necessarily 'middle class', yet had often achieved their positions despite social disadvantages sometimes the equal of the women's. They had an understanding of the women tempered by their own experience. While this is not uncommon within correctional environments (see Liebling and Price, 2001 for some discussion of this), the Task Force hoped to create a new professional

mould. In selecting young social work graduates for their new prisons CSC set up a 'cultural disparity between the guards and the prisoners (Faith 1993: 165).⁶²

The ambivalence felt by many of the women towards the Primary Workers had an additional impact on 'dynamic security', because there appeared to be no clear lines of demarcation. Coyle wrote: 'prisons are never places of love and companionship ... but there is normally a sensation, at least at a superficial level, of mutual tolerance' (Coyle 1994: 99). The mutual tolerance and respect intended by the Task Force to underpin the dynamic security was undermined by the mixed messages the women received. The staff had been trained in a form of risk management which suggested that there should be a move from the idea of 'risk / security' to 'risk / support', which they would provide (TFFSW 1990: 91). The improved physical conditions of the prisons and the greater autonomy of the women were meant to create easier relationships between staff and women, a departure from the traditional correctional model of the 'guard' and the 'guarded'. But this anomalous role baffled and upset the women: *They [staff] didn't realise that the women needed to debrief what it was like having a Primary Worker who wasn't a screw. ... as a counsellor you maintain confidentiality; as a correctional officer you cannot maintain confidentiality. So the women were telling these people who were Primary Workers things that were very important and treating them as counsellors – and then they'd [staff] go and tell a supervisor and then there would perhaps be a kind of correctional disposition.*⁶³

Some staff, being new to corrections, were equally confounded by the behaviour of the women: *They'd [women] slash and the staff were crying and that was completely unnerving for them [the women]. They didn't see that as support at all.*⁶⁴ Yet the staff were correctional officers, rather than social workers, and had to be prepared to perform the tasks traditionally expected of them; the strip-searches, the room searches, being members of cell extraction teams (see Faith, 1993). These tasks did not sit well with the new image of the Primary Worker, but became

⁶² There was a deliberate attempt to avoid importing any of the 'old' corrections into the new prisons and staff at the Prison for Women were told quite bluntly that most of them would not be offered jobs in the new system. (Personal notes 1996)

⁶³ Interview 10

⁶⁴ Ibid

increasingly necessary as the prisons absorbed larger numbers of women. Relationships between staff and the women began to alter and some of the staff found it hard to be, as they saw it, rejected by the women. This was articulated by one observer at Edmonton: *They [women] were just like princesses for the first little while and then, as more and more staff were beginning to say "no" to a few things, the women slashed a few times. And the first time a woman slashed the staff felt that they had been slapped across the face. "I treated you with respect and you slash yourself?" ... And what they [staff] hadn't realised is that maybe these women hadn't lived with respect for their entire lives.*⁶⁵

Most Primary Workers were initially clear about where their loyalties lay but, by being asked to assume the status of 'role model', by being encouraged to use their social work skills, by being available to the women on a one-to-one basis, their whole position was less than clear to the women and eventually to the staff themselves. Not that this was a new phenomenon. At the Mercer Reformatory, in the late 19th century, staff found it difficult 'tempering severity with feminine tenderness' (Strange 1985: 85). Kelley (1967: 176) wrote, in England, that in 'period[s] of transition' prison officers sometimes feel they have 'the worst of both worlds, the old and the new'.

Inconsistency

The staff's inexperience led to an unexpected role reversal; the women, whether they lived in ordinary cottages or in the secure units, became the correctional experts (... *we told them what to do!*).⁶⁶ Yet, having transferred from the Prison for Women or the RPC, the women were 'experts' in the old style of corrections and often confused by the new, which seemed to have few recognisable rules. It did not take them long, however, to discover that some of the staff were just as unsure of their own roles and the prison's rules, and that Primary Workers could be overruled by their Team Leaders, or the Warden. This was commented on by Rivera, both in the context of both the often irreconcilable dual role of the Primary Workers and the lack of coherent policy at Edmonton and Nova. The latter was partly attributable to the 'different backgrounds, philosophies and styles of the Wardens (Rivera 1996: 22). Some women chose to take advantage of the confusion by

⁶⁵ Ibid

⁶⁶ Personal notes 1996

playing staff off against each other, while many of the staff lacked any instinctive sense of what to do in a given situation and were often having to seek guidance from others.

But the inconsistency could also be ascribed to the pressures staff encountered as they tried to make sense of prisons housing populations for which they were not designed. As another Edmonton interviewee said: *We weren't given a blue-print ... each institution is designed individually. You've got to figure it out, how it's going to work for your place and a lot of energy is consumed doing that, and if you don't have the right numbers of staff in the first place, your staff are really tired and you prioritise [sic]. ... You wouldn't believe the external pressure that was put on us ... from within the service, from the higher-ups. ... If you have staff that aren't used to working in that environment you frustrate them and burn them out very quickly.*⁶⁷

Part of the physical model of the prisons, as exemplified by the Enhanced Units, did not fit the philosophical model. All were feeling their way and, as the number of 'difficult to manage women' increased, staff were left reeling and many ended up being reactive to events, rather than proactive. Inevitably the women were affected: *Over and over we've told them 'we're not used to you guys being nice to us'. It's like this concept, this new thing ... I don't know what to think of it.*⁶⁸

Mathiesen (1990) examined the role of staff in the light of Sykes' five 'pains of imprisonment' and suggested that there ought to be a sixth, 'the *power* which the prison wields in and over the lives of prisoners' (Mathiesen 1990: 130). He made a particular point of the power exercised by staff over inmates and the manner in which it is used, an issue also explored by Sparks et al (1996) and Liebling and Price (2001). The latter coined the phrase, 'the un-exercise' of power, to describe the means by which staff carry out their duties, and differ from Sparks et al (who referred to much the same process as 'accommodations') by asserting that the 'un-exercise' of power constitutes 'the best of prison officer work'. In other words, judicious use of discretion helps maintain good order within a prison, rather than undermines authority. Such discretion is not necessarily something that may be taught at staff training college, but is acquired through practical experience. In the Canadian context the women were generally not being exposed to judicious

⁶⁷ Interview 8

⁶⁸ *Eyewitness News*, CFRN (TV) Taken from transcript 19th March, 1996

discretion because the staff were too new to have acquired it, so the women were living under Mathiesen's sixth 'pain'; power. It was an inconsistent power, making it all the more difficult for the women to endure the apparent goodwill of the staff.

Supporting the staff

At Nova the incidents happened when staff were feeling the effect of having worked at full stretch for a year while still learning their own jobs. They were stressed and many were at 'burn-out' point. Warner (1998: 19) alluded to this: 'When the violent incidents finally occurred [at Nova], line staff felt blamed for their handling of the incidents when they believed they should have been acknowledged and supported for preventing them for such a long period, given the mix and explosiveness of the house'. Following the September incidents some reacted by changing their working practices, feeling the need to look after themselves, rather than their colleagues, because they were not confident that the larger organisation would support them should another incident happen. (Liebling and Price (2001) dealt with similar issues, saying 'it's about covering your back'.) Filling in forms, getting the paperwork right, took on a new meaning as they endeavoured to protect themselves from possible misinterpretation. As some at Nova made clear, they also had the example of what had happened to their Warden, whom many felt had been unfairly 'reassigned to regional headquarters'.⁶⁹

Further complexity was added to the situation by the status of individual staff at Nova. Those who were 'indeterminate' (permanent) staff had a reasonable degree of job security, but those who were 'casuals' and 'term' employees had no such certainty.⁷⁰ Nevertheless, all 'casuals' and 'term' staff were given responsibilities commensurate with being a permanent member of staff, suggesting that while CSC required loyalty it was not always prepared to offer it in return.

At Edmonton the incidents happened much sooner than at Nova, with the staff's situation exacerbated by the physical inadequacy of the prison and their own inexperience. Although they received debriefings after individual incidents, there was no follow-up provided, and the prison management seemed unaware of official

⁶⁹ *The Daily News* 11th February, 1997

procedures. Neither prison had a Critical Incident Stress Management (CISM) team in place, in contravention of CSC's own policy, as explained in CD 257. Edmonton's Board of Investigation said that, following the incidents, they had 'interviewed a number of very enthusiastic, very dedicated employees who exhibited symptoms of burn-out and post-traumatic stress' (CSC 1996b: 173). At both these prisons the large proportion of new staff meant that there was no collective memory of how stressful incidents had been dealt with in the past and staff could not necessarily see that some of the stress was inherent in being a correctional officer. They did not always know where 'normal' prison stress ended and where the 'abnormal' stress engendered by being part of an 'untested concept', as Chrumka (2000: 71) termed it, began. The wider issue here, as with the Standing Orders, is that CSC had failed to ensure that the formal structures, essential to the running of each prison, were in place.

Standing Orders

The staff's inconsistencies could partly be attributed to the lack of up to date Standing Orders (see earlier footnote, in chapter 6) and the failure of both prisons to have these ready by the time of opening. This was an astonishing oversight on the part of CSC, even though such Orders are prepared locally, rather than centrally. Whenever new prisons opened it had always been customary to adapt Standing Orders from other prisons, but the new women's prisons could not be dealt with so easily. Part of the rationale for *Creating Choices* was that women should not be discriminated against because they happened to be in different prisons from other federally sentenced women. It was essential that there should be uniformity in the overall administration of the prisons, with each Order being measured against the *Creating Choices* model (insofar as it applied by the time the prisons opened). This was important for two reasons: the women would have known where they stood and realised that they could not appeal against decisions over the heads of individual officers; the staff would have had a reliable point of reference. The Nova *Investigation of Minor Disturbance* made it clear that 'the security Standing Orders were not up to date' (CSC 1997a: 23) and the Disciplinary Board added that 'no comprehensive institutional policies and procedures were

⁷⁰ 'Casuals' were trained correctional staff, but could not work more than 125 days in a year. They could be offered 'term' positions, which were of at least three months duration but, again, there was no certainty that the 'term' would be translated into 'indeterminate' status.

available to staff' (CSC 1997b: 1). The same criticisms were levelled in the Edmonton *Board of Investigation*, which commented on 'out of date' Standing Orders and the fact that directions to staff were liable to change 'on a daily basis' ... 'making it very difficult for Primary Workers to keep up to date' (CSC 1996b: 142-3). When faced with crisis situations staff at both prisons had no formal written guidance at their disposal. This oversight was entirely the responsibility of CSC but, again, it was not a recent phenomenon. Strange (1985) recounted a similar happening at the Mercer Reformatory.

Programmes

Failure to have adequate programming can lead to a woman not completing her sentence plan. Such failures can delay parole hearings and might be interpreted by the Parole Board as the woman's unwillingness to address the root causes of her 'offending'. The Task Force had selected the initial prison locations partly because they were linked to women's networks and larger educational facilities, which could ease re-entry to the community for the women. Edmonton certainly had networks which could be tapped, but at the time the prison opened there were still large gaps in provision. The physical constraints of the unfinished prison then limited the delivery of the programmes which had been arranged, as did the insistence that work should take priority during the day. In Truro networks had to be created and there were considerable delays in arranging programme contracts. There were also financial consequences to locating the prison in Truro, as large sums of money were needed to send women to see specialists in Halifax. Similarly, extra money was needed to fund the Temporary Absence programme, under which women are entitled to home visits. As most of the women did not live in or near Truro, this was a considerable drain on the prison's budget.

Funding limitations dictated the scale of the facilities provided in each prison and education rooms, though well resourced, were small and unable to cope with more than a few women at a time. Apart from an eventual graphics workshop at Edmonton, which employed very few women, and a horticulture programme at Nova, which struggled without a greenhouse, there were no workshops which would enable women to develop skills which might best be described as 'non-gendered'. Innovative programmes were introduced at both prisons, but the constraints under which they were provided – lack of space, lack of funding to

bring in more contract staff – had an impact on the women. The size of the prisons also meant that certain programmes would only be ‘bought in’ when there were sufficient women to justify the expense, which again affected how quickly women progressed in their sentence plan. It had been anticipated that women would make ‘choices’ regarding the programmes best suited to them, but the reality was that to begin with relatively few choices were available. At both prisons the failure to make programmes one of the first planning priorities rebounded on both the staff and the women. Bored women, living in either a cramped Enhanced Unit or under the restrictions imposed on the houses, wondered just what the new prisons were offering them and could see little improvement upon the Prison for Women. As staff became more involved – particularly at Edmonton – in fire-fighting the spiralling incidents, they had less time to devote to getting to know individual women and encouraging them to participate in those programmes which were available.

Role of the media

This chapter has already dwelt on the role assigned the Wardens. Such positioning of key players has always been a useful device for large organisations, which are then able to shield behind individuals while preserving the careers and reputations of others. But, once the prisons opened there was another dimension to be added to the public debate; the voices of the women themselves. Under the Commissioner’s Directive (CD) 022, prisoners have the right to talk to the press.⁷¹ It was alleged that: *They [press] often manipulated what the women had to say*⁷² and at Edmonton the comments, appearing out of context, contributed to the public impression of a prison out of control. At Edmonton there were also unforeseen consequences: *In [a woman’s] discussions with the press, other offenders in the population interpreted quite differently what she intended to say. So there was not only the public out there listening to this ... the women [in the prison] started to experience difficulty in living in this environment because of some of the things that were said.*⁷³ At Edmonton the level of outside intrusion was high and the frequency of the media’s attention left staff feeling undermined. Some later reflected on this and recounted

⁷¹ CD 022 covers ‘Media Relations’. Sections 14 – 20 cover when and how ‘offenders’ may be interviewed by the media. Interviews may be in person or by phone and are dependent upon permission being granted by the ‘Operational Unit Head’. Permission may be refused if an interview is thought to be ‘contrary to the objectives of the offender’s Correctional Treatment Plan’.

⁷² Interview 9

what it felt like to arrive at work not knowing what would happen that day; or to arrive at work and realise, because of the assembled media, that something had already happened.⁷⁴ The overall affect of the persistent press attention was more noticeable at Edmonton because the prison had been contentious from the moment it was first announced and later became part of the ‘law and order’ debate initiated by local politicians. Truro was some distance from the consistent gaze of the television cameras and did not present such an immediate target. Moreover, the town largely wanted the prison. But the underlying fact remained the same at both prisons; the Wardens became the public face of CSC as soon as they assumed the role of advocates for the prisons. They remained the public face, even after they had been removed from the role of spokesperson.

Whose failure?

One theme was much rehearsed by CSC during the implementation of *Creating Choices*; that some federally sentenced women did not, and never would, fit the model. If we are only to judge by their reaction to the new prisons, as revealed in the last two chapters, CSC was right to make this point. Some women manifestly did not cope with what was offered. Some reacted most forcefully against the new model – and some of those were women who had responded in similar fashion when imprisoned in the Prison for Women or the RPC. So perhaps CSC could have metaphorically shrugged and said that they had tried. Indeed, this image of a separate group was further emphasised by the Deputy Commissioner for Women, Nancy Stableforth, during the Fayant Fatality Inquiry, when she said ‘some theories in favour of kinder, gentler prisons were shattered by Fayant’s slaying’ and ‘we’ve learned in the last couple of years that we had to look at whether the women had the capacity for change ... we learned a small group of women don’t have the capacity for change’.⁷⁵ She was denying CSC’s *Mission Statement* Core Values One and Two, which recognised the ‘potential for human growth and development’ and ‘that the offender has the potential to live as a law-abiding citizen’. Ms Stableforth was also implicitly saying that *Creating Choices*, rather than CSC, had got it wrong with a significant minority of women. What Ms Stableforth did not speak about was whether the model presented at Edmonton and Nova was the

⁷³ Ibid

⁷⁴ Personal notes 1998

model envisaged by the Task Force. She was blaming the women for failing to take advantage of a model which had never been fully or properly implemented at the time Ms Fayant was murdered. This failure could not, of course, ever excuse the violence which took place in the Enhanced Unit at Edmonton that February evening, but Ms Stableforth's comments, being made some two and a half years after the event, ignored all that had preceded and followed Ms Fayant's death. It ignored the fact that the women were participants in an experiment for which they had been inadequately prepared. It ignored the fact that staff themselves were attempting to implement a model without all the necessary components. The consequences were profound. As an interviewee commented: *What about the maximum women who did nothing? They might have been able to function here. Did we ever really try this model? No. Has this model ever been evaluated? Absolutely not ... we are at various stages working towards it, but it sure as heck isn't implemented.*⁷⁶

While it is tempting to blame CSC for the failures of implementation at the two prisons, this would be a partial view of what transpired. The Task Force which produced *Creating Choices* has to bear some responsibility for the outcome. It was not just implementation which failed, but *Creating Choices* itself and the way in which the report reflected the Task Force's concerns about labelling women. In refusing to deal fully with the 'difficult to manage' women, and in being reluctant to accept that women's violence was not necessarily linked to their victimisation, the Task Force presented CSC with the opportunity to define the problem and decide upon a solution. The consensus model under which the Working Group worked reflected the ambivalence of many voices. CSC was familiar with producing a single response and, with an unerring eye for an opportunity, adopted the plan as its own.

Conclusions and looking ahead

Having examined what happened at the first two of the four 'non-Aboriginal' prisons to open we now move to look at the Healing Lodge itself. From what we have already learned we know that there were significant planning lapses which

⁷⁵ *Edmonton Journal* 9th September, 1998. Statement made at Fatality Inquiry in to the death of Denise Fayant.

⁷⁶ Interview 8

contributed to the difficulties both Edmonton and Nova experienced during their first year. Some women found the changes which confronted them profoundly disturbing and reacted – sometimes aggressively – to the demands made of them. Some staff responded to this unanticipated behaviour from a position of fear themselves; as one interviewee said, they were ‘confounded’. What is perhaps not so apparent is that much went well at those prisons. Some women benefited from a less restrictive environment and were enabled to make choices that assisted them in coping with imprisonment – and sometimes moving beyond it, to a life outside. Some of the new staff were able to find their own means of balancing their competing, and often irreconcilable, roles. The ‘vision’ of *Creating Choices*, while diminished, never entirely disappeared.

We are not at the point where we can come to any final conclusions about the work of the Task Force and the manner in which its report was brought to life by CSC. What we must do now is see if the Healing Lodge experienced any similar difficulties and, if it did, whether they were manifested in the same way. Is it conceivable that the Healing Lodge might have shown itself to be such a unique prison that little comparison is possible? Or will we discover that prisons, irrespective of how they are named and run, share common characteristics and are little different from those the reformers of the Task Force tried so hard to move beyond?

8. Okimaw Ohci Healing Lodge; a healing prison?

The opening of the Healing Lodge was, at that time, an experiment unique to Canada. The Correctional Service of Canada (CSC) had embarked on a venture without precedent or guideline. The importance of the Healing Lodge to the story told so far has been the way in which it emerged from the deliberations of a Task Force which had not originally been expected to include Aboriginals. As the previous two chapters have discussed, the consequence of *Creating Choices* was that CSC was planning five prisons for federally sentenced women. Four were entirely the responsibility of the National Implementation Committee (NIC), and responsibility for the fifth, the Healing Lodge, was largely devolved to a sub-committee of the NIC, the Healing Lodge Planning Circle (HLPC). Planning of the Healing Lodge was undertaken with the active advice and assistance of Aboriginals, two of whom had played a major role in influencing the content of *Creating Choices*, whereas the NIC itself had no voluntary sector or minority representation. *Creating Choices*' assertion that 'control over our [Aboriginal] future ... must rest within Aboriginal communities' (TFFSW 1990: 15) was about to be tested in a very practical sense. The fact that CSC was prepared to allow the Aboriginal community such a role attested to what had been achieved during the Task Force itself; recognition of the Aboriginals as a distinct group and one possessing an increasing political clout. The story I continue to develop in this chapter differs from the previous two in that there are no major 'incidents' to relate, no tales of inadequately prepared staff, no tales of women completely unable to cope with their new environment. The story becomes one of how such a prison was developed and the ways in which its planning markedly diverged from that of the others. As a consequence, there is no strict chronological narrative to this chapter. Rather, it discusses important emerging strands in the context of the community which welcomed the prison, the factors which affected planning, and the style of the prison's management. This chapter also differs from the others in that it covers a longer period of time, because the issues which eventually surfaced at the Healing Lodge were not so immediately apparent. At times it is necessary to describe some Aboriginal ceremonies and this is done in order to clarify decisions taken and procedures decided upon. I do this cautiously, while acknowledging that Aboriginal custom is for things to be spoken, rather than written.

As we already know, it was difficult for Aboriginal women to participate in the Task Force, partly because doing so implied the legitimacy of Euro-Canadian law. But bringing Aboriginal women into the Task Force was difficult on other, more personal levels, as articulated by this observer: *When you have the people who are involved in CAEFS, they're all interested in women in prison. We don't have that luxury or privilege of that experience as Aboriginal people because ... this [imprisonment] is a big picture in our families that we experience on a daily basis – and it's not an experience that's separated by gender.*¹ The Aboriginal chapter in *Creating Choices* amplified this: 'Aboriginal culture teaches connection and not separation. Our nations do not separate men from women, although we do recognise that each has its own unique roles and responsibilities (TFFSW 1990: 18). It was not culturally appropriate to view imprisonment through the prism of gender, but this was what the Aboriginal women agreed to do by virtue of becoming members of the Task Force. CAEFS had similarly to reconcile its fundamental, if not then actual, abolitionist principles with the reality of the deteriorating situation at the Prison for Women. Having begun the process during the Task Force, NWAC and the Aboriginal Women's Caucus continued to be involved once planning for the Healing Lodge began. In this they stood alone, as CAEFS was not included on the NIC and later withdrew from the External Advisory Committee (EAC) (see chapter 6).

Planning an Aboriginal prison

The Healing Lodge required an exceptional approach. To begin with, an Aboriginal Advisory Committee (AAC) was planned and was expected to guide the NIC, in the same way that the Steering Committee guided the Task Force's Working Group. Its first meeting took place in February 1991, shortly after another Aboriginal woman had committed suicide at the Prison for Women. For the two Task Force members who had agreed to join that Advisory Committee it would have been a particularly painful reminder of the earlier suicides during the life of the Task Force – and they, together with the other Aboriginal representatives, resorted to direct action. Rather than pass a formal motion to send to the Commissioner asking for change at the Prison for Women, as had the Task Force on that earlier occasion, they instead pressed for a more 'hands on involvement in

¹ Interview 20

the development of the Healing Lodge'. This meant altering their role so that 'Native women / Elders [would] join with CSC to form a combined committee [to] develop the Healing Lodge'.² The importance of this lay in Aboriginal women again managing to circumvent CSC's strategy and place themselves in a position where they would have direct influence over planning for Aboriginal federally sentenced women. Just as important was CSC's acquiescence at that stage.

In April, 1991 the Advisory Committee officially became the Healing Lodge Sub-Committee, reporting directly to the NIC and having its own distinct Terms of Reference. Sharon McIvor and Fran Sugar were the sole Aboriginal representatives from the Task Force to be included on the twelve-strong committee, but they were joined by three Aboriginal Elders and three other Aboriginal women, as well as four CSC representatives. *Creating Choices* had tacitly conceded that the establishing of the Healing Lodge would not be solely an Aboriginal endeavour when it said: 'The development of the Healing Lodge will draw on the expertise of Aboriginal women' (TFFSW 1990: 115). The Sub-Committee had several responsibilities, some of which were:

- to develop a Vision Statement;
- to develop and co-ordinate all operational input for the planning, design and construction of the Healing Lodge in consultation with the NIC and CSC Construction;
- to prepare the location and site selection criteria, to assess potential sites and to make recommendations regarding the final site;
- to develop a management framework, including staff selection criteria;
- where necessary, to review, develop or suggest policy changes;
- to ensure that all aspects of operations were culturally appropriate.³

The Sub-Committee was expected to remain functioning until the Healing Lodge was fully operational. Sharon McIvor became the Committee's 'facilitator', acting as the liaison between it and the EAC.

² Healing Lodge Sub-Committee Progress Report 14th March, 1991

³ Healing Lodge Terms of Reference

Creating Choices had stipulated that the Healing Lodge should be in an unspecified 'prairie location' (TFFSW 1990: 115), whereas the Working Group had earlier suggested that Saskatchewan was the logical choice. The selection of the prairies as a location was unsurprising, given that the majority of federally sentenced Aboriginal women originated from there. Narrowing the field to a site in either Alberta, Manitoba or Saskatchewan was less easy. The considerations leading to the Task Force's having selected Halifax, Montréal and Edmonton as the preferred sites – that a network of well-placed support organisations should be readily available – no longer fully applied. Having a supportive Aboriginal community was the pre-eminent basis for selecting a site for the Healing Lodge; indeed, this community was seen as 'essential to its survival' (TFFSW 1990: 115).

Although the location criteria⁴ for the Healing Lodge were decided relatively quickly by the Sub-Committee, they were not immediately published as they first had to be approved by the Solicitor General, Doug Lewis. The NIC was concerned that his failure to publish them at the same time as he announced the extension of the search radius for the other prisons to 100 kilometres (on the 31st July, 1991) would leave the Aboriginal members of the Sub-Committee feeling marginalised. Mr. Lewis then announced that the Healing Lodge criteria had been accepted, but by the end of September they were still being kept secret. CSC feared that early publication of the criteria, without specifying a province, would lead to many communities, without a realistic chance of success, submitting bids to have the Healing Lodge in their localities. The Aboriginal members of the Sub-Committee, however, did not want the process to exclude any prairie Aboriginal communities from consideration. In October Mr. Lewis privately declared in favour of Saskatchewan, yet CSC was still unable publicly to narrow the field by declaring forthrightly that the province, on any reasonable analysis, was the logical choice for the Lodge.

Possible reasons for this inability may be conjectured. CSC was experiencing considerable delays with the entire prisons' project and was unlikely to be delaying the announcement out of consideration for Aboriginal sensibilities. Conceivably,

⁴ These listed specific requirements, such as: proximity to the home communities of the majority of federally sentenced women; being near a supportive Aboriginal community; proximity to women's support networks.

there might have been a political reason for the delay. Doug Lewis, a Progressive Conservative, became Solicitor General in April, 1991. At that point a new location submission was prepared by the civil servants and the 100 kilometre search radius concept was also proposed, but not immediately publicised. We already know that the decision to locate the Atlantic region prison in Truro was thought to be linked to the political allegiance of the Truro MP, who was a Progressive Conservative. There were similar suspicions of political opportunism when the prison was briefly put on hold in 1993, after the Truro riding elected a Liberal MP. If we look at the decisions made regarding the siting of the rest of the prisons we can see a pattern:

- in Québec, Montréal (largely Liberal) was ignored in favour of Joliette, which had a Progressive Conservative MP;
- in Ontario, where the (Liberal) Hamilton corridor had been favoured by the Task Force, the town of Kitchener was chosen instead. Kitchener had a Progressive Conservative MP;
- in Alberta, Edmonton had six MPs, five of whom were Progressive Conservatives. The city survived the 100 km extended-search radius to be selected for a prison.

During those years the Reform Party was beginning to make political inroads in many prairie constituencies, but particularly in Alberta and parts of southern Saskatchewan. In the 1988 federal elections the Cypress Hills-Grasslands constituency, which was eventually to house the Healing Lodge, retained its thirty year Progressive Conservative hegemony, and the adjacent constituencies were also Progressive Conservative. In the 1993 federal election the Progressive Conservatives lost all but two of their 169 seats across the country and by the 2000 federal election the Alliance Party (formerly Reform) had swept across Alberta and Saskatchewan, winning almost all of the seats. Based on these trends, I think it is not unreasonable to suggest that the selection of sites for the new prisons, at times in clear disregard of the Task Force's wishes, had a party-political dimension to them. Whatever the truth of this supposition, it took until the 10th December, 1991 for Solicitor General Lewis to announce that the Healing Lodge would indeed be located in Saskatchewan.

A number of communities in Saskatchewan had already shown interest in the Healing Lodge and others were invited to declare their intentions by the middle of January. The delay in deciding on an actual province allowed for a very brief response time and applicants had six weeks in which to complete their submissions and return them to CSC, which hoped that the preferred site could be announced in March, 1992.

Bidding for the Healing Lodge

Maple Creek, a town of 2,500 (with a further 3,400 in outlying areas) in the south west of Saskatchewan, had been one of the many prairie communities to bid for the new regional prison, which was eventually awarded to Edmonton. When the Town Council was told that their application had been unsuccessful they were also asked if they might be interested in hosting the Healing Lodge. As with other small prairie towns, unemployment was a concern and the Council thought it worth pursuing the possibility of attracting the Lodge to the area. Some eighteen miles to the south of Maple Creek, in part of the Cypress Hills, the 250 person Nekaneet Band (of the Cree Nation) lived on their reserve and the Band had also received information about the proposed Lodge. As a (then) Band councillor explained, his reaction was: *... that some of these bigger reserves should probably apply for this and politics would be involved and ... they would probably get it and we shouldn't even bother applying. So I left it at that, but then the Economic Development worker [from Maple Creek] ... phoned me and asked if I had seen this ... and wanted to know if we wanted to jointly submit the proposal. I told her about my reservations about doing that ... but then I thought, we were on this mode of working together and getting along with the community in Maple Creek so that this would be a good thing to practise with, you know, putting this proposal together.*⁵ (During the winter the Nekaneet had jointly worked with the town's Economic Development Committee on various Government-funded training initiatives).

A small committee was set up to take the proposal further. Underlining the lack of professional expertise of the Maple Creek group, as opposed to the commercial organisations hired by some other areas to put their proposals together, the Band

⁵ Interview 15

Councillor explained: *We scheduled a meeting and it just so happened that I was taking my son to skating and there was a girl there from the University of Saskatchewan ... and she was wanting to do some work on Aboriginal communities. ... I said "well I'm actually going to a meeting right now and we're going to talk about this thing and you can come and sit in and see how we work with the town".*⁶

As a consequence of this unexpected meeting, the student agreed to put the proposal together, using information supplied by the rest of the committee. The finished submission was not large and a great deal of emphasis was placed on the willingness of the two communities to work together. The history of the Nekaneet was briefly touched upon:

When the Plains Cree inhabiting these hills were ordered to move out ... in the early 1880s they refused. The [Nekaneet] Band was forcibly shipped out of the area but they moved back and hid in the hills. Because of their refusal to move, this small Band was cut off from any government assistance and left to fend for itself. ... For over eighty years, they lived without reserve⁷ or status, providing for themselves by hunting, trapping, selling fence posts, and working for ranchers. The Nekaneet Band lives on its ancestral territory, *remaining true to its traditions* (emphasis added).⁸

To the Nekaneet, this last was of particular importance, because they saw their traditions as being undiluted by outside influences. As was explained: *You drive around here [reserve] you won't see any semblance of a church or anything like that. We've never been watered down in that sense ... What I find in different communities, some people did get the right teachings or the teachings that coincide with the Nekaneet teachings, but the problem with them is that they take it a step further and they try to parallel it with Christianity. We don't bother with that. We're secure with the fact that this is the way our Elders were taught by their Elders ... and that's good enough for us.*⁹ The Nekaneet felt that they could offer imprisoned Aboriginal women a culturally appropriate and safe environment as they began their 'healing' journey. In particular, the Nekaneet believed that they had a cultural environment largely unadulterated by Euro-Canadian mores and that Aboriginal women first needed to understand the broader Aboriginal heritage before attempting to deal with an imposed culture's norms. In applying to CSC the

⁶ Interview 15

⁷ This is not strictly accurate. The Band was granted its reserve in 1913, but did not receive benefits until 1975. *The Cypress Hills* (1994) Hildebrandt, W & Hubner, B p.111

⁸ *Federally Sentenced Women Initiative: Healing Lodge Facility* Nekaneet Band/Maple Creek Proposal

⁹ Interview 15

Band showed remarkable trust in a federal organisation, given the history of government betrayal of the Nekaneet.¹⁰ In offering the assistance of their Elders and Medicine People the Nekaneet clarified their position: ‘The Indian teachings and practices are orally taught and preserved, therefore, it would be inappropriate to write about how the Native women attending a healing lodge would be healed’.¹¹ The assumption, though, was that Nekaneet Elders would be involved with the women should the Healing Lodge be awarded to their community.

The proposal emphasised the beauty of the location and the ‘healing’ nature of the landscape. In terms of what the town could offer, much was made of its location vis-à-vis the main cities in Alberta and Saskatchewan; the local services available in Maple Creek; and, above all, the fact that both Nekaneet and the local council had co-operated enthusiastically in putting together the proposal. As the Band Councillor said: *I think what they [CSC] wanted at the time was a non-Aboriginal / Aboriginal proposal that had already specified that they do get along as opposed to they’re going to get along.*¹² Nevertheless, not all of the Nekaneet and residents of Maple Creek were happy with the suggestion that the Healing Lodge should be sited in their community, but few thought it likely that the proposal would be accepted, and there was no organised opposition. The proposal was submitted and the committee waited for a decision to be made. One committee member recalled: *We worked at it, like we really did this in a time frame of about two weeks I think. I remember [another committee member] tossed it across the table and said ‘what do we do if we get this?’ I’ll never forget that.*¹³

Despite my earlier suggestion that there might have been party-political considerations leading to the selection of Maple Creek, there is a further perspective to be added. The selection process for the Healing Lodge was the same as that undertaken for the other prisons and a group of evaluators scrutinised each

¹⁰ Chief Nekaneet signed Treaty Four in 1874, yet the Canadian authorities failed to provide a reserve for the Nekaneet until 1913 and the Band received no treaty benefits until 1975. On the 23rd September, 1992 the Nekaneet Band signed an agreement finally settling their land claim, receiving \$8.3 million in compensation. Under the terms of the agreement they were obliged to buy 16,160 acres of land, which was equal to the acreage Chief Nekaneet failed to receive when he signed Treaty Four. For a fuller exploration of the history of the Nekaneet see Hildebrandt and Hubner (1994).

¹¹ *Federally Sentenced Women Initiative: Healing Lodge Facility* Nekaneet Band/Maple Creek Proposal

¹² Interview 15

¹³ Interview 16

proposal. As one assessor said: *Each of us went through all the proposals [beforehand] and then we all came together in Saskatoon. We had set aside a week where we could go through each proposal ... We had our Elders with us ... We were in to our third day and we had all of our sheets up, each of them scored and we weren't quite finished. We had a stack of the proposals on the table and they [Elders] came in and said 'well how is it going?'. [We said] 'well, we're about half way there and we anticipate being done maybe tomorrow night'. ... There were three of them [Elders] ... They went over to the table and Mary [Elder] took one [proposal] and she passed it on [to the other Elders] and they did this to all 28 [of the proposals]. And there were three [proposals] they put in a pile and then they did it again [handled the three proposals] and [Mary] looked at them [Elders] and she said, 'what do you think? I think it's this one here' and they both said, 'yes, that's the one'. So they said 'well this is the one here' and we all looked at each other, because we still had our process to finish. So we said 'ok, but in order for Corrections to be able to defend the decision we've got to finish the process'. The Elders had chosen Maple Creek. Upon being asked during an interview if the official process also selected Maple Creek, an assessor continued: *Yes. Head and shoulders above the rest as a matter of fact. It was interesting because the Maple Creek proposal had already been evaluated [before the Elders handled them], so we finished them off, being very diligent, and we didn't know what the scores were because they hadn't been compiled. And when we finally had them compiled the score [for Maple Creek] was half again as much as the [next one] and those next ones were the other two [selected by the Elders].*¹⁴*

In mid-May Maple Creek's committee was asked to assemble a group of local representatives to meet the Solicitor General, who was coming to the town on the 22nd May 1992. Prior to that, both the Band office and the Mayor had received a call asking how much land was being offered, and CSC's property management group was astonished to discover that it was a quarter section. (In ranching country, such as at Maple Creek, land is traditionally reckoned in quarter sections, which comprise 160 acres). It was a far larger amount than had been anticipated, but the Band thought this amount of land necessary for spiritual ceremonies. Solicitor General Lewis arrived, together with Commissioner Ole Ingstrup, and spelled out the economic gains for the community: the expected 60 short-term jobs

¹⁴ Interview 21

during the period of construction; the 26.5 positions which would be permanently available at the Lodge; the proposed \$1.6 million yearly operating budget. Mr. Lewis was offering a contradictory vision, because the retention of jobs relied on the continuation of the prison and, as Cohen suggests, the 'possibility that they [civil servants] will support policies which will result in anything other than more work ... for people like themselves is ... incredible' (Cohen 1983: 118).

Guiding the Planning Circle

Town and country had collaborated with little expectation of success and the reality of the hard work involved was soon to become apparent. Unlike the other prisons, the planning of the Healing Lodge involved a great deal of local input and support. Representatives of both the Band and the town were invited to join the Healing Lodge Planning Committee, which then underwent its final transformation, becoming the Healing Lodge Planning Circle (HLPC).

With the change in function of the original Aboriginal Advisory Committee, from a group which in January 1991 was expected solely to advise to one which a month later, having consulted the Elders and NWAC, had 'joined' with CSC, the workload became immense. From May, 1992 the enlarged HLPC initially met at least once a month, for a period of two to three days, with members flying in from across Canada and being accommodated in Maple Creek. The immense cost of this, between \$17 - \$19,000 per meeting, was borne by CSC. The meetings were no ordinary civil service meetings; each day began with ceremonies and prayers, and the end of the day's work was often marked by further prayer, and 'talking circles', which sometimes extended into the evening. The protocol attached to such ceremonies meant that agendas could not always be adhered to. Speakers could not be interrupted and the size of the HLPC, with at least twenty attendees and often more, meant that business proceeded slowly.

The HLPC was helped in its deliberations by two documents which had been written by the earlier Committee:

- a *Role Statement*¹⁵, which amplified the bare description of a Healing Lodge contained in *Creating Choices*;
- a *Vision Statement*¹⁶, devised by the Aboriginal members, but also signed by the CSC representatives. This was intended to provide a spiritual rationale for the Healing Lodge and, by extension, for the HLPC as it deliberated. The Vision Statement had immense significance because it both continued the political discourse begun during the Task Force and broke with oral tradition, by writing down the principles underpinning Aboriginal culture and spirituality. It was a necessary means of educating the Euro-Canadians.¹⁷ The Vision Statement (1991: 3) briefly emphasised the political reality that: ‘as long as our people can remember, the Aboriginal people of Turtle Island [North America] ... lived here long before history was written. ... We were sovereign’. It showed how Aboriginal understanding of the world was explained by the teachings of the ‘Circle of Life’¹⁸ and how the practical application of those beliefs enabled Aboriginals to live in harmony with themselves and others. Without explicitly saying so, the Vision Statement thus became a model of Aboriginal justice and therein lies its other importance, because CSC accepted that the HLPC would be influenced by the Vision Statement as it planned the Healing Lodge.

¹⁵ December, 1991

¹⁶ Healing Lodge Vision Statement December, 1991

¹⁷ The arrival of the first Christian missionaries on Turtle Island (North America) heralded a sustained campaign to rid the continent of supposedly pagan beliefs. As explained in chapter 2, in Canada many Aboriginal spiritual ceremonies were banned and the passing on of traditional Aboriginal practices was disrupted by the removal of children from their families and their placement in (largely Christian) residential schools. As Aboriginals have begun to reclaim the right to practice their own spirituality, there has been a tendency amongst some Euro-Canadians to assert that the expression of such beliefs has more to do with making a political statement than it does with actual cultural traditions. While this is incorrect – even if, as Waldram (1997) shows, spirituality within prisons has of necessity needed to emphasise its pan-Aboriginal aspects, rather than those of individual nations – it is also offensive. McGee puts it bluntly: ‘We have been told over and over by Christian missionaries that a man, born of a virgin, died, rose again three days after his death, pushed a big stone back from his tomb, and then ascended into the spiritual world. An Indian would consider it poor manners to make fun of this spiritual story, especially if it is part of a people’s spiritual history’ (McGee 1990: 6). The renaissance of interest in Aboriginal spirituality and culture is a consequence of, and inter-linked with, Aboriginals seeking their ethnic identity. As Aboriginals’ own oral histories have taught them, they have always had a unique responsibility for the stewardship of what they see as ‘their land’. That this stewardship should be expressed in stories is entirely consonant with the practices of other nations who might, for example, term their faiths Christian, Muslim or Jewish. All faiths rely on story-telling as a means of explication; all faiths are subjected to criticism from non-believers; all faiths have played a part in the creating of distinct cultures within nations. The Vision Statement provided by the HLPC should be understood in the light of its attempt to make rational, for a sometimes sceptical audience, core Aboriginal beliefs.

¹⁸ The ‘Circle of Life’ reflects the Aboriginals’ relationship with the Creator, the earth, and everything and everybody inhabiting the earth. It charts an individual’s progress through infancy,

The HLPC itself then produced:

- the *Healing Lodge Operational Plan*¹⁹, a ‘blueprint’ covering most aspects of the day-to-day running of the Lodge, defining (amongst other things): the management model; the living arrangements; the physical care of the women; the programming;
- the *Planning Parameters*²⁰, which fleshed out the physical details of the proposed Lodge, while emphasising that the design had to be ‘culturally aware’ and reflective of the Vision Statement.

The name ‘Healing Lodge’ is a euphemism for prison. CSC was allowing a non-CSC-defined philosophy to be the guiding rationale for one of its new prisons. As all these documents were accepted by CSC, we need to consider the possibility that CSC’s use of the HLPC’s language might have been ‘knowing’, in the sense that it gave CSC’s new venture legitimacy, or might have been an open acceptance by CSC of the Aboriginal dimension of the prison. This will be done in the concluding chapter.

Providing the land

A site for the Healing Lodge had to be selected, but it was not simply a question of looking for the place which appeared, from a construction perspective, to be most suitable. The Healing Lodge had to be in a place imbued with spiritual qualities and close to a source of water. A Vision Quest was the traditional means of locating such sites. Mary Louie, the Elder instrumental in originally selecting the Nekaneet / Maple Creek proposal, led the Quest, having been given details of a few locations which Band members thought might be suitable. Two descriptions of the event unite in one major respect. First: *They went right to that hill. I thought maybe they would chose the other side as there was more open spots and a road could be built in. As far as construction and all that, they probably chose the spot that was most difficult!*²¹ Second: *They had a group of Elders who were meeting in*

childhood, adulthood and old age. It delineates the responsibilities they assume for the continuation of an unbroken ‘Circle of Life’. Nothing may be seen in isolation: everything is inter-linked.

¹⁹ February, 1993.

²⁰ March, 1993

²¹ Interview 15

*the Planning Circle and they went out this one afternoon to the Reserve and actually walked through the bush ... and they tracked these hillsides and they said when they came to this spot that that was it, they knew that was it. ... It's been questioned since. It was a very difficult place to build, I tell you ... right on the side hill and the rocks, it's solid rock out there and the poor architects ...*²² The architects struggled to find solutions to the difficult, steeply sloping terrain on which they were told to build. The buildings needed to reflect the Four Directions (as explained by the Circle of Life), yet also had to 'fit' the land on which they were to be constructed. Deciding on the general design of the Lodge took considerable time, but there was unanimity on the need for the prison to be circular and, eventually, take its general shape from the eagle, when seen from above.²³

The amount of land to be handed over by the Band was a further complication. CSC was extremely reluctant to accept a quarter section because of the cost implications and the fear that the Treasury Board would not authorise the expenditure. CSC was not allowed to take on more land than was actually required for a new prison, so the quarter section was justified by a *Land Rationale*²⁴, which outlined the number of acres required for ceremonies such as the Sweatlodge, fasting, the Sundance and the Rain Dance. The Rationale was written by a non-Nekaneet woman and based on six nations (Cree, Saulteaux, Sioux, Dene and Mohawk). It explained that many nations would be present at the Lodge, with conceivably different needs. The preamble elaborated:

For ceremonial purposes, Aboriginal people require large areas of land. This is to allow for the natural state of the land to provide cleansing and healing for its people. Aboriginal people do not take from the land without giving back to the land; therefore, the replenishment of the land is critical.²⁵

This relationship with the land was fundamental to the planning of the Healing Lodge and a difficult – and different – concept for CSC as an organisation (but not necessarily for its individual employees) to accept. Some of the difficulty lay in accepting that CSC was party to constructing a prison which, in theory, permitted

²² Interview 16

²³ The eagle is believed to carry prayers between the earth and the spirit world. To be given an eagle feather is the highest honour amongst Aboriginals.

²⁴ Healing Lodge Land Rationale 1993

²⁵ *ibid*

women to walk alone to isolated places in order to ‘greet the new day’,²⁶ rather than restricting them to houses set behind fences where their movements would be more easily monitored. CSC also had to accept the logic of the site selection, the rocky nature of which presented them with enormous structural difficulties. Yet the Aboriginals could point to the Vision Statement for validation: ‘At Creation, we were given four Sacred Gifts of Life: From the East, the gift of Fire; from the South, the gift of Rock; from the West, the gift of water; and from the North, the gift of Wind’. CSC was in uncharted territory and the logic of the ‘dominant culture’ did not find expression in such abstract ways, as the HLPC’s minutes showed in May:

Perhaps it is better that the Planning Circle meet with the Treasury Board ... as other people don’t always understand the [land] rationale no matter how it is explained on paper, primarily due to the fact that spirituality cannot be explained in detail or with Justice on paper.²⁷

Land, culture, spirituality and protocol

Aboriginal land was inextricably linked to spirituality and culture. Although the original Operational Plan provided for women of varying faiths – ‘there may be some Federally Sentenced Aboriginal Women who practice a religion / faith and their needs will have to be accommodated through a non-denominational chapel’ (CSC 1992b: 29) – in February, 1993 the HLPC decided that there would be no chapel at the Healing Lodge. The other prisons were to have multi-faith rooms, rather than simply chapels, and Aboriginal women preferring to have a Christian or alternative option would have to forego the Healing Lodge. The then Nekaneet Chief explained why he was opposed to other faiths being represented at the Lodge: ‘It was for the Aboriginal person to follow their traditional spirituality and ... other faiths were not Aboriginal peoples’ path to take’. An Elder supported him, explaining that the ‘women at the Prison for Women did not want religious denominations at the Healing Lodge [as] there remain[ed] a lot of pain to heal from the wounds inflicted by religious institutions’.²⁸ (The Elder was largely referring to the residential schools.) *Creating Choices* had suggested that there should be ‘a minimum of one Elder available at the Lodge on a full-time basis’ (TFFSW 1990: 124), but that the position would not always be filled by the same person, as there

²⁶ bid

²⁷ HLPC Minutes 26th May, 1993

²⁸ HLPC Minutes 24th February, 1993

was a need to recognise that Aboriginal women came from different nations, with different spiritual traditions. The Nekaneet did not wish to exclude other Aboriginal traditions from the Lodge (although they did wish their own to be recognised), as was evident when an Elder from British Columbia, rather than the Nekaneet, led the Vision Quest. Monture-Angus (2000: 55) drew attention to the fact that there is considerable protocol attached to Aboriginals entering another Nation's territory and that it is essential to respect the 'sacred protocols' and 'traditions' of the host First Nation. In the case of the Healing Lodge this meant acknowledging the wisdom of the Nekaneet's Elders and having their active involvement in the Lodge. The Final Operational Plan, surprisingly, did not deal with this directly when it discussed 'spirituality' as a separate issue. Elders were mentioned in the context of health care and counselling, but there was no actual mention of any role to be played by the Nekaneet. The only time the Nekaneet were mentioned was in connection with the Ke-kun-wem-kon-a-wuk (the keepers of the Healing Lodge vision), when it was suggested that 'three National Healing Lodge Elders' and 'local Elders from the Nekaneet' should be included. Although the failure to specify the Nekaneet was possibly an unfortunate omission on the part of the drafters of the Operational Plan, it left an opening for CSC later to be able to assume responsibility for decisions regarding Elders.

Fiscal reality; mismatched expectations

The original estimates for the prison had failed to take fully into account the cost of supplying utilities to the Lodge and the specific difficulties occasioned by the site itself added considerably to costs. As delays in the project occurred, and costs continued to rise, there was continual pressure from CSC that the HLPC should reduce the size of the prison. In February, 1993 the HLPC deferred the gymnasium, reduced the size of the administration area and deleted a work room from the plans, yet CSC continued to press for more savings and greater speed in planning. Despite this, the Cedar Tipi (spiritual lodge) was increased to accommodate 100 people, because of the necessity to accept the Aboriginal concept of 'all my relations' (meaning, the extended family) and the fact that the local community was also expected to participate in ceremonies at the Lodge. CSC was insisting on budgetary restraint, while also conceding 'Aboriginal' additions to the plan. The consequence was that basic facilities such as a gymnasium were denied to Aboriginal women, but were permitted in the other prisons, where spiritual needs

were also provided for. CSC was allowing the construction of an Aboriginal-influenced prison, yet seemed to be assuming that costs would – and should – be proportionately no greater than elsewhere.

Two months later the Commissioner was expressing concerns about delays. The Healing Lodge was three months behind schedule, which was affecting the date of the closure of the Prison for Women. The prison was already considerably over budget, there was no possibility of persuading the Treasury Board to provide more federal money, and a CSC member of the HLPC was asking that the Circle provide ‘true’ figures, rather than ‘figures from the sky’.²⁹ This request highlighted the mismatch of experience and expectation, with a good proportion of the HLPC being involved because of their connection with the Nekaneeet Band or Maple Creek, rather than because of their financial and planning expertise. They were unaccustomed to presenting detail in the manner essential to procuring both federal dollars and support. During May the discussion continued to focus on the considerable costs of the Healing Lodge, which were some \$3.2 million over budget, and the Circle was once again asked to look at ways of trimming expenditure. Despite this, the HLPC proceeded to expand the space allocated to various parts of the Lodge.³⁰ Discussions still had to be held with the Department of Indian Affairs and Northern Development (DIAND), the Department of Justice, CSC and the Nekaneeet Band in order to draft terms and conditions for the use of the land because, although planning for the Healing Lodge was well advanced, agreement had still not been reached with the Nekaneeet for the land transfer.³¹

By September, 1993 the HLPC had been meeting for seventeen months and CSC was deeply unhappy with progress. There was a clear divergence in manner of operating between the Aboriginal and Maple Creek representatives and those of CSC. Even the style of the minutes would have exasperated the civil servants because they contained the barest details of discussions, with little indication of precisely what had been agreed. A senior representative from CSC attended the meeting and later sent a list of ‘actions which we agreed to take at the [last]

²⁹ HLPC Minutes 20th April, 1993

³⁰ HLPC Minutes 27th May, 1993

³¹ Formal permission had to be obtained from all members of the Band, by means of a referendum, for land to be leased to CSC. The Band needed to achieve a ‘majority of the majority’ vote to pass the referendum. (i.e. 160 eligible, 81 required to vote, 41 to vote yes)’.

meeting', taking care to reassure HLPC members that the minutes were not being superseded.³² There was a distinct air of 'let's get on with this' attached to the letter, despite the diplomacy of the language. Representatives of the HLPC were to attend an ExCom (Executive Committee of CSC) meeting and a civil servant was asked to draft the presentation, which would 'situate all the critical issues in a comprehensive framework'. They had to be able to say that the land designation had been agreed with the Nekaneet and all agreed that it was necessary to ask for the quarter section, but the wording of the Land Rationale needed to be transformed into 'bureaucratic language' for it to be acceptable to ExCom. It was being made clear that the HLPC needed to adopt what CSC considered to be a more professional approach to their work.

Providing that construction began by April, 1994 it was expected that the Lodge would be completed by April, 1995, yet the Band's approval was certainly not a foregone conclusion, not least because of the financial implications of the package being proposed. But it was the Aboriginal dimension to the plans which needed to be understood by ExCom; why was it necessary to do certain things in certain ways, and how could they be justified to the public at large? The need to have the buildings reflect Aboriginal beliefs complicated the design process. The HLPC had already been cautioned that the other Wardens questioned the necessity for having two-bedroom living units, (thought by the Elders to be essential to the 'healing' of Aboriginal women when in an Aboriginal-influenced prison), and that these might be perceived as being unfair when other facilities were making do with much larger cottages.³³ ExCom eventually approved the two-bed arrangement and the Healing Lodge was unique in achieving this, as all the other prisons had a minimum of seven women per living unit. An added concern was the size of the day-care centre, in view of the fact that such provision had been deferred at all the other new facilities, but to remove children from the plan would have been entirely unacceptable to the Aboriginal members. However, a second Private Family Visiting House was deleted from the plans (again on the grounds of excessive cost), which was a considerable loss, bearing in mind the isolation of the Healing Lodge.

³² Letter 28th September, 1993

³³ HLPC Minutes 17th November, 1993

By November, 1993 CSC already knew that the closing date for the Prison for Women would have to be deferred because of the late opening of all of the new prisons. A further letter from CSC to all Circle members stressed: ‘... the importance of the upcoming events such as the land designation, the hiring process of the Kikawinaw [Director / Warden] ... [as] these events impact directly on the selection process for the candidates to be trained [and] any modifications in our plan will demand that we readjust the other planned starting dates.’³⁴ The official pressure and loss of patience increased. The Kikawinaw (Director) of the Healing Lodge was appointed in December, 1993, although the formal announcement that Norma Green was to hold this position was not made until March, 1994. The Competition Board³⁵ comprised two representatives from CSC, an Elder and an Executive Member of the Native Women’s Association of Canada. The Chief of the Nekaneet Band and his son, a Band Councillor, attended as observers, but were not permitted to ask any questions, which was an unfortunate breach of Aboriginal protocol.

On the 12th January, 1994 the Circle signed off the conceptual design of the Healing Lodge. CSC’s design representative indicated that the budget was in ‘reasonable order’ and that savings could be made in the materials used, without impinging on the overall quality of the prison. The budget for the Circle meetings was not similarly under control and the CSC representatives explained that there was ‘no money available for the continuation of the large Circle, Sub-Committees and frequent meetings, nor could [these] be justified to their superiors’. Without clarifying who might have contributed to the following extract, the Minutes showed resistance to the idea:

The reorganisation of the Circle could be detrimental to the entire vision as it appears it would become a Circle without any decision making power but rather a rubber stamp for what happens, to praise when things are going well or voice concerns when not, but really have no power to make decisions. It was voiced that the vision cannot be carried out by individuals who have not been an integral part of the vision.³⁶

³⁴ 2nd December, 1993

³⁵ A Competition Board is used within government departments for interviewing candidates for positions.

³⁶ HLPC Minutes 12th January, 1994

Land clearing for the Healing Lodge did not begin until May, 1994, resulting in the projected completion date being postponed until the end of June, 1995. The Blessing of the Land Ceremony was held on the 8th June, 1994 when a small group of Elders and members of the Planning Circle joined together for the ritual. It was an important occasion for both local communities, marking what was for them an unprecedented degree of co-operation and hope. On the same day the *Memorandum of Understanding*, covering the lease of the land, was signed. The Memorandum provided the Nekaneet with an initial \$21,000 dollars per year³⁷ and in return, the Band 'surrendered' the land to CSC for a period of 25 years and allowing CSC an option to renew for a further 25 years.

New philosophy; new staff

The *Memorandum of Understanding* between the Nekaneet and CSC contained a number of *Specific Undertakings of the Solicitor General*. Section 14.3 agreed to:

- a) implementing a staffing and training plan for the operation of the Healing Lodge designed to be inclusive of the Nekaneet Band members with respect to eligibility for consideration;
- b) implementing a staffing process for available positions at the Healing Lodge ... by open competition until 50% of the Healing Lodge staff positions are occupied by Nekaneet Band members ... [and the provision that] ... future commitments with respect to staffing targets will be determined as part of the periodic review of this Memorandum ...³⁸

The HLPC knew from the beginning that they needed – and wanted – to employ a large number of Aboriginal women at the Lodge. While they could not provide for all the nations who might be represented by the federally sentenced women at the Healing Lodge, they could work towards an environment which reflected essential Aboriginal beliefs, but would achieve this only with the help of a high proportion of Aboriginal staff. Nekaneet women were the obvious first choice, not least because the Band had made much of its commitment to working with the women. But employing Nekaneet women was not straightforward, as many had not remained at school long enough to complete their Grade Twelve education, an essential requirement for correctional staff. By the beginning of 1993 fifteen

³⁷ This figure was agreed following calculations as to what the Band could realise for the land if it were used for pasture, the most common use of land in that part of Saskatchewan. An annual percentage adjustment relative to the Consumer Price Index was made each year

³⁸ *Memorandum of Understanding* between the Nekaneet Band, the Minister of Indian Affairs and Northern Development, and the Solicitor General of Canada.

women were attending upgrading classes in Maple Creek and more were expected to join them. Large numbers applied for posts at the Lodge, with the vast majority being local, and a good proportion from the Nekaneet Band. The HLPC decided that 40 candidates, including eighteen Nekaneet women, would be selected for training even though only 26.5 posts were actually available (to ensure that a reservoir of trained people could be called upon at a later date). Four phases of training were planned. The first, lasting almost a month, took place at two non-correctional Treatment Centres and, with this strategy, the Healing Lodge set out on its own path. As explained by one Circle member: *What we thought we could provide for the workers was for them to be able to start at a place where they weren't superior to the women. So that was one of the rationales for sending them off for treatment as clients, as opposed to just shadowing someone and learning how to do it.*³⁹ The staff needed to develop an understanding of what it was like to battle addiction and / or cope with the aftermath of abuse. Some prospective staff also needed to confront addictions, particularly alcoholism, in their own lives, before they could support other women. Staff became *participants* in the programme, rather than observers, and took that knowledge back with them to the Healing Lodge.

Thereafter, all training took place in Maple Creek so that local women could more easily take part and covered areas such as: cultural / Aboriginal awareness; counselling; co-dependency, as well as the Corrections Training Programme (CTP), a component common to all staff at the new institutions. The latter introduced staff to their formal role of correctional officer, a role perhaps belied by the term 'Kimisinaw' or 'older sister', which was the equivalent of a Primary Worker in the other prisons. (More senior staff were known as Kikawisinaw or 'aunt'.) The Kikawinaw, despite the initial expectations of the HLPC and the hiring committee, did not participate in any phase of the training.⁴⁰

The significance of the training programme should not be underestimated. The first phase was demanding of all the participants, not least the Aboriginal trainees, who were confronting issues which had played a large part in the destruction of

³⁹ Interview 16

⁴⁰ HLPC Minutes 7th July, 1993

Aboriginal communities across Canada, if not necessarily their own. Additionally, although the bid for the Healing Lodge had been a joint undertaking by the Band and the town of Maple Creek, it did not mean that the two communities generally mixed, and all the women had to adjust their perceptions of each other. The end result was that the women emerged from their training with a cohesion which staff at other prisons could not match. Yet knowledge of Aboriginal culture, although an essential part of the training, could not be sufficiently imparted to the Euro-Canadians within such a short period. Neither could the disparities in levels of education be overcome and this meant that mostly non-Aboriginal women were appointed to senior positions once hiring began. Knowledge of Aboriginal history should have alerted the Circle to this possibility and some form of affirmative hiring plan, leading to the identification of Aboriginal women who could be trained to take on senior positions, might have made Aboriginal influence at the Lodge more secure.

The formal opening of the almost completed Healing Lodge took place during the 23rd and 24th August, 1995.

An Aboriginal prison?

I now outline details of the Healing Lodge itself and the daily routine provided for the women during the first year of its opening. This is simply a description, largely without critical discussion of how the Lodge actually functioned as a prison, and is based on fieldwork carried out in 1996. I then move forward to 1998 and document changes which took place during those two years, while discussing their relevance to the larger endeavour of establishing an Aboriginal prison.

The Nekaneet Reserve, in the Cypress Hills, is some 1,200 metres above the surrounding countryside, which extends below in a seemingly endless vista of plains. Apart from a monitored gate on the approach road to the Healing Lodge, there is no other visible security and, unlike the other new prisons, the prison was exempt from the later requirement that a fence should be constructed. The Lodge is visually striking amongst the dense stands of aspen which surround it, with vivid use of colour in all the buildings being in stark contrast to the grey stone austerity of the Prison for Women. The administration building is circular, reflecting the Circle of Life, and is where the main daily activities of the Lodge take place.

Around a small inner courtyard are ranged the various offices, healthcare unit, education and library rooms, large children's nursery and the focal point of the building, the communal eating and cooking area. A large deck extends from the dining area, providing a panoramic view of the surrounding land. The steep terrain means that the lower floor of the main building only extends part-way underneath and this contains – amongst other rooms – a small ceramics workshop. The Cedar Tipi (Spiritual Lodge) lies immediately in front of the main building, with the living lodges extending separately on either side of it.

Although the administration building is the functional heart of the prison, it is the Cedar Tipi which provides its spiritual and philosophical heart. Designed to be entered from the Four Directions⁴¹, it is also circular, with its roof rising steeply to reflect the shape of a traditional tipi. The interior immediately draws the eye to the centrally positioned fire, with its chimney extending through the great height of the roof. The fire is surrounded by a circular seating platform, which in turn is surrounded by a further circle of seats attached to the wooden walls. The Cedar Tipi is a place for reflection, instruction and celebration; it is also, it must be remembered, the heart of a prison.

The living lodges each hold two women, who have a single bedroom and a shared living and dining area, where meals may be prepared on those occasions when women are not obliged to eat together. Some of the lodges are designed to accommodate children and one is used by visiting Elders. Another lodge is more secure (the Lodge's equivalent of an Enhanced Unit), with camera monitoring available as necessary. This was reluctantly conceded by the HLPC in recognition of the fact that some women might occasionally need a more protected environment. A series of beaver dams lie below the living lodges and, depending on the season, women may collect and braid the sweetgrass – essential to the ceremonies within the Cedar Tipi – from the surrounding land. The sweat lodge moves as required and, as on most of the Healing Lodge's grounds, women must be accompanied by a member of staff, or an Elder, when visiting it. The freedom to move about the land was never extended in the manner envisaged by the Land Rationale.

⁴¹ North, south, east and west



Okimaw Ohci Healing Lodge, Saskatchewan. The Spiritual Lodge.
photo: S. Hayman



**Okimaw Ohci Healing Lodge, Saskatchewan. The living lodges.
photo: S. Hayman**

The shock of change began for all new arrivals as soon as they left their previous prison. The women were not required to wear handcuffs or shackles while being transferred and the long car journey from either airport or previous prison culminated in 30 kilometres of rutted, unsealed road leading to the Healing Lodge.⁴² For those federally sentenced women who first arrived at the Healing Lodge, direct from the confines of the Prison for Women or a similarly enclosed prison, one of the most immediate challenges was presented by the change in physical environment. After the ceaseless noise of the ranges at the Prison for Women the quietness was almost alarming. One woman spoke of how difficult the transition had been and that it had taken her at least a year and a half to settle into the Lodge. She was fearful of coming out of her house in case alarms went off; was initially frightened by the voices coming out of the walls, because she had failed to notice the intercom system; was astonished to be given keys to her house, room and mailbox.⁴³ The ability to walk freely between the living units and the administration building, without waiting for staff to unlock cells and gates, challenged the women's perceptions of imprisonment and required a degree of confidence which, for many, took some time to emerge. Yet in disguising the prison's reality both the Circle and CSC encouraged women to believe that the overt discipline of the old penitentiary in Kingston had disappeared, rather than been replaced by more subtle forms of self-discipline, or self-surveillance. The living lodges at the Healing Lodge were a continuation of the reverse-panopticon evident at the non-Aboriginal prisons, with the extra dimension of culture adding to the burden of reponsibilisation imposed upon the women.

The pattern of each day was decided in consultation with the Elders. Women are generally expected to begin their day in the Cedar Tipi.⁴⁴ The ritual then, as now, remains much the same. The fire will already have been lit. An offering of tobacco is made to the Elder or person leading the day's ceremony⁴⁵ and this is followed by the burning of sweetgrass and herbs, which leads to the 'smudging' of each

⁴² Historically, this was not a new tactic, although it was unprecedented in more recent times. Freedman (1981: 89) wrote of a woman arriving at an Indianapolis reformatory in manacles, whereupon the Superintendent asked for them to be removed, saying to those delivering her 'she is my prisoner, not yours' before embracing the women and taking her to her room.

⁴³ Personal notes 1998

⁴⁴ Women may not enter the Spiritual Lodge when it is their monthly cycle.

⁴⁵ Tobacco is fundamental to most Aboriginal ceremonies. It represents the 'unity of humans and the Creator. ... Tobacco is one way the humans can touch the Creator. The smoke from burning

participant.⁴⁶ There is an opening prayer and perhaps a ‘teaching’ for the day. Following this, each member of the circle is invited to speak. Nothing much needs to be said – a simple ‘good morning’ suffices – but it is also an opportunity for those who wish to say more to do so. They will not be interrupted and there is a sense of formality and courtesy attached to the occasion. Staff also participate in the circle.

Following the Spiritual Circle the women attend various activities. The education classes are fully subscribed, and on a part-time basis in order to accommodate the demand, while a very few women are involved in the ceramics workshop. Some undertake outside maintenance and others are part of the catering team. Because of cutbacks forced by budget considerations at the planning stage there is relatively little room for education, workshops and programming (although additional space was built some four years after the Lodge opened).⁴⁷

During the working day children are cared for by a trained nursery nurse, but become solely their mother’s responsibility during the weekend. (Although Etablissement Joliette, in Québec, has a very well equipped nursery, the Healing Lodge was the only one of the prisons initially allowed to house children.)⁴⁸ The primary concern is that the children are not exposed to any risky or distressing situations and all the women are well aware of the possible consequences for themselves should their behaviour have an impact on a child – they will be shipped out.

tobacco naturally rises and can touch the spirits of the sun and wind. The smoke carries one’s prayers to the Creator’ (Waldram 1997: 97).

⁴⁶ The fragrant smoke is ‘drawn’ towards the body and wafted over the head and chest. Sweetgrass ‘represents “unity” between the mind, body and spirit. It is typically woven together into three braids’ (Waldram 1997: 97).

⁴⁷ To begin with, whenever a programme such as substance abuse was ‘bought-in’, all programming was suspended and every woman would participate. All were at the same starting point and it was assumed that all would benefit. As more women arrived, and others began to leave, this rationale could not be sustained and the question of cost-effectiveness became more important. Completion of programming is vital to the success of a woman’s sentence plan.

⁴⁸ This was one issue about which some in the local community felt very strongly. The children were a welcome addition to the Healing Lodge, but their nursery attracted adverse criticism because of the lavishness of its provision. Many of the HLPC’s minutes referred to the Indian Auctions which were held at the conclusion of each monthly meeting and raised a considerable sum. As one observer said: *When I walked in [to the nursery] I just stood there with my mouth open. I could not believe how it was equipped. ... When we were having our monthly meetings the Government told us that we could have a day care centre, but there’d be no money to equip [it] so we’d have to raise the money locally to do that. ... I tell you that there’s \$6,000 sitting in a bank account down there and that money was to go to equip the day care. I agree with the day care centre, I think that’s a good idea, but where do you draw the line? Where’s the fiscal responsibility?* (Interview 16)

Lunch is taken communally, with staff joining the women, which does not happen in the other new prisons. From the start, the wider expectation at the Healing Lodge, was that barriers between staff and the women would be lowered as they jointly experienced everyday activities in more natural circumstances. Evening meals are cooked by the women themselves in their own houses and there are occasional evening activities, such as a round-dance, involving members of the Nekaneet Band.

An 'Aboriginal' prison?

Taken at face-value, this description of the Healing Lodge belies the reality of its being a prison. However, while the Healing Lodge is a beautiful, if isolated, institution, it is governed by rules which separate it from the local community. Paradoxically, the community does not feel it is altogether set apart, because it is a prison created by the community; without the active solicitation of the local community, the prison would not have been built in the Cypress Hills, whereas the new prison at Edmonton was imposed upon the local community. It is striking that the Healing Lodge did not generate anything like the press coverage received by both Nova and Edmonton and this was largely because there were no 'incidents' (with one exception) that found their way into the public domain. But it was also to do with the remoteness of Maple Creek, the size of the local community and the way information about the Healing Lodge was initially provided for the local newspaper by a member of the HLPC and then by the Kikawinaw herself. With hindsight, this was a clever device which kept the local community informed, solicited help and, above all, located responsibility for the Lodge within the community, rather than solely with CSC. It represented a continuation of the cooperation which had initially brought the prison to the Cypress Hills. The local citizens were never part of an angry crowd, questioning the reason for having a prison in their area, as at Edmonton. The Kikawinaw, while still the 'public face' of CSC, was never forced to defend her prison as had been Ms Fox and Ms Manuge. Had there been any major incidents the smallness of the local population would have ensured that few in Maple Creek and on the reserve remained unaware for long. Generally, there was little sense of a community keeping close watch while waiting for things to go wrong. Outside press interest largely focused on the uniqueness of the whole endeavour and often featured the same women as

representatives of the others. Without continual public observation and comment, the Healing Lodge was permitted a rare degree of freedom to develop its own style.

Yet there is a paradox at the heart of the Healing Lodge which sets it apart from other prisons. Women imprisoned there feel constrained by two sets of rules; those officially imposed by CSC and those unofficially implied by the women's acceptance of the Aboriginal dimension of the prison. To break the 'rules' imposed by CSC is one thing; the women are being held involuntarily and feel no loyalty to the correctional authorities. But to break the trust of Aboriginal Elders is another matter entirely, because to do so is to dishonour them and what they represent. The fact that the Elders are working alongside the correctional authorities further blurs the issues, as I shall shortly explore.

Imprisoning our sisters

From the beginning there were particular expectations of the Healing Lodge: it would be supported by the local Aboriginal community; Aboriginal staff would be employed to the fullest extent possible; there would be a non-hierarchical structure to the staffing; Aboriginal culture, healing and spirituality would inform its day-to-day running. I will now look at these from the perspective of what existed in 1996 and what had changed by 1998. But there are two points which first should be considered.

The Ke-kun-wem-kon-a-wuk (Keepers of the Vision).

When the Operational Plan was devised it clearly delineated the management structure of the Lodge. The Kikawinaw was to 'support, assist and guide' the women and was also 'accountable' to two other tiers of management, the Regional Deputy Commissioner and the Ke-kun-wem-kon-a-wuk (comprising National Elders, local Elders and members of the HLPC). The Ke-kun-wem-kon-a-wuk's role was to provide 'guidance, support and assistance' to the women and the Kikawinaw, but it was *not* 'accountable' to the Kikawinaw (CSC 1993a: 4-5).

By the time the Lodge opened this position had been reversed and was made quite specific in the *Memorandum of Understanding* signed by the Nekaneeet Band on the 5th June, 1995. Schedule B 3(a) reads: 'the operation of the Healing Lodge will be the responsibility of the Kikawinaw (Director) who is appointed by CSC. CSC will

establish a national committee, the Ke-kun-wem-kon-a-wuk ... to provide guidance, support and assistance to the Kikawinaw and CSC ...' The Memorandum made no mention of the Kikawinaw being accountable to the Ke-kun-wem-kon-a-wuk. The Band had been required, as part of its undertaking, to seek advice from a solicitor regarding the Memorandum before they signed it, but it is doubtful whether anyone who had not been part of the HLPC decision-making would have recognised the significance of that section. It also appeared to nullify part of the intention of Section 1(d) of the same Schedule, which acknowledged that the Band had entered into the agreement based upon consideration of: 'the ability of the Band to participate in the *management* of the Healing Lodge through the Ke-kun-wem-kon-a-wuk ... (emphasis added). The word 'management' could not be equated with 'guidance, support and assistance'. The interpretation of the HLPC's intentions was central to the issue of who had responsibility for the Healing Lodge, because the *Memorandum of Understanding* consigned final authority to CSC. Moreover, the Kikawinaw was solely accountable to CSC and the Ke-kun-wem-kon-a-wuk was left with little authority. The effect was twofold; Aboriginal, including Nekaneet, influence was restricted and the Kikawinaw became a Warden, just as much as any of the other new wardens, with CSC being the ultimate authority to which she must answer.

This development was unsurprising, given the reality that CSC was statutorily responsible both for the administration of the prison and its financing. However, the failure to honour the earlier agreement – that the Kikawinaw should be answerable to the Ke-kun-wem-kon-a-wuk – again raised the possibility that CSC knowingly used the Aboriginals to legitimate a venture over which it had no intention of relinquishing control. The same allegations were earlier made in relation to CAEFS' involvement in the Task Force, and the way in which the organisation was omitted from the key implementation committee, the NIC. We already know that CSC had far exceeded any previous arrangements in agreeing to the Aboriginals having such a central role on the HLPC, and that CSC had agreed to the construction of a prison radically different from the other new federal prisons for women. But in altering the lines of accountability, so that the Kikawinaw was answerable to the Regional Deputy Commissioner and *not* the Ke-kun-wem-kon-a-wuk, CSC was binding the Kikawinaw into its own structures. CSC had also ensured that the Nekaneet would be sidestepped. As I have suggested, there are

questions raised about: how deliberate this amendment was on the part of CSC; whether CSC used the Aboriginals to legitimate the new prison; or whether the change was simply a consequence of the reality that CSC was pay-master. It should be remembered, however, that the Nekaneet were a small Band and not necessarily ready, at that point, to assume an administrative role at the Lodge. Additionally, some on the HLPC felt that CSC would be in a better position to maintain the Lodge as a *national* resource during its initial operational phase.

A multi-level prison?

The intentions of the HLPC regarding maximum security women were also ignored by CSC. Unlike both Edmonton and Nova, the Healing Lodge never accommodated maximum security women, although it was originally expected to do so. The 1992 Commissioner's Directive 006, *Classification of Institutions*,⁴⁹ showed that *all* the new regional women's prisons were classed as 'multi-level'. The Healing Lodge Operational Plan specified: 'The Healing Lodge will accommodate Federally Sentenced aboriginal women for all or part of their sentence, *regardless of their security classification*, therefore women may be admitted directly upon sentencing ... (CSC 1993a: 8, emphasis added). HLPC Minutes in November, 1993, written eight months after the Operational Plan was published, clearly indicated that the prison was intended to be a multi-level one; in the absence of any fence, security bracelets were being explored as a possible means of allowing 'multi-level women' more freedom 'in the 160 acres'. However, the June, 1994 HLPC Minutes stated that a member 'had been alerted by the RPC [Regional Psychiatric Centre] staff in Saskatoon that only minimum security women would be able to get to the Healing Lodge ... [and that this] ... apparent CSC position had also been heard by other Planning Circle members as well as the women'. This was the first hint for the HLPC that the multi-level nature of the facility might be altered. The meeting was told that 'women would apply for placement at the Healing Lodge' and that the Kikawinaw would decide whether or not to accept a woman, clearly breaching the Operational Plan's expectation that women could be admitted 'directly upon sentencing'.

⁴⁹ 11th September, 1992

Arbour (1996: 224) had strongly urged that the Healing Lodge should be accessible to all, 'regardless of their present [security] classification'.

Even now, there is no CD referring to the barring of maximum security women from the Healing Lodge. The 1992 CD 006, classifying all the new prisons as multi-level (meaning that they could be any combination of security level), was not superseded until 22nd August, 1996, when the Interim CD 500 declared that Prairie-region maximum security women were barred from Edmonton Institution . A further interim CD 500, issued on the 12th September, 1996 and referring specifically to GVI, Nova and Joliette, barred maximum security women from these prisons as well. None of these applied to the Healing Lodge and the situation has been made no clearer since then.

Based on anecdotal evidence,⁵⁰ my understanding of events is that the decision to bar maximum security women from the Healing Lodge was taken in June, 1994, when the HLPC was first alerted to the possibility. During that meeting it was decided that the Healing Lodge would not have an Enhanced Unit, but would, instead, have a 'safe lodge'. This did not meet the security standards of an Enhanced Unit, and officials from CSC then announced that maximum security women would consequently be barred from the Lodge. CSC's position was made more explicit during negotiations with the Nekaneet, prior to the vote leading to the designation of the land for the Lodge. It was then clear that maximum security women would not be eligible for the Lodge. Moreover, some Aboriginal members of the HLPC had, together with some of the Nekaneet Band, been concerned about the ability of the Lodge to function as a place of 'healing' if it had to cope with women with multiple problems. There is also another factor to be considered, and that relates to the numbers of women the Lodge can accommodate. It is limited to thirty women and there are, as we know, many more federally sentenced Aboriginal women . The HLPC had not wanted the Lodge to be so large that staff could not work on a relatively intimate level with the women. It might quite justifiably be maintained that maximum security women are in even greater need of what the Lodge might offer. Yet, it is possible that CSC, having invested so much in the credibility of an Aboriginal prison, was not prepared to face the possibility that

⁵⁰ Personal notes 2002

some maximum security women might disproportionately influence its development. Incidents similar to those seen at both Nova and Edmonton would have shattered the carefully prepared image of a peaceful place of 'healing'. Consequently, a substantial group of Aboriginal women have never been able to move to the Healing Lodge.

This is yet another aspect of the overall Task Force plan which has not been implemented. However, it must also be acknowledged that the Kikawinaw, guided by the Elders, initially exercised considerable discretion in deciding which women should be reviewed for a security re-classification, based on her conclusion that the woman was appropriate for the Healing Lodge programme and operation. One of the first arrivals at the Lodge was a woman who had been involved in the April, 1994 incidents at the Prison for Women and been labelled one of Canada's most dangerous women. Her eventual release from the Lodge on parole some eighteen months later was to earn her a quarter page spread in the *Maple Creek News*,⁵¹ including a photo of her being given a farewell hug by the Kikawinaw.

Having discussed points which were fundamental to both the governance and the scope of the prison, I now move to other issues. While we should never forget that the Healing Lodge is a prison, it is above all an Aboriginal prison so it is that distinctiveness, rather than the similarities with the other prisons, upon which we now concentrate.

A supportive Aboriginal community?

Schedule B 1(a) of the *Memorandum of Understanding* acknowledged the Nekaneet Band's wish to 'make available the experience of its members in Aboriginal healing'. This made explicit what had been written in the original letter of support by the Nekaneet Chief, who viewed the Lodge as an opportunity to 'share these gifts and our home with women who are looking for a place to be healed' (24th February, 1992). When the prison first opened the Nekaneet Elders were a very visible part of everyday life. They led the Spiritual Circles, conducted sweats and were available to counsel the women. From the beginning, Elders from outside the area were also brought in on a rotational basis, so the teachings were not

⁵¹ 21st January, 1997

always those of the Nekaneet. As a visiting Elder commented: *You have the system to work with, people who come from different levels of understanding. So the system said we will hire some Elders ... we'll have a holistic approach and that means other nations coming here as teachers. But, to me, anybody who knows about the culture should never forget where they are and should have respect. It's like me coming into your house and trying to take over your house, disregarding your own background.*⁵²

From the Nekaneet perspective the situation was less than satisfactory, irrespective of how respectful visiting Elders might have been. Their assumption had been that as providers of the land they would have the main responsibility for the spiritual and cultural teaching of the women, as articulated here by a member of the Band: *I guess I automatically assumed that we would be directly involved, because it was on Nekaneet land. That's where the difference of opinion occurred with Corrections ... it's the Aboriginal people who worked in Corrections who wanted to spell out that this was a national facility, therefore the Aboriginal programme should be national in scope, whereas my thinking is that this is a Healing Lodge and it's located on Nekaneet [land] so therefore you should use traditional protocol and utilise Nekaneet's Aboriginal teachings first and foremost. ... We've kind of been shunted aside.*⁵³ The consequence has been that the Nekaneet Elders now play a very reduced role at the Lodge and two Aboriginal women skilled at 'facilitating' have been hired to do some of the work usually undertaken by Elders.⁵⁴ How Aboriginal a concept 'facilitating' might be is debateable, but the underlying point is that Elders are not created by decree of an outside authority. Their wisdom is recognised by those around them, by their Bands, by their Nations. They are the keepers of the history, the link with the land and, thus, with the Creator. It is not the job of CSC to define who might fill that role, as is made explicit in CD 702 (1995-09-06), which defines an Elder as 'a person recognised by an *external* Aboriginal community as having knowledge and understanding of the traditional culture of the community ... Elders may be identified as such by *Aboriginal communities only* (emphasis added). While this is a worrying instance, from an Aboriginal perspective, of CSC exercising control in an area over which it

⁵² Interview 14

⁵³ Interview 15

⁵⁴ Personal notes 1998

should have no authority, the underlying question is whether it is unsurprising from a penological perspective. The answer to this must be that it is not. If we think in Harding et al's terms (1985) that prisons are 'reactive', both to public demands and to their own internal needs, then we can see that CSC might find it convenient to retain control over who works within its institutions. More widely, there are the lessons of history which consistently demonstrate that the instinct of correctional authorities is to incorporate, rather than work alongside their organisations (see Rothman, 1971, 1980; Cohen, 1983, 1985).

Passing the Vision to the staff

When the Lodge was first planned it was expected that 26.5 staff positions would be necessary to run a prison accommodating thirty women. None of the other institutions managed with the staff numbers originally allocated to them, so it was unsurprising that the Healing Lodge might similarly have miscalculated.

(However, it could also be said that increased staff numbers reflected more of an emphasis upon security than had been anticipated). The increased staffing certainly did not disprove the efficacy of the 'dynamic security' model because, in the absence of the maximum security women, it was never fully tested.

During the first months of opening immense care and effort went into settling the women into the new prison. Staff were highly visible and accessible, joining the Spiritual Circle, eating with the women at meal times and being available to talk. There was, as I have noted, a disparity between Aboriginal and non-Aboriginal staff, with the more senior positions being filled by the non-Aboriginals.

Moreover, a non-Aboriginal male held the position of Assistant Kikawinaw (although how a male could be an Assistant 'Mother' was never satisfactorily explained) and he was generally assumed by other staff to be CSC's particular 'representative' at the prison, despite the fact that all staff were CSC employees. (His appointment was also replicated at Edmonton when it reopened.) By late 1998 the changed environment was visible immediately to anyone who entered the Healing Lodge (as noted by Monture-Angus, 2000). Staff screened visitors to the Lodge with a hand-held scanner, as well as women returning from outside visits or work. In most prisons such a security function is the norm, and thus unremarkable, but during its first years of opening the Healing Lodge had managed to incorporate more fully than the other new prisons the concept of 'dynamic security', and such

searches did not occur. The change emphasised the official relationship of the women and the staff, and also its inequality, a fact which had been somewhat masked by the apparent equality of all during the morning Spiritual Circles. Staff were finding that they could not easily surmount, or cope with, their 'status differential' (Faith 1993: 163) and retreated. By 1998 staff numbers had increased and there were 50 staff employed for a maximum number of thirty women. Staff were conspicuous by their absence, generally to be found in their offices, with doors shut; the demands of bureaucracy appeared to have overwhelmed them. The majority no longer sat with the women at mealtimes and there were few signs of the casual chat which had previously been so visible (see also Hannah-Moffat and Shaw, 2001: 35). There was also evidence of the changing relationships between staff and their managers, with distinct groups having been formed amongst them, and an underlying unhappiness with what staff perceived to be the changing style of the Healing Lodge. It was not uncommon to be told – by both women and staff – that the Healing Lodge was turning into a conventional prison, wherein staff could not focus adequately on the needs of the women, and the women had less time to concentrate on that which made the Healing Lodge unique; its Aboriginal dimension.

There was another reason for the change. Thirty-eight people underwent the original training and a number subsequently left. Their replacements were not exposed to the intense training of that first group, and came to the Healing Lodge with more traditional correctional approaches, altering the balance between the women and the staff. In 1998 the top tier of management remained largely untouched and still, with the exception of the Kikawinaw, non-Aboriginal. While it was never expected that the staffing of the Lodge would quickly reach a full complement of Aboriginal staff – there were too few in the system at large, and certainly too few with the requisite qualifications available locally – there was a barrier to promotion, because CSC was reluctant to change the rules so that capable local staff could be promoted.

Aboriginal culture and spirituality within a prison

There are always risks involved in new ventures, but the particular risk in the opening of the Healing Lodge lay in the use of Aboriginal culture and spirituality within a penal setting. As Faith (1995: 80) noted: 'Spirituality, the central force of

traditional healing, is the antithesis of a prison regime'. While Faith was referring to the voluntary nature of spiritual beliefs, it is important to understand that the Aboriginals were also offering, if not strictly imposing, a spiritual standpoint in much the same way that early prison reformers offered the principles of Christianity as a moral exemplar (see Ignatieff, 1978; Rafter, 1985; Hannah-Moffat, 2001). However, the crucial difference in the Canadian case was that spirituality could not be divorced from culture and, together, they contributed to an essentially Aboriginal perspective being offered within a prison setting. For the Aboriginal planners this combination was essential to the environment they were working to create. Many of the women who first arrived at the prison made the choice because they wanted to be in an Aboriginal environment while serving their sentences, but a woman's decision to go to the Healing Lodge did not necessarily mean that she felt a specific need to explore her own culture; rather, that she wished to be away from the 'dominant culture' of Euro-Canada, and to be surrounded by other Aboriginals. As I have already suggested, this left the women answerable to two sets of rules; the official correctional ones and implicit Aboriginal ones. In choosing to go to a prison where there would be a number of Aboriginal staff and a partially-Aboriginal daily routine, women were also agreeing to participate in the spiritual and cultural life of the prison. While for many this was a welcome choice, it is not the point I wish to make here, which is that the issue of choice for other federally sentenced women was never predicated on their agreeing to participate in a particular spiritual worldview. For Aboriginal women their choice was between a total package of environment *and spirituality and culture*, or a prison with few Aboriginals.

There are three issues which are of particular importance here. The first relates to the aspect of compulsion and whether this is compatible with participation in what are spiritual ceremonies. This element was clearly evident by 1998, when attendance at the morning ceremonies had become compulsory (see also Monture-Angus, 2000). Some of the women resented this coercion of spirituality because it debased something fundamental to their lives. Other women, who were perhaps discovering this aspect of Aboriginal culture for the first time, similarly resented the coercion, because it took away any element of choice.

The second relates to staff and their relationship with the women while participating in spiritual ceremonies. This is most visible in the Cedar Tipi, where staff are expected to join the women for the morning ceremonies (although few actually did by the time of my second visit, and even fewer by my third). The Circle then formed is meant to be a place of safety and confidentiality, where women can speak and not be judged. While women are likely to reserve certain matters for private discussions with Elders, the Circle in its intimacy invites relaxation of a woman's guard. Should a woman inadvertently reveal something during the Circle which might be thought relevant to her correctional record, staff are then brought face-to-face with the reality of their own positions; they are correctional officers and should record the information. The women privately expressed concerns about the changed nature of the Circle and said that they were extremely careful about how they joined in.⁵⁵ The ultimate concern was that information unintentionally disclosed during the spiritual circle might end up on a woman's official record and harm her future release prospects. This incorporation of Aboriginal spirituality for correctional purposes compromised the sanctity of the Circle. In such circumstances the Cedar Tipi could never assert its authority over the prison because it had become part of it. Kendall (1993: 84) suggests that those working in prisons should 'truthfully inform' prisoners of 'the realities associated with confidentiality and other related factors', but at the Healing Lodge these issues were blurred by the Aboriginal dimension. Aboriginal members of staff were expected to participate in, and respect, religious ceremonies – and, in effect, be equal to their Aboriginal prisoners – yet were simultaneously compromising Aboriginal spirituality by the possibility of having to breach confidentiality. This meant that they were in the invidious position of potentially betraying both their Aboriginal 'sisters' and their Aboriginal culture. Their role as correctional officer was undoubtedly made harder by their ethnicity. Non-Aboriginal staff were not placed in such doubly difficult situations (although they still had to inform, when necessary), but contributed to the compromising of Aboriginal culture by attending ceremonies which they only superficially understood. The tensions in attempting to provide an Aboriginal environment within a coercive setting were irreconcilable. They were also unlike anything that staff at the other new prisons faced, although they, too, had to balance being a guard with that of quasi counsellor and role model.

⁵⁵ Personal notes 1998

This leads to the third issue, that the ‘success’ of the prison will inevitably be judged by the ‘success’ of its prisoners once they return to the outside world. What is ‘success’? Is it the ability to stay out of prison completely? Or to stay out for twice as long as previously? Or to return with a lesser charge, because certain behaviour has been modified? Or will anything less than avoiding all conflict with the law be adjudged failure? If the judgement is failure, who or what will be blamed? Will it be the prison for failing to provide women with the tools of the ‘dominant culture’, so necessary for survival in the outside world? Will it be the women themselves for having failed to take advantage of what the prison offered them? Will it be CSC for having established an ‘Aboriginal’ prison over which Aboriginals had no final authority? Might it conceivably be the actual culture and spirituality of the Aboriginals themselves which is found wanting; will *they* be blamed for failure? And what of the women themselves? Having been exposed to this ‘Aboriginal’ prison, how will they react to having ‘failed’ as Aboriginal women? Are we, in fact, seeing the birth of an additional form of prison discipline, whereby women are regulated through their ethnicity? And, if we are, who should be held accountable – CSC, or those Aboriginal members of the Task Force who fought so hard for Aboriginal voices to be heard?

It is important that these questions are mentioned and considered because it leads back to the point I raised earlier; the extra responsibilities assumed by women who elected to transfer to the Healing Lodge. If we think of this in the context of Hannah-Moffat’s ‘responsible woman’, who is drawn into accepting responsibility for her own self-governance and, by extension, the good-order of the prison wherein she resides, we see that Aboriginal women are being asked to shoulder extra burdens. Comack (1996: 15) suggests that we should use the word ‘prisoning’ ‘to get at the process of confinement and individuals’ experiences of that process’. The word seems apt here, in that the process to which Aboriginal women are exposed has extra layers, one of which has clear connections to cultural and spiritual responsibility.

Alongside these points we also need to consider the importance of the Healing Lodge to CSC’s overall strategy, in the sense that the whole initiative has been perceived internationally – and some would say promoted – as a blueprint for

women's imprisonment. It cannot be assumed that what is appropriate for women in one country will necessarily be appropriate for women in another. This is even more the case when it comes to dealing with cultural elements of a plan. Madame Justice Arbour considered the Healing Lodge in some detail in her report, suggesting that: 'Qualitative program reforms of this kind [implementation of *Creating Choices*], if taken to their mature potential, could revolutionize correctional care for women prisoners ... Eventually, the success of program initiatives in women's corrections ... may serve as a blueprint for initiatives adapted to male offenders' (Arbour 1996: 218). This belief that programmes specific to a particular group of women are transferable – and translatable – needs to be treated with caution. It appears to be the reverse of what has traditionally happened to women prisoners, who have been offered what is appropriate for men, rather than themselves. When Aboriginal-influenced programmes are offered as part of a correctional package by a non-Aboriginal authority the question of ownership becomes murky and there is considerable risk of cultural expropriation.

It would be wrong, however, to assume that the Healing Lodge had nothing to teach the other Canadian prisons or, indeed, other countries. The very fact that the Lodge remained so free of trouble during its opening years suggests that much could be learned from it. One aspect stands out: to begin with, women at the Healing Lodge were not charged and mediation was used as a solution to problems. Charging was known to have an adverse effect on parole applications and this was the Healing Lodge's solution. As charging has an impact on all imprisoned women, mediation could be much more widely applied, with the proviso that it is understood to be a 'dominant culture' interpretation of the original concept, rather than the incorporation of Aboriginal cultural practices. Other sanctions have been applied at the Healing Lodge. On New Year's Eve, 1998 four women were found to be under the influence of prescription drugs and one assaulted another woman; all four were removed from the Lodge.

There have been also been allegations of sexual abuse at the Lodge, details of which I am unable to discuss, because of provisions of the *Privacy Act 1985*.⁵⁶ Following consultations with the female Elders, it has been decided that male

⁵⁶ Personal notes 1998

Elders may no longer be alone with any of the women. This offers protection to both the Elders and the women. Yet, whatever happened during the alleged incident, at the Healing Lodge, there is the historical dimension of physical and sexual abuse within residential schools, and its subsequent extension into Aboriginal communities, to be taken into account. Many of the women imprisoned at the Lodge have experienced sustained abuse during their non-prison lives (as have, it must be said, many other federally sentenced women). For Aboriginal women to be, or feel, exposed to further abuse while at the Healing Lodge lessens its authority as an Aboriginal-influenced institution. Yet prisons are places where acts of abuse and intimidation are common and it is this reality which collides with the visionary nature of what is aspired to at the Healing Lodge: to be a place where Aboriginal women may safely begin the 'healing' journey back to their communities. However, even that aspiration needs to be closely dissected because prisons are not places of 'healing'; they are places of involuntary confinement, where punishment is administered through the deprivation of liberty and autonomy. Perhaps the very name 'Healing Lodge' adds to the complexity of that expectation, with the gentleness of the wording implying support and comfort. Had the Lodge been named the Okimaw Ohci (Thunder Hills) Prison, would expectations have been lessened? I explore the contradiction of prisons punishing in order to heal in the final chapter.

Looking ahead and conclusions

I have raised questions which need to be considered, alongside the wish of the Nekanet Band to assume responsibility for the Healing Lodge under Section 81(1) of the *Corrections and Conditional Release Act*. The isolation of the Healing Lodge means that women serving very long sentences, of whom there are a disproportionate number at the Healing Lodge, will face considerable difficulties living in such a small community once they have exhausted programme possibilities. Will the Lodge have provided them with sufficient inner resources should they then choose to move to one of the other prisons? We also need to dissect the question I posed at the end of chapter six: did the continuing influence of the Aboriginals during the planning of the Healing Lodge enable a truly radical model of imprisonment to emerge?

But perhaps the larger question is whether Aboriginal women are being asked to show a degree of involvement in their own imprisonment unparalleled elsewhere, precisely because they are answerable to two disparate cultures: a correctional culture and an Aboriginal culture. Are they being regulated through their ethnicity? This obliges us to turn full circle, to the Task Force, in which Aboriginal women through sheer strength of character and argument, forced the Healing Lodge on to the correctional agenda. It should make us question the consequence of their pivotal role and ask whether they were right to overcome scruples about 'imprisoning their sisters' and become partners in the planning of a new prison? Might there not be personal consequences for them, too, should the original dream of a place where Aboriginal women could truly 'heal' turn out to be just another prison? Or, in the light of Aboriginal history, an adult residential school? These questions will be addressed in the concluding chapter.

9. The lessons learned?

It is now almost twelve years since *Creating Choices*, the Report of the Task Force on Federally Sentenced Women, was accepted by Commissioner Ingstrup and just over six years since the first of the new prisons opened. On the 6th July, 2000 the Prison for Women finally shut and the Task Force achieved what had been denied to so many other reformers. These three events encapsulate all that I have focused on in this Canadian story of an attempt to reform conditions of imprisonment for federally sentenced women. Individually they are significant, because of what they represented for the reformers, those responsible for implementation and, most importantly, the imprisoned women themselves. Collectively, they provide lessons which are not necessarily new. The cottage re-emerged to reclaim its historic position as a place of rehabilitation for women, wherein they might be encouraged to exercise choice and assume responsibility for their own lives. Yet appropriate choices were still defined by staff. The cottage remained a place of discipline, albeit one where the disciplinary impulse and responsibility had been partially transferred to the women themselves, under the guise of 'choice'. Guards, transformed into Primary Workers or Older Sisters, assumed the mantle of the early maternal reformers and were expected to instruct and socialise prisoners through example. Their new role only superficially belied the fact that their ultimate loyalty continued to reside with the correctional authorities.

Although the preceding chapters have focused on the first three prisons which opened, this is not to ignore the fact that there are two other prisons, in Kitchener and Joliette. Events at Edmonton and Nova delayed their opening until 1997, when CSC was finally able to claim that the implementation of *Creating Choices* had been achieved. As we know, this was not the case, because the maximum security women were by then barred from all of the new prisons and accommodated in annexes within men's prisons. Further, *Creating Choices*' projected community element was not funded by CSC, (and how this might have been realised should be the subject of separate research). With the 'difficult to manage'¹ maximum-security women removed from the central equation, the new prisons held a presumably less

¹ In this chapter I use the term 'difficult to manage' collectively to cover both maximum-security women, and those with mental health needs.

risky group, yet the minimum and medium security women – with the exception of those held at the Healing Lodge – were confined behind fences commensurate to the risk of maximum security women.² Additionally, all federally sentenced women imprisoned in British Columbia remained in their technological panopticon at Burnaby. It appeared that the implementation of *Creating Choices* benefited only a proportion of federally sentenced women, those classified as medium security, whereas the Task Force had resolutely planned for them all.

Six years later the situation has not improved. The physical attractiveness of the new prisons cannot hide the reality that minimum security women continue to live with disproportionate security (Moffat, 1991; Hannah-Moffat and Shaw, 2000; Hannah-Moffat, 2001). The maximum-security women, having been characterised by the Deputy Commissioner for Women as being ‘without the capacity for change’,³ appear (as we shall see) to have been abandoned, supporting the proposition that ‘reforms only reach a minority of prisoners’ (Gamberg & Thomson 1984: 136). This was far from the intentions of the Task Force and we must ask if its members should have anticipated such an outcome.

To begin answering that we need to remember those intense months during which the Task Force – and, specifically, the Working Group – edged towards the completion of *Creating Choices*. As has earlier been made clear, the Working Group: did not necessarily have a comprehensive knowledge of the consequences of attempted penal reform in other jurisdictions; had insufficient time to read thoroughly all the background material provided for them, including both Shaw’s (1991a) and Axon’s (1989) overviews of international trends and practice; wanted a *Canadian* solution to the problems posed by the Prison for Women. Additionally, the Working Group members’ diverse backgrounds and competing perspectives could only be reconciled by adopting consensus as an operating tool. Consensus led to the Working Group’s construct of the homogeneous, passive, victimised ‘woman’ and to the Group’s final failure – or refusal – to plan definitively for the few ‘difficult to manage’ women whom they reluctantly identified, as was related in

² It should be acknowledged that medium-security federally sentenced men do not have the degree of physical freedom provided for similarly classified federally sentenced women.

³ *Edmonton Journal* 9th September, 1998

chapter 5. The unusual aspect was that the civil servants, whose anticipated function was to influence and steer the tri-partite Working Group, were part of that consensus as well. With few exceptions, they also came to accept the characterisation of 'federally sentenced woman as victim', rooted as it was in the history of Aboriginal federally sentenced women. While the original impetus towards this could accurately be described as politically driven, in that the Aboriginal members of the Task Force were using the Task Force to focus upon the historic reasons for Aboriginal offending, the Task Force's eventual perspective was not one of simply excusing deviant behaviour. Rather, as I have previously explored, they wanted to situate the offending of all – not just Aboriginal – federally sentenced women in its socio-economic context and to show that women transcended the stereotype of the 'bad' or 'mad' offender. Aboriginal history could not be divorced from this process. The initial means of assembling the Task Force was a shared conscience regarding the safety of women within the Prison for Women. An unanticipated shared conscience regarding the treatment of Canada's Aboriginals became the reason for finally seeing federally sentenced women as 'victims' in their own right. This did not mean that the Task Force failed to accept that federally sentenced women had themselves created victims. Neither did it mean that federally sentenced women should be unregulated by the discipline of the prison. It meant that the solution they sought had to recognise the *Canadian* dimension of their enterprise, which involved acknowledging their colonial history.

It was this understanding, rather than the broader historical narrative of penal reform, which captured them all and enabled, for many, the discounting of the possibility that their carefully devised plan might later be captured by a less sympathetic implementation team. They were absorbed by what was appropriate for the Canadian federally sentenced women they had come to assume they knew, and the women's eventual shared identity incorporated the socio-economic dysfunction common to many Aboriginal women prisoners. In that context the lessons of penal reform from elsewhere seemed remote and irrelevant. Why, for example, should the redevelopment of the infinitely larger Holloway have been seen as an exemplar, when it was planned exclusively by civil servants – as an eventual secure hospital – for a much smaller catchment area? They felt they were breaking new ground and,

however naïve that might appear at this remove, there was a rationality attached to it, because of the cultural element and the logic of geographic dislocation.

However, it is what brought two of these three disparate groups – CAEFS and NWAC – to the Task Force which provides perhaps the clearest answer to whether they should have anticipated the derailment of their project. Those organisations had suspended their instinctive distrust of ‘the prison’ because of the stark fact that the Prison for Women was a life-threatening institution (as are most prisons). They were troubled by the responsibilities they shouldered and the possibility that their work might lead to further ‘oppression’⁴ of federally sentenced women. Yet neither group could fully allow themselves to contemplate the eventual failure of the Task Force, because that would almost certainly mean that more women would die, should they remain in Kingston. Simply continuing to call for the Prison for Women’s closure was no longer an option for CAEFS and NWAC. (The civil servants, on the other hand, needed no such rationalisation as the Task Force was an extension of their professional lives; they *had* to provide a realisable plan for the Commissioner.) In the final December, 1989 Steering Committee meeting, during which the almost completed report was discussed, an Aboriginal member queried *Creating Choices*’ failure to discuss the fact that there were ‘two schools of thought’ on the Task Force (the abolitionists and the reformers), and suggested that the omission might leave readers puzzled by the seeming lack of consensus on some matters. While the Task Force was united by a shared conscience regarding the safety of those in the Prison for Women, addressing what *divided* them – those ‘two schools of thought’ – offered the very real prospect of the Task Force collapsing around them. Put simply, an acknowledgment by CAEFS and NWAC of possible failure of the Task Force would have removed any justification for their participation.

So the important underlying question is whether the voluntary sector members were right to set aside their individual reservations about the enterprise and actively join with the civil servants in the planning of new prisons. On the simple grounds of humanity, they were; they could not, having finally been offered the chance to effect

⁴ Working Group Minutes 13th – 14th April, 1989

change, stand on principle and watch more women die within the Prison for Women. Yet to participate – for the best of reasons – was also to accept responsibility for the possible consequences, and the closure of one dangerous prison did not mean that their solution would necessarily be a safer one. In accepting the challenge and the risk the Task Force firmly allied itself with the long tradition of benevolent reformers. While both Rothman (1980) and Cohen (1985) suggest we should distrust the outcome of penal reformers' good intentions, this is not to say that benevolence itself should universally be distrusted. Without benevolence and identification with those oppressed by the state, or conglomerates, or individuals, we would remain in stasis. In the sphere of criminal justice we would not have seen the influence and achievements of the victims' movement; we would not have seen changing attitudes towards domestic violence, or abuse of children, with concomitant changes in legislation. However, Rothman and Cohen are right to warn us of the unintended consequences of benevolence within the specific sphere of prison reform, and to alert us to the historic parallels which demonstrate that the correctional enterprise has an astonishing power to subvert and reinterpret 'good intentions'. Bureaucratic institutions resist attempts to change them from the outside. Moreover, civil servants have little incentive to work towards successful change, irrespective of the public rhetoric, because of the consequent diminution of their power and authority. It is the incorporation and distortion of benevolence within a larger correctional agenda which we should guard against.

But in this Canadian story it is not simply the bureaucrats who bear the final responsibility for what has unfolded, despite being responsible for implementation. The Task Force itself presented a report which unfailingly glossed over the difficult issues. The language of *Creating Choices* distorted the reality that it was a document about imprisonment: that it was concerned with the building of new prisons, rather than places where women would simply 'heal'; that it was concerned with *offending* women, rather than women with multiple problems. When the language of victimisation prevailed it became almost inevitable that the Task Force would not – and could not – plan specifically for the 'difficult to manage' women, in part because the image of the homogeneous federally sentenced 'woman' had already been constructed. In transforming federally sentenced women into an idealised 'woman' the Task Force determined the nature of the rest of their planning,

and that 'woman' became the touchstone for all that ensued. The cottages, so often devoid of staff, reflected her low risk, as did the absence of fences and the small enhanced units. The range of accommodation was inevitably limited by the 'woman's' apparent lack of diversity. The new staff, responding to her low risk (but high needs) profile, had a brief more akin to that of social workers than actual guards – and were then bewildered by her unanticipated reality. Having stripped this 'woman' of her diversity, the Task Force ensured that she could not then re-emerge as a possibly violent or disturbed woman, because that would have shaken the foundations of the Task Force's original conception. In denying the multiplicity of women, the Task Force – inadvertently – helped set them up for failure once they transferred to the new prisons. These diverse women could not collectively respond in the calculated, rational manner so essential to the realisation of the plan, and the more they responded (inappropriately, as it seemed) to the new regime, the more they appeared to be in need of restraint. The question became not one of whether extra restraint was necessary, but why. The demands and physical inadequacies of the new Edmonton prison overwhelmed a proportion of the women but, in interpreting this outcome, the public assumption appeared to be that it was the *women's* failure, rather than that of the prisons themselves.

Nevertheless, the civil servants and the correctional hierarchy bore a particularly heavy and final responsibility for what transpired, because they allowed Edmonton to open before it was physically complete and then transferred a disproportionate number of maximum security women to its inadequate Enhanced Unit. These decisions had a profound effect on all the other prisons. The bureaucrats were also responsible for the training which failed to prevent staff at Nova, post-Arbour, from treating a woman with flagrant lack of care (see CSC, 1997a). The spirit of the Task Force was unable to survive either the pressures of planning, or the pressures of politicians, once the prisons opened, despite the fact that some of the Task Force's civil service members were involved in much of the implementation. We might return to Rothman to summarise the outcome: 'Progressive innovations may well have done less to upgrade dismal conditions than they did to create nightmares of their own'. As we shall see, one of the outcomes of this particular venture has indeed turned out to be nightmarish.

The consequences of involvement in the Task Force have been various for the four distinct groups represented. The civil servants have seen their working estate increase and achieve a higher profile. The non-Aboriginal voluntary sector is inextricably linked to a plan it helped devise, but played no part in implementing, and can now only criticise from the sidelines. The Aboriginals have an allegedly Aboriginal prison which denies entry to a significant number of Aboriginal women, who are now even more isolated from the rest of the federally sentenced women's population by virtue of their security classification. A good proportion of federally sentenced women continue to live in conditions of security disproportionate to their actual risk, as they did in the Prison for Women. Furthermore, they appear to have been blamed by CSC for many of the problems which emerged at the new prisons, despite the fact that CSC itself bore a considerable responsibility (and acknowledged this in an internal presentation called 'The Lessons Learned' in June, 1996). These strands come together in the two issues I now explore: the consequence of the Task Force's (or more specifically, the Working Group's) failure to plan for the 'difficult to manage' women; the question of whether the Aboriginals have actually turned out to be the 'great winners' of the whole enterprise, as chapter 5 suggested might be the case.

Finally providing for the 'difficult to manage' women

Chapter 6 explored the development of the Enhanced Units and the fact that they were not planned by the Task Force. It also showed how the Task Force's tentative identification of five percent of women possibly needing extra support and supervision was increased to a figure of ten percent by CSC within the space of a year. Most of the new Enhanced Units were consequently doubled in size. While the Task Force's unwillingness to quantify the problem can be understood, both in the light of its reluctance to 'label' and in CSC's subsequent unblushing adjustment of the numbers (again, see chapter 6), it cannot be said too forcefully that the Task Force's refusal to address this significant group opened the door for CSC subsequently to impose its own interpretation of, and solution to, the problem. Twelve years later, we can assess more fully the importance and consequence of the Task Force's failure.

As the new prisons began to receive the first groups of women, and events, particularly at Edmonton, impinged on the national consciousness, it seemed that significantly higher numbers of women did not 'fit' the new 'theories' of imprisonment, as Deputy Commissioner for Women Nancy Stableforth suggested at the fatality inquiry into the death of Denise Fayant. Neither did it seem that the prisons were adequately designed to cope with these women. We know, however, that the *Creating Choices* model was never fully tried at Edmonton and that the prison's unfinished state played a major part in contributing to the unravelling of its supposed dynamic security. Pressure to close the Prison for Women, and the demographic fact that large numbers of Aboriginal women lived in the Prairies, and were classified as maximum security (and ineligible for the Healing Lodge), led to a disproportionate number of maximum security women being sent to Edmonton within a very brief period. Once the incidents began, it appeared to the public that more federally sentenced women were 'high risk' than had earlier been thought. CSC was under increasing political pressure, which culminated in the removal of most of the women from Edmonton to separate secure units in male prisons. CSC then had to decide whether or not the most problematic women should ever return to the new prisons.

In September, 1999 CSC announced its Intensive Intervention Strategy for the 'difficult to manage' women, which was for the creation of secure units and Structured Living Environment (SLE) houses at Nova, Edmonton, Joliette and Grand Valley. The Healing Lodge was exempt from the plan. The existing Enhanced Units were to be upgraded and become totally separate secure units within the perimeter fences of the prisons. Maximum security women would be kept apart from other federally sentenced women, but have 'the opportunity and flexibility for integration into the less secure part of the prison' by virtue of being accommodated in the prison (CSC, 1999). Minimum or medium security women, with mental health and / or special needs, were to be assigned to the SLEs and have 24-hour staff supervision and support. It was estimated that 'approximately 30 women' would be in the secure units and 'approximately 35 women' (within the then federally sentenced women population) would be in the SLE's. A woman may refuse to enter a SLE, but faces the possibility that she could be confined in maximum security if she fails to cope with life in one of the unstructured houses.

Enhanced Units have two functions. They accommodate maximum security women and those who are in administrative segregation (from any security categorisation). (All life-sentenced prisoners now have to spend two years under maximum security conditions.) Cells classified as being for purposes of segregation are *not* counted as part of the official capacity of each prison, as it is assumed that they will be occupied intermittently by women who will shortly return to the general population. However, we know that at Edmonton the existing Enhanced Unit was capable of holding 24 women because of the possibility of double-bunking (see chapter 6; CSC *Board of Investigation Report* 1996b), yet it officially only added six beds to the rated capacity of the prison.⁵ The new secure units contain single cells, but might again be used for double bunking in exceptional circumstances if a Warden obtained permission from her Regional Deputy Commissioner.

It has been difficult to obtain totally accurate figures for what the 'regular' capacity of the prisons themselves was first intended to be. CSC's publications give slightly differing figures, but they are not significantly at odds with each other. For the purposes of this chapter I will work with the figures published in 1995 (see CSC, 1995b). The Enhanced Units are not included in any of the official capacity figures. Using the 1995 figures for regular beds, and adding the Enhanced Unit beds, we can see the following:

Table 4. Bed Provision When New Prisons First Opened

	regular beds	Enhanced Unit beds	total
Nova	28	3	31
Edmonton	56	6	62
Grand Valley	70	8	78
Joliette	76	8	84
Healing Lodge	30	-	30
	260 (91%)	25 (9%)	285

These figures show that CSC originally provided space in the Enhanced Units for slightly fewer than the projected 10 percent of women labelled 'difficult to manage'

⁵ Double-bunking has to be approved by the Commissioner of Corrections, under CD 550.

in their 1992 Operational Plan. By adding the 17 segregation cells to these figures, the capacity is increased by a further 6 percent, making a total of 15 percent of all beds available for those women. (I do this knowing that segregation cells are not part of a prison's official capacity, but that they were used as such at Edmonton).

At the same time it was planning to expand the secure and SLE provision at each of the prisons, CSC also decided to add further regular houses at Nova, Edmonton and Grand Valley, increasing regular bed capacity by 54 places. (A further ten beds will be built at Edmonton when funding permits, but are not included in the following calculations.)

If we now include the latest figures we have the following:

Table 5. Anticipated Bed Provision Upon Completion of Re-Building

	regular beds (old) (new)	Secure Unit beds	SLE s	total
Nova	(28 + 28) 56	10	8	74
Edmonton	(56 + 10) 66	15	8	89
Grand Valley	(70 + 16) 86	15	8	109
Joliette	76	10	8	94
Healing Lodge	30	-	-	30
	314	50 (13%)	32 (8%)	396

This last set of figures shows that provision has been made for 21 percent of total bed capacity to be available for women thought to be in need of the Intensive Intervention Strategy, with secure unit beds increased from 1999's projected figure of 30 to an actual figure of 50. If we then add the segregation cells to these figures – whose numbers have been slightly reduced to 15 – a further 4 percent of beds become available, bringing the total number of beds available for intensive supervision to 25 percent. Even if we ignore the segregation cells, as is official CSC policy, when these new units are completed the bed capacity for federally sentenced women will be increased by 39 percent compared with when the prisons first opened. Based on past precedent, we cannot be confident that segregation cells will never be used to accommodate women on a more permanent basis should inmate figures increase even more rapidly than anticipated. These calculations should also be seen in the context of the increasing numbers of women sentenced to federal

terms of imprisonment since the new prisons opened, and for whom CSC has had to provide – a 55 percent increase since *Creating Choices* was published.

It must not be forgotten that, although the Healing Lodge appears to have been largely unaffected by these changes, this is not the case. With more women being sentenced to federal terms, and with 21% of all federally sentenced women being Aboriginal, we can deduce that approximately 80 women should theoretically be eligible for the Healing Lodge, even though we know that there have always been restrictions on who would be admitted. Aboriginal women are disproportionately likely to be classified as maximum security, or to be assessed as in need of help with mental health problems. The outcome of these changes in bed provision will have an excessive impact on Aboriginal women and leave them further isolated from the general inmate population.

The most alarming and contradictory aspect of this strategy is that at least 21% of federally sentenced women will be subjected to increased levels of intervention and supervision within prisons which were meant to offer them choices and autonomy. The possibility of empowering women, under these circumstances, to take responsibility for their own lives (as well as accept responsibility for the dynamic security of the prison itself) appears remote. Yet, CSC would counter this by saying that if, as an organisation, they were unconcerned by the needs of these women, they would not have commissioned extensive research into their needs. Neither would they have incurred the vast expenditure necessitated by the implementation of the Strategy. Indeed, that if the perceived failure of implementation had been solely the fault of the women – a point which I have earlier raised – then a more traditional correctional approach could have been adopted. It is right that we should remember that plans may be introduced by correctional authorities because they, too, are concerned about the needs of the women.

However, the Intensive Intervention Strategy has not been CSC's last word on the subject of 'difficult to manage' women. A *Management Protocol* for maximum security women involved in major incidents is currently being considered. This consists of three stages, which are much abbreviated in the following summary:

- **Stage One** The woman concerned will be subject to an 'emergency involuntary inter-regional transfer' from her current prison to a segregation unit, within a Secure Unit, in another prison. She may have no contact with other prisoners and is to be 'in restraints' when outside her cell, with these being fitted through the food slot. Her door may only be opened by two officers and, depending upon her assumed risk, one officer may be carrying OC (oleoresin capsicum, i.e. pepper) spray. If she has to leave the Unit, for whatever reason, she must be handcuffed and in leg irons and in the company of three staff;
- **Stage Two** The woman will continue to reside in the segregation unit and will gradually be permitted access to programmes available within the Secure Unit. She will have some contact with other prisoners in segregation but, should she have to leave the Unit, will also be in restraints and in the company of two staff.
- **Stage Three** The woman will gradually be reintegrated into the Unit, but her access to activities outside the Unit will be dependent upon her assumed risk.

The latest draft of the *Protocol* suggests that, although 'the time frame is not fixed, an inmate will probably need a minimum of 6 months to successfully complete the steps of the Protocol to ensure she no longer jeopardizes the safety and security of the institution' (CSC, 2002). No decisions regarding placing a woman on the *Protocol* may be taken without the consent of the Deputy Commissioner for Women, and all policy and legal requirements must be respected. If the woman's behaviour deteriorates to the extent that administrative segregation is justified, she can be returned to *Step 1*.

If this *Protocol* were to be implemented it would be a complete denial of all that *Creating Choices* hoped to achieve for federally sentenced women. Moreover, it would appear to be in contradiction of the clear intention of Section 31 of the *CCRA 1992* that prisoners should not normally be kept in segregation for more than 30 days at a time (although this may be increased to 45 days, if multiple convictions are involved) (see Arbour 1996: 185). It also contravenes the existing Commissioner's Directive (CD) 590 regarding the length of time prisoners may be kept segregated, because women placed on the *Management Protocol* may be returned to Stage 1

whenever their behaviour seems to require it. In practical terms, this means that a women might, theoretically, be liable to unlimited periods of segregation. Arbour was particularly concerned about CSC's 'frequent violation of the rules and regulations governing detention in segregation' and quoted the Correctional Investigator's concern that past practices might re-emerge in the new prisons (Arbour 1996: 187,191).

If the *Management Protocol* should be introduced, CSC will have exceeded Arbour's worst imaginings. She documented the long-term damage segregation caused to prisoners' mental health and this was reinforced by Martell, who suggested that 'confinement in such conditions produces severe effects often detrimental to their [women's] attempts at rehabilitation or, as the more recent correctional discourse intends it, at *healing*' (Martell 1999: 105, original emphasis). The degree of staff surveillance and supervision necessary for the monitoring of any woman subject to the Protocol, combined with the isolation from her peers, would be an extraordinary about turn. In practice, it would be producing segregation conditions worse than ever prevailed at the Prison for Women. It might be countered by CSC that they are presently faced with a very small group of women who disproportionately, and chaotically, disrupt the regimes of the existing Enhanced Units. But to provide specifically for them offers a vista of providing, even more rigorously, for a sub-group within that small group. Where does maximum-security end?

Should CSC again resort to 'emergency involuntary inter-regional transfer[s]' this would take federally sentenced women back to the situation so painfully highlighted during the life of the Task Force, when Sandy Sayer, an involuntarily transferred provincial prisoner, committed suicide. One of the main reasons for the closure of the Prison for Women – as highlighted in the Motion sent to Ole Ingstrup following the death of Ms Sayer, and the Emergency Recommendations issued at the same time as *Creating Choices* – was that women should be held in their own provinces. Mr. Ingstrup conceded that issue when he immediately arranged for inter-provincial transfers to cease on the day that *Creating Choices* was first published. The return of such a correctional option would be a devastating blow to the credibility of *Creating Choices*.

Expropriating culture

While this story is about the consequences of the reforms for all federally sentenced women, it is also very specifically about the consequences for the disproportionate number of Aboriginal federally sentenced women. The failure to recognise their needs, and thus to include them in the Task Force, was historically unsurprising. Aboriginals have been the backdrop to Euro-Canadian history since colonisation began; a group of Nations, displaced from their own lands, removed from their cultures and never seen as being at the forefront of their country's history. NWAC understood this and insistently pushed for greater inclusion in the Task Force. The organisation finally succeeded in an unprecedented manner, politicising the deliberations, imbuing the final report with Aboriginal 'language' and perspectives, and eventually becoming influential partners in the planning of the Healing Lodge. So, were the Aboriginals the 'great winners' of the Task Force?

Prisons have always been sites of political action. They represent the power of the state to discipline and warehouse its citizens and embody the political spirit of each age, making resistance by some prisoners and reformers to that spirit inevitable (Kidman, 1947; Sullivan, 1990; Culhane, 1991; Adams, 1992). Prisons are also the focus of public approbation, again reflecting a prevailing political ethos. Yet while prisons are seen to be a means of 'warehousing' the 'dangerous' citizen (Christie, 1993), they do not resolve the point that most of these citizens will eventually return to the community from which they were ejected (Coyle, 1994). While resistance within the prison might take the form of disorder, in women's prisons it most commonly centres on the self, being manifest in self-mutilation, at its most extreme, and in quiet strategies of survival adopted by individual women (see Bosworth, 1999).

The Aboriginals saw a government-sponsored Task Force as a vehicle both for expressing their own resistance to Euro-Canadian authority, and furthering the interests of Aboriginal federally sentenced women. This meant, paradoxically, that they were using what was for them an illegitimate Euro-Canadian legal body ('Our Peoples ... have never consented to the application of Euro-Canadian legal systems' (TFFSW 1990: 17) to demonstrate their rejection of Euro-Canadian law. The

outcome was that they then became responsible, to an extraordinary degree, for the planning of a new prison. Yet prisons were not central to Aboriginal justice, so they were again adopting Euro-Canadian constructs in order to achieve greater separation from the dominant culture and their own means of 'healing' Aboriginal women. This was a careful and risky calculation. In becoming partners with CSC – an organisation which had hitherto not shown itself to be trustworthy in its treatment of their peoples – the Aboriginals risked the possibility of further incorporation, as both they and CAEFS had done when the Task Force was first undertaken. Additionally, the Aboriginal members of the Healing Lodge Planning Circle (HLPC) were having to be the 'voice' of imprisoned Aboriginal women, which presupposed an intimate familiarity with imprisonment itself, and placed them in a position similar to European and North American prison reformers. As we know, imprisonment was a part of the Aboriginals' daily lives in that their families and communities had all been touched by it, and one member had been a federally sentenced woman herself. But this did not remove the fact that, despite their personal knowledge, they were planning for a captive population and could only be an approximation of the captive voice, in a manner similar to the non-Aboriginal members of the Task Force.

As the records of the HLPC show (see chapter 8), the Aboriginals resisted the planning methods of CSC and were frequently successful in overcoming them. But, having contributed to planning a prison which *reflected* Aboriginal principles – they ended up with its day to day running left firmly in the hands of non-Aboriginals (with the exception of the Kikawinaw). Moreover, they were non-Aboriginals with little previous exposure to Aboriginal culture or spirituality, whose brief training could not hope to provide them with more than a superficial understanding. With hindsight, it seems that Aboriginal participation in the planning of the Healing Lodge might have facilitated CSC's expropriation of a philosophy and way of life for its own purposes, even though the proportion of Aboriginals employed at the Lodge was markedly higher than at other federal prisons for women. As we also know, CSC ensured that Aboriginal participation would be restricted in the day-to-day running of the Lodge when it signed the *Memorandum of Agreement* with the Nekaneeet, and the story unveiled so far has charted the steady decline of local Aboriginal influence within the prison (also see Monture-Angus, 2000). So ostensibly the Canadians built an Aboriginal prison but, in practice, the Aboriginals

now have relatively little to do with the most important aspects of its management and have allowed Aboriginal women to be additionally regulated through their ethnicity and culture. This is not to say that Aboriginal beliefs are ignored or entirely absent from the new prison, but to make the point that Aboriginal influence is mediated through the authority of both CSC and its Euro-Canadian employees.

With this background knowledge we should be asking if a prison can ever be a Healing Lodge. Can women 'heal' within prison and should we assume that principles of discipline may coexist with cultural and spiritual values and contribute to a healing environment? It might be argued that to accept any belief system is to accept a form of discipline, yet the discipline is more about self, rather than imposed, control. We might extend this argument and accept that CSC's new strategy of 'responsibilising' women prisoners also requires the exercise of self-control, yet this is simultaneously an externally imposed control made necessary by the 'choices' philosophy of the new prisons. Aboriginal women electing to be transferred to the Healing Lodge have to accept that the symbols of Aboriginal culture and spirituality – such as the use of sweetgrass ceremonies, the Cedar Tipi and the sweatlodge – will be components of their imprisonment. One group will accept the symbols at face value and find them a means of support as they attempt to evaluate their own lives. A second group will accept them as a 'contemporary identity that is a reaction to oppression ... supported by age old traditions ... recast as answers to contemporary problems' (Waldram 1997: 217). They will have decided to cloak themselves in the symbols of their Aboriginal identity and participate in ceremonies, while not necessarily accepting the beliefs that underpin them. A third group will accept ceremonies as the price they must pay to be with other Aboriginals, even though they would not choose to do so outside the prison.

Having made their individual decisions there is little doubt that some women derive a healing strength from these symbols and, as Waldram contends, 'symbolic healing' is more concerned with ... teaching people to cope with trauma and dysfunction' than with achieving a 'cure' (Waldram 1997: 73). But, as Kendall (1993a) demonstrated regarding the Prison for Women, prisons are unsafe environments for women attempting to unravel the complexities of their lives. Prisons can be extraordinarily dangerous places because they isolate, rather than

consistently support, prisoners undertaking a 'healing' journey. The presence of counsellors – or Elders – is no guarantee that the prisoner will be undamaged by the journey. The Healing Lodge offers more than conventional prisons, in that it is not hemmed in by walls, or built in the least attractive part of a city. There is a sense of space and *potential* freedom, as well as access to the Elders, but if the 'healing' is seen as being imposed, it can never be anything other than a form of discipline (Bruckert, 1985). The fact that the Elders are working alongside the correctional authorities must raise questions about their ultimate responsibility and loyalty because, in the same way that the Kimisinaw (guards) must breach the confidentiality of the healing circle, should certain information be revealed, the Elders face constraints of their own. They cannot work in a fully Aboriginal manner and must adopt dominant-culture styles of operating. Waldram (1997) cites instances of Elders working within male prisons being obliged to try and fit ceremonies and counselling into the correctional timetable, and the reluctance of management to accept that such events differ greatly from those common in, for example, the Christian tradition. This uneasy relationship with the correctional authorities compromises the Elders' traditional role of priests / counsellors / healers, and brings them into conflict with their own Aboriginal traditions, forcing them to become more European in their strategies in order to avoid outright conflict (also see Ross, 1996).

The Elders' quandary reflects the wider issue of prison reformers attempting to 'do good' while collaborating with corrections, but is made more specific when issues of race, culture and spirituality converge. In an Aboriginal context this means a denial of traditional justice based on mediation and the restoration of individuals to their communities, because individuals working with corrections have no choice but to collaborate if they are to be allowed to assist Aboriginals subject to Euro-Canadian law and punishment. All Aboriginals working within the correctional system have to compromise their Aboriginal identities because they cannot ignore the constraints under which they work. These compromises become apparent to prisoners, who soon realise that they are being offered an 'Aboriginal-lite' environment and that even this can be reduced by the demands of bureaucracy and security.

There is a wider dilemma here which links this Aboriginal-inspired prison to the extended prison network. The debate about the extent to which Aboriginal culture and spirituality should be part of penal discourse reflects the older question of providing therapy within prisons. The wish to transform prisoners can be traced to the early reformers, such as Fry, who first saw that prisons might have a function other than a punitive one. It survives in the use of the word 'corrections', with the implication that prisoners may be 'corrected' or, by extension, 'cured' of their offending behaviour (see Duguid 2000:33). The model most explicit at the Lodge is one of healing and encapsulates, despite the fact that it is taking place within an Aboriginal prison, the dilemmas posed by the bifurcated tensions of the therapeutic model. This is centred on the dual roles expected to be played by staff, whose difficulties we have seen rehearsed at the other prisons, where they frequently found the competing demands irreconcilable. The Healing Lodge faces similar problems, which are exacerbated by the dimensions of culture and spirituality. Prisoners at the Healing Lodge must undergo the same programmes provided for other federally sentenced women, yet are doing so in the context of an environment which relies largely on other Aboriginal women to be frontline guards and role models. The Healing Lodge is in many respects another version of a therapeutic community, wherein the women and the staff are expected to be 'mutually responsible', while experiencing 'intensive social interaction' (Rotman 1995: 170). While a few prisons, such as Grendon in the United Kingdom, have partially overcome the problem of reconciling authority with treatment, 'the externally imposed requirement that the treatment-oriented prison restrain and punish the inmates who are being treated also creates *internal* conditions that make transformation of the organisation into a true treatment centre extremely difficult' (Cressey 1960: 505). Mutual responsibility is largely unattainable in any coercive environment and at the Healing Lodge the staff are responsible to CSC, rather than to the women. This means the subordination of culture and spirituality to the correctional enterprise and imposes separate strains on Aboriginal staff.

This leaves us with the uncomfortable thought that perhaps the Healing Lodge was itself an unwise concept – even though we might see the integrity and desperation which inspired it – because the compromises necessary for a prison meant that too much was lost in terms of Aboriginal identity and honour. In the hands of CSC

culture and spirituality became but concepts on which to hang another style of imprisonment, despite their initial acceptance of the legitimacy of an Aboriginal prison. They also became concepts which could be 'sold' to other jurisdictions by corrections. So while a new model of confinement might have been developed for Aboriginal women, it was still imprisonment, and therefore a non-Aboriginal construct. As I have earlier suggested, the consequences of this development for Aboriginal federally sentenced women have been very specific. In a coercive environment they have become part of a doubly-responsibilising strategy. Aboriginal federally sentenced women are now answerable to two authorities; CSC, and their own Nations, as represented by the Elders and the Ke-kun-wem-kon-a-wuk. Their instincts might incline them towards Aboriginal authority, but the reality remains that the Healing Lodge is a Euro-Canadian operated prison. In order to overcome the hurdles imposed by Euro-Canadian laws, and reach their parole eligibility date, Aboriginal federally sentenced women must primarily abide by the demands of the dominant culture. Aboriginal women – and their Elders – are being asked to compromise and deny their Aboriginal heritage by an organisation which has only a superficial grasp of what this might mean. And when women fail, as some inevitably will, it is likely that it will be the Aboriginals' vision of a prison which is blamed, rather than the actual source of discipline, CSC.

So, were the Aboriginals right to join the Task Force and fight so hard for the primacy of their views? What cannot be ignored is the fact that most of the women dying in the Prison for Women were Aboriginal and on that basis alone NWAC could justify their decision to participate, as had the other voluntary sector members. Whether they should have taken the next step and become involved in planning a Healing Lodge is far harder to answer. While I share Waldram's conclusion that Aboriginal culture and spirituality have a part to play in the healing of Aboriginal prisoners, I am not convinced that an Aboriginal prison itself has a part to play in the restoration of Aboriginals to their own communities, as the history of the prison teaches us that prisons have an extraordinary power to adopt the language of reform and subvert it. The incorporation of Aboriginal beliefs into penal discourse can only weaken the authority of Aboriginal culture once prisoners see that it has no final power over Euro-Canadian belief systems, as has become painfully apparent at the Healing Lodge, with the now compulsory attendance at the morning Spiritual Circle.

The Aboriginal members of the Task Force might have been left in a less distressing position had they simply pushed for the employment of more Aboriginal staff within the new conventional prisons, rather than for a so-called Aboriginal prison now run by Euro-Canadians. By this means Elders could have continued to participate in the life of each prison openly, while acknowledging the limitations – imposed upon them by their relationship with CSC – which have a particular impact upon confidentiality. At the Healing Lodge the women need immediately to be aware that they cannot assume matters disclosed to an Elder will remain private.

The advent of Section 81(1) of the *CCRA*, whereby Aboriginal communities can apply to ‘provide correctional services for Aboriginal offenders’, offers a means for Aboriginals to take responsibility for offenders within their own communities, albeit still under the authority of Euro-Canadian law, and it will be instructive to see what solutions Aboriginals eventually find solely for themselves. Having been inextricably linked to the planning of the Healing Lodge the Aboriginals cannot now avoid being linked to its outcome. As I suggested in chapter 8, failure at the Healing Lodge could lead to the creation of an Aboriginal-inspired and sanctioned version of the despised and discredited residential schools, wherein Aboriginal women are subjected to discipline in order to make them ‘good’ Aboriginals, as opposed to ‘good’ Canadians. The Aboriginal members of the Task Force and of the HLPC have all taken a tremendous risk.

And yet, and yet ... it remains hard to be largely critical of the enterprise. The position I have taken is, in many respects, based upon a critical examination of the compromises required of Aboriginals, flowing from their participation in the planning of the Healing Lodge. The position itself can be subject to criticism because it concentrates on questions relating to loss, rather than what might have been gained by the enterprise. While I believe it is essential that we should examine the consequences of the incorporation of culture and spirituality into penal discourse, in order to broaden our understanding of the way in which bureaucracies warp intentions, I accept that the perspective is also distorted if we do not include what is gained by the process of reform. What cannot be denied is that some Aboriginal federally sentenced women have derived support and comfort from the Healing Lodge. They are not necessarily concerned about some of the issues I have

explored in this chapter and have found at the Healing Lodge the personal space to reconnect with who they are as Aboriginal women. They might not all have succeeded in avoiding a return to prison, but have begun a journey which might finally enable them to achieve that. My assumption is that the Aboriginal members of the Task Force would take comfort from that possibility, because few of their 'sisters' would have found such strength within the Prison for Women.

Learning the lessons?

The risk of failure is not confined to the Healing Lodge. One of the main concerns of the Task Force was that their work might lead to the creation of five mini-Prisons for Women, and the advent of the new Secure Units suggests that four of the new prisons are perilously close to realising that fear. The prisons face enormous challenges as they enter a new phase. With only one exception, they all have new Wardens and, with other staff also leaving, the vision of *Creating Choices* is now dependent upon the skill and commitment of those who have assumed their roles. The woman-centred training, so essential when the first staff were being recruited, was reduced by half, and some new workers transferring from other prisons received none at all.⁶ Although this has implications for all the prisons, especially as more men are hired,⁷ it has a particular impact upon the Healing Lodge, where staff underwent training of a quality and depth which could have been the exemplar for the rest of the prisons.

Whatever my criticisms of *Creating Choices* might be, the report undoubtedly contained a visionary, if utopian, model of imprisonment for federally sentenced women. Had it been fully implemented, a larger proportion of federally sentenced women might have benefited from the greater degree of physical freedom which it anticipated. However, this Canadian model has also demonstrated the 'severe limitations of seeking change through the justice system' because of the 'unequal impact of reform' (Shaw 1997: 11). More specifically it has highlighted the manner in which bureaucracies incorporate the language of reform, redefine its meaning and

⁶ The women-centred training has recently been re-instated as a 10-day course.

⁷ The Cross Gender Monitor was appointed by CSC following a recommendation of Mme. Justice Arbour. The Third Cross Gender Monitoring Report (2000) recommended that males should no longer be hired as front-line Primary Workers because CSC had failed to pay attention to the Project's earlier recommendations regarding how men might be deployed.

strip it of context. Because the Task Force remained faithful to its largely feminist instincts in refusing to ignore the women's 'before-prison' lives, it has been criticised for the way in which it characterised the majority of federally sentenced women as victims of socio-economic exclusion. This perspective largely did not survive implementation and the reality of the women's lives outside prison, most often defined by poverty, racism, abuse and limited choice, impinged little on the way the women were subsequently provided for by CSC. The women were seen as in need of help to address the offending which had led to conviction, and their offending was frequently dealt with as an innate part of their pathology, rather than as a response to exclusion. By using the language of feminism – such as 'empowering' women to make 'responsible choices' – in an official correctional document, the Task Force unwittingly permitted CSC to appropriate and re-define the language. As Hannah-Moffat (2000: 190) shows, 'feminists and correctional officials have conflicting interpretations' of this shared language and the Task Force could not disown the language once it was subsequently reinterpreted. The woman-centred vision of the Task Force, however well intentioned, ignored the reality that prisoners are often rendered powerless by virtue of their containment, and that 'empowerment' is limited by both lack of power and the inability to choose freely.

As has been articulated in more detail elsewhere, prison is frequently seen as the site wherein offending women's needs may best be addressed. There is a widespread tendency to assume that 'something must be done' with prisoners, simply by virtue of the fact that they are held captive. Indeed, CSC is legally mandated to work towards the rehabilitation of prisoners. Yet the stigma of prison is later carried into the community by those women whom the prison sought to 'correct' (see Carlen, 2002; Hannah-Moffat, 2001, Hannah-Moffat and Shaw, 2000; Kendall 2000, Eaton, 1993). In suggesting that each prison should be 'programme driven' and how this might 'holistically' be accomplished (TFFSW 1990: 118), the Task Force did not seriously challenge the orthodoxy that women should be 'treated' while in prison. Taking the report's title literally, CSC set about providing programmes. These were not necessarily compulsory, even though many women thought they were viewed as such. If specific programmes were then included as part of a woman's Correctional Plan, and she refused to participate, she could be penalised by reduced pay or failure to get a better job within the prison, and her non-participation might also be noted at

a Parole Board hearing. The consequence of her choice was decided by the correctional authorities, rather than herself, denying the woman any of the autonomy for which the Task Force had planned.

The question of choice and agency within a coercive environment is a troubling one, particularly when the correct choices are so rarely defined by the women themselves. Hudson (2002: 43) suggests that agency and choice are frequently conflated, becoming a 'synonym for will, [assuming] an either / or character, such that persons have (freedom of) choice or they do not'. As she continues, 'some people have far more choices than others' and this is particularly true in the context of imprisonment. Most choices in prison are never freely made, occurring in the context of the possible consequences of decision-making, and the sub-text of discipline, which underscores every aspect of a prisoner's life. The additional expectation that these Canadian prisoners might also make 'responsible' choices, in order to contribute to the dynamic security of an institution in which they are involuntarily detained, further complicates their situation. They are not simply being asked to take responsibility for their own actions and to maintain self-surveillance, but are being drawn into the net of control surrounding all the federally sentenced women and, as a consequence, sublimating their own needs. Agency and choice are thus conflated with responsibility. A number of women will find resistance to such demands an essential strategy for coping with the loss of self which imprisonment entails, seeing such strategies as a means of asserting their own identity, but correctional authorities might interpret such strategies as a failure to make responsible choices. This is not to suggest that women should never have options presented to them. The crucial point is that individual women should be allowed to refuse to explore – or to delay exploring – issues which might have contributed to their offending and that they should be able to do so in the full knowledge of the possible consequences, such as failure to meet Parole Board requirements. This means recognising that the women themselves are often more likely than staff to know the extent of their own ability to cope at various stages of their imprisonment. Some of the compulsory core programmes being presented to these women as 'choices' require that they explore past abuse in an environment which often neglects to provide consistent support. The fact that many federally sentenced women in Canada are returning to reasonably furnished 'rooms', rather

than austere cells, after each therapeutic session does not minimise the risk inherent in such activities, or resolve the dilemma of involving correctional staff as facilitators of therapy (see Eaton, 1993). The Task Force's attempt to make 'bad' women 'good' is simply a re-working of the much older debate about the competing aims of therapy / treatment and imprisonment. As Cressey (1960: 506) suggested, the 'essential custodial and punitive functions of a prison make inmates hostile to it even if they are understood and treated there'. However prisons may be disguised, they remain places where people live under duress.

Looking Back

Those on the outside can never fully understand the demands and pain of the discipline of the prison, and participation in attempts to 're-form' the prison is properly contingent upon that knowledge. This Canadian venture has demonstrated the limitations and risks of such attempts. Many in the voluntary sector feel compromised, incorporated and betrayed by their association with CSC and now question the wisdom of having abandoned their principles in order to join the Task Force. CAEFS in particular, having learned the lesson of being neutralised by CSC, has returned to its advocacy role and become a vigilant critic of Corrections. The wish to ameliorate the harm inflicted by imprisonment originally drew CAEFS and others into CSC's embrace. Simply on that basis, the Task Force on Federally Sentenced Women was right to try and lessen some of the inequities of the Prison for Women. But the members were largely wrong to think that their participation might have a lasting beneficial impact on how most federally sentenced women would be provided for, not least because correctional agencies have no interest in seeing their spheres of influence diminish. The names and language of the voluntary sector have been incorporated into the larger correctional agenda and their participation has indeed contributed to the 'oppression' of some of their 'sisters'. As Shaw (1996b: 195) rightly suggested, *Creating Choices* diverted attention from 'rethinking the use of imprisonment'.

Yet a proportion of federally sentenced women have benefited from the work of the Task Force, so the Canadians cannot be said to have failed completely. In choosing to use the word 'failure' as my assessment of the work of the Task Force and the implementation of *Creating Choices*, I am judging the outcome by the high

standards the Task Force set itself. Their work became tightly focused on a vision of providing imprisoned women with greater autonomy in a less oppressive physical setting. In interpreting the Task Force's vision of what 'success' might have been, I do not suggest that offending women should never be subjected to regulation. I do, however, contend that women's patterns of offending, by comparison with those of men, should be taken into account when determining the extent and manner of the regulation. Federally sentenced women are, by definition, at the most serious end of the offending spectrum, yet their crimes are often situated in a history of extended abuse throughout their lives – and sometimes from their victim – with research showing that they are 'often not at risk of re-offending violently against the general public' (Hannah-Moffat and Shaw, 2001: 15). CSC's own research shows that those serving long-term sentences of over ten years duration⁸ are amongst the most stable of the federal population (see Luciani, 2000; Grant and Johnson, 2000), which suggests that the Task Force's reluctance to label women as 'difficult to manage' was justified. (However, stability within prison is not necessarily a prediction of stability outside, and correctional authorities cannot assume that such women no longer pose a threat to the public.) We have already seen that CSC has now decided that between 20 to 25 percent of the federally sentenced women are in need of 'intensive intervention', with 13 percent of these likely to be housed in the new Enhanced Units once they open. At the other end of the spectrum, the type of accommodation available for just eleven minimum security women at Isabel McNeill House (which is outside the perimeter of the closed Prison for Women, and still functioning) has not been replicated at the new prisons. While the new prisons have relatively little of the claustrophobic atmosphere of the old prison in Kingston, it is still only the medium security women who now have a greater degree of physical freedom.

Creating Choices was premised on the notion that federally sentenced women, despite their offences, generally presented a low risk within prison, or to the public, and needed support, rather than excessive security. This is the point I wish to emphasise; that for many of the women, their present regulation is once again heavily dependent upon levels of security disproportionate to their actual risk within

⁸ Based on figures from 1999, when 82 women were in this category, representing a little less than 20% of the total federally sentenced women population.

the prison. Moreover, that their regulation by means of available programming 'choices' is now linked to the maintenance of those excessive levels of security. CSC's own research also supports this, describing the long-term female population as a 'resource', in that they 'can be trained to provide services within the prison', such as Peer Support (Grant and Johnson 2000: 25). It is the link to the management of the prison itself which is contentious, rather than the regulation. In a sense, it is a denial of the very autonomy envisaged by the Task Force whereby women were expected to make choices relevant to their own needs, rather than the prison's.

So I contend that, when adopting the standards of the Task Force, it is fair to attach the word 'failure' to much of what has happened following the implementation of *Creating Choices*. Whether or not the initial vision was fully realisable, insofar as it was too utopian in scale, the current implementation of the plan incorporates a re-interpretation of the Task Force's vision which appears to suit the needs of the correctional authorities, rather than the women themselves. The very positioning of the Enhanced Units as separate entities within the larger, and now fenced, prisons demonstrates the disparities between the various groups of imprisoned women.

Yet complete failure of the Task Force would have meant the Prison for Women still functioning as a prison. It has been closed. There are those who now suggest that the Prison for Women was not as bad as claimed, and that insufficient heed was paid to the problems women brought inside with them. The implication now is that the *women* were the problem, rather than the prison itself (see Hayman, 2000). What should never be forgotten is the sheer physical inadequacy of the malign old prison. In the short period between December, 1988 and February, 1991 six women committed suicide inside the Prison for Women and another woman took her life, a short distance from the prison, within days of being released on parole. In the seven years since the new prisons opened in 1995 there have been two suicides, at *Établissement Joliette*. A woman committed suicide in the co-located maximum-security unit at Saskatchewan Penitentiary and a woman also took her life in the Burnaby Correctional Centre. These figures demonstrate that the new prisons have an infinitely better record than did the Prison for Women, and on that basis alone the Task Force has fully justified its work.

But the corollary of the Task Force's 'success' has been an increase in capacity for federally sentenced women and conditions for maximum security women which are certainly, in terms of their physical containment, the equivalent of anything the old Kingston prison offered. Summarising the Fatality Inquiry into the death of Denise Fayant, at Edmonton, Judge Chromka (2000) characterised the venture as an 'untested concept'. In the sense that her needless death was 'the test', he was right. But, as penal history makes clear – and as this story has charted – the Canadian undertaking was not untested. It had its roots in the work of the first women prison reformers, who wanted both to improve prison conditions and the women themselves, without necessarily challenging the need for imprisonment itself. The Task Force hoped that federally sentenced women, in a physically freer environment, would be enabled to make choices leading to their personal reformation. *Creating Choices* articulated this vision, using the language of feminism to suggest that personal change was feasible within the confines of an 'institution'. The reality of the prison itself disappeared under the weight of the illusory language adopted by the Task Force, and members could not bring themselves to say bluntly that change was to be effected through the use of punishment. Imprisonment *is* punishment and reform of the prison must always acknowledge that inescapable fact. While punishment is fundamental to the prison experience, it does not mean that it should go hand in hand with a nihilism suggesting that no good may emerge from the punishment. So the provision of varied programmes should also be part of the prison, in the hope that personal change may be facilitated. Such assistance can be – and is – provided outside the prison walls and, if the aim were simply to make offending women 'good', then those not a danger to others or themselves could be kept in the community. But offending women (and men) are deliberately sent to prison for punishment, not for improving programmes. There is no other explanation for the existence of 'the prison'. Where much of the reform enterprise comes spectacularly adrift is in its resolute refusal to publicise this central fact: that reform is in tandem with existing and continuing punishment. *Creating Choices* contributed to this masking of the real meaning of imprisonment through its refusal to make explicit such hard issues. But while we continue to make the prison central to the control of aberrant populations we should acknowledge the commitment and integrity of those prepared to engage in the political act of trying to lessen some of the inequities of the prison.

The Task Force on Federally Sentenced Women can look back at the signal achievement of having closed the Prison for Women.

Creating Choices has a significance beyond Canada because of its focus solely on imprisoned women and their needs. Indeed, the report has become part of that history of penal reform which the Canadians generally ignored as they tried to find Canadian solutions for a Canadian problem. The lessons of implementation have moved beyond gender and show the continuing power of the prison to survive and subvert its redefinition. The prison's essential discipline cannot be masked by spacious grounds, attractive architecture and seemingly benevolent programming. As Rothman, Cohen and others have consistently demonstrated, prisons are always in a state of being transformed, or re-formed, in the hope that an adjustment here, or rebuilding there, will provide the solution to the intractable problem of why prisons do not work. Prisons are not places of healing; they are sites of coercion, repression and pain. The Canadians were but the latest in a long line of reformers hoping to find the grail of penal reform. Their failure to do so cannot be blamed on an imperfect implementation of their plan, or entirely, on those responsible for its flawed implementation, or on the women themselves. The lesson we should derive from what has happened in Canada is that the Task Force's venture is simply another footnote in the history of trying to repair what is fundamentally irreparable. The Task Force's failure was inevitable because the basic premise of imprisonment, that you can coerce people into being good, by depriving them of their liberty and imposing change upon them, is fatally flawed.

Bibliography

- Adams, R. (1994), *Prison Riots in Britain and the USA* London: Macmillan
- Adelburgh, E. and Currie, C., eds. (1987), *Too Few to Count* Vancouver: Press Gang Publishers
- Adelburgh, E. and Currie, C., eds. (1993), *In Conflict with the Law* Vancouver: Press Gang Publishers
- Adelburgh, E. and The Native Women's Association of Canada (1993), 'Aboriginal Women and Prison Reform', in E. Adelburgh and C. Currie, eds., *In Conflict with the Law* Vancouver: Press Gang Publishers
- Allen, H. (1987), 'Rendering them Harmless: The Professional Portrayal of Women Charged with Serious Violent Crimes', in P. Carlen and A. Worrall, eds., *Gender, Crime and Justice*. Milton Keynes: Open University Press
- Arbour, Hon. L. (1996), *Commission of Inquiry into Certain Events at the Prison for Women* Ottawa: Public Works and Government Services
- Axon, L. (1989), *Model and Exemplary Programs for Female Inmates: An Internal Review Vol. 1 Report* Ottawa: Ministry of the Solicitor General of Canada
- Balfour, G. (2000), 'Feminist Therapy with Women in Prison', in K. Hannah-Moffat and M. Shaw, eds., *An Ideal Prison? Critical Essays on Women's Imprisonment in Canada* Halifax: Fernwood Publishing
- Behiels, M. ed. (1989), *The Meech Lake Primer: Conflicting Views of the 1987 Constitutional Accord* Ottawa: University of Ottawa Press
- Behiels, M. ed. (1999), *Futures and Identities* Montréal: Association for Canadian Studies
- Behiels, M. (2000), Native Feminism vs. Aboriginal Nationalism: The Native Women's Association of Canada's Quest for Gender Equality, 1983 – 1994, in M. Behiels and M. Martel, eds., *Nation, Ideas, Identities: Essays in Honour of Ramsay Cook* Oxford: Oxford University Press
- Behiels, M. and Martel, M., eds. (2000), *Nation, Ideas, Identities: Essays in Honour of Ramsay Cook* Oxford: Oxford University Press
- Berzins, L. and Hayes, B. (1987), 'The Diaries of Two Change Agents', in E. Adelburgh and C. Currie, eds., *Too Few To Count* Vancouver: Press Gang Publishers

- Blueprint for Change* (1992), Report of the Solicitor General's Special Committee on Provincially Incarcerated Women, Province of Nova Scotia
- Boe, R. (1992), *CSC Offender Population Forecast for 1993 - 2002* Ottawa: Research Branch, Correctional Service of Canada
- Boe, R. (1997), *Review of the Offender Population Forecast: Models, Data and Requirements - with Provisional Forecasts for 1998 - 2007* Ottawa: Research Branch, Correctional Service of Canada
- Boyd, S., Chunn, D. and Menzies, R., eds. (2001), *[Ab]Using Power: The Canadian Experience* Halifax: Fernwood Publishing
- Bosworth, M. (1999), *Engendering Resistance: Agency and Power in Women's Prisons* Aldershot: Dartmouth
- Brodsky, G. and Day, S. (1989), *Canadian Charter Equality Rights for Women: One Step Forward or Two Steps Back?* Ottawa: Canadian Advisory Council on the Status of Women
- Canadian Association of Elizabeth Fry Societies (1996), *Final Submissions of the Canadian Association of Elizabeth Fry Societies to the Royal Commission of Inquiry on Certain Events at the Prison for Women in Kingston*
- Canadian Association of Elizabeth Fry Societies (1997), *Annual Report 1996 -1997*
- Carlen, P. (1994), 'Why Study Women's Imprisonment? Or Anyone Else's?', in *British Journal of Criminology* Vol. 34 Special Issue Oxford: Oxford University Press
- Carlen, P. and Tchaikovsky, C. (1996), 'Women's Imprisonment in England and Wales', in R. Matthews and P. Francis, eds., *Prisons 2000* London: Macmillan
- Carlen, P. (1998), *Sledgehammer* Basingstoke: Macmillan Press
- Carlen, P., ed. (2002), *Women and Punishment: The Struggle for Justice* Willan: Devon
- Chodos, R., Murphy, R. and Hamovitch, E. (1991), *The Unmaking of Canada* Toronto: James Lorimer & Co.
- Christie, N. (1993), *Crime Control as Industry* London: Routledge
- Chrumka, A. G. (2000), *Report to the Attorney General: Public Inquiry into the Death of Denise Fayant*
- Cook, R. (1986), *Canada, Québec and the Uses of Nationalism* Toronto: McClelland & Stewart

Cooper, S. (1993), 'The Evolution of the Federal Women's Prison', in E. Adelburgh, and C. Currie, eds., *In Conflict with the Law* Vancouver: Press Gang Publishers

Correctional Service of Canada

- 1992a. *Regional Facilities for Federally Sentenced Women Draft #4 Operational Plan* Ottawa: Correctional Service of Canada
- 1992b *The Healing Lodge Operational Plan December Draft III* Ottawa: Correctional Service of Canada
- 1992c *Federally Sentenced Women Draft Master Plan* Ottawa: Correctional Service of Canada
- 1993a *Healing Lodge Final Operating Plan* Ottawa: Correctional Service of Canada
- 1993b *Planning Parameters: Healing Lodge* Ottawa: Correctional Service of Canada
- 1994a *Board of Investigation – Major Disturbance and other Related Incidents – Prison for Women from Friday April 22 to Tuesday April 26, 1994* Ottawa: Correctional Service of Canada
- 1994b *Correctional Program Strategy for Federally Sentenced Women* Ottawa: Correctional Service of Canada
- 1995a *Brainstorming Session: Understanding Violence by Women and Dealing with Women's Anger* Ottawa: Correctional Service of Canada
- 1995b *Regional Facilities for Federally Sentenced Women* Ottawa: Correctional Service of Canada
- 1996a *Lessons Learned for the Future* Federally Sentenced Women's Program: Correctional Service of Canada
- 1996b *Board of Investigation Report into a Suicide in February 1996, and other Major Incidents at Edmonton Institution for Women* Ottawa: Correctional Service of Canada
- 1997a *Investigation of Minor Disturbance - Use of Force Nova Institution, 96-09-19* Ottawa: Correctional Service of Canada
- 1997b *Disciplinary Board of Investigation: Segregation and Use of Force* Ottawa: Correctional Service of Canada
- 1999 *Backgrounder: Intensive Intervention Strategy*

- 2002 *Management Protocol*

Cohen, S. (1983), 'Social-Control Talk: Correctional Change', in D. Garland and P. Young, eds., *The Power to Punish* London: Heinemann Educational Books

Cohen, S. (1985), *Visions of Social Control* Oxford: Blackwell

Coyle A. (1994), *The Prisons We Deserve* London: Harper Collins

Cressey, D. (1960), 'Limits of Treatment', in N. Johnston, L. Savitz and M. Wolfgang, eds., *The Sociology of Punishment and Correction* (1962) New York: John Wiley and Sons, Inc.

Culhane, C. (1991), *No Longer Barred from Prison* Montréal / New York: Black Rose Books

Dell, C. and Boe, R. (1998), *Adult Female Offenders in Canada: Recent Trends* Ottawa: Correctional Service of Canada

DiIulio, J. (1991) *No Escape: The Future of American Corrections* New York: Basic Books

Dion Stout, M. and Kipling, G. (1998), *Aboriginal Women in Canada: Strategic Research Directions for Policy Development* Ottawa: Status of Women

Dobash, R.P., Dobash, R.E., Gutteridge, S. (1986), *The Imprisonment of Women* Oxford: Basil Blackwell

Duguid, S. (2000), *Can Prisons Work? The Prisoner as Object and Subject in Modern Corrections* Toronto: University of Toronto Press

Eaton, M. (1986), *Justice for Women?: Family, Court and Social Control* Milton Keynes: Open University Press

Eaton, M. (1993) *Women After Prison* Buckingham: Open University Press

Faith, K. (1993), *Unruly Women: The Politics of Confinement and Resistance* Vancouver: Press Gang Publishers

Faith, K. (1995), Aboriginal Women's Healing Lodge: Challenge to Penal Correctionalism? in *The Journal of Human Justice: Vol. 6, Number 2*

Federally Sentenced Women Programme (1994), *Long-term Federally Sentenced Women: A Literature Review* Ottawa: Correctional Service of Canada

Final Report: Task Force on Aboriginal Peoples in Federal Corrections (1988) Ottawa: Solicitor General

- Fournier, S. and Crey, E. (1997), *Stolen from our Embrace: The Abduction of First Nations Children and the Restoration of Aboriginal Communities* Vancouver: Douglas and MacIntyre Ltd.
- Freedman, E. (1981), *Their Sisters' Keepers: Women's Prison Reform in America, 1830 – 1930* Ann Arbor: University of Michigan Press
- Frideres, J. (1993), *Native Peoples in Canada: Contemporary Conflicts* Scarborough: Prentice Hall Canada Inc.
- Friesen, G. (1996), *River Road: Essays on Manitoba and Prairie History* Winnipeg: University of Manitoba Press
- Friesen, G. with Hamilton, A and Sinclair, C. (1996), 'Justice Systems and Manitoba's Aboriginal People: An Historical Survey', in *River Road: Essays on Manitoba and Prairie History* Winnipeg: University of Manitoba Press
- Gamberg, H. and Thomson, A. (1984), *The Illusion of Prison Reform: Corrections in Canada* New York: Peter Lang
- Garland, D. and Young, P., eds. (1983) *The Power to Punish* London: Heinemann Educational Books
- Geller-Schwartz, L. (1995), 'Feminism and the State in Canada', in D. M. Stetson and A. Mazur, eds., *Comparative State Feminism* London: Sage
- Goffman, E. (1991), *Asylums* Harmondsworth: Penguin Books
- Grant, B.A. and Johnson, S.L. (2000), 'Women offenders serving long sentences in custody', in *Forum on Corrections Research* 12/ 3: 21-24. Ottawa: Correctional Service of Canada
- Hahn Rafter, N. and Heidensohn, F., eds. (1995) *International Feminist Perspectives in Criminology: Engendering a Discipline* Buckingham: OUP
- Hall, T. (1989), What Are We? Chopped Liver? Aboriginal Affairs in the Constitutional Politics of Canada in the 1980s, in Behiels, M., ed. *The Meech Lake Primer* Ottawa: University of Ottawa Press
- Hannah-Moffat, K. (1994), Feminine Fortresses: Women-Centred Prisons?, in *The Prison Journal* Vol. 75, No. 2
- Hannah-Moffat, K. (1999), 'Moral Agent or Actuarial Subject: Risk and Women's Imprisonment', in *Theoretical Criminology*, Vol. 3, No. 1.

- Hannah-Moffat, K. (2000), 'Reforming the Prison: Rethinking our Ideals', in Hannah-Moffat, K. and Shaw, M., eds., *An Ideal Prison? Critical Essays on Women's Imprisonment in Canada* Halifax: Fernwood Publishing
- Hannah-Moffat, K. (2001), *Punishment in Disguise: Penal Governance and Canadian Women's Imprisonment* Toronto: University of Toronto Press
- Hannah-Moffat, K. and Shaw, M., eds. (2000), *An Ideal Prison? Critical Essays on Women's Imprisonment in Canada* Halifax: Fernwood Publishing
- Hannah-Moffat, K. and Shaw, M. (2001), *Taking Risks: Incorporating Gender and Culture into the Classification and Assessment of Federally Sentenced Women in Canada* Ottawa: Status of Women Canada
- Harding, C., Hines, B., Ireland, R. and Rawlings, P. (1985), *Imprisonment in England and Wales: A Concise History* London: Croom Helm
- Hayman, S. (1996), *Community Prisons for Women: A Comparative Study of Practice in England and the Netherlands* London: Prison Reform Trust
- Hayman, S. (2000), 'Prison Reform and Incorporation', in K. Hannah-Moffat and M. Shaw, eds., *An Ideal Prison? Critical Essays on Women's Imprisonment in Canada* Halifax: Fernwood Publishing
- Heidensohn, F. (1987) 'Women and Crime: Questions for Criminology', in P. Carlen and A. Worrall, eds., *Gender, Crime and Justice* Milton Keynes: Open University
- Heney, J. (1990), *Report on Self-Injurious Behaviour in the Kingston Prison for Women* Ottawa: Correctional Service of Canada
- HM Prison Service (1992), *Regimes for Women* London: HM Prison Service
- Hildebrandt, W. and Hubner, B. (1994), *The Cypress Hills: The Land and its People* Saskatoon: Purich Publishing
- Horii, G. (2001), 'Women's Imprisonment and the State: The Praxis of Power', in S. Boyd, D. Chunn and R. Menzies, eds., *[Ab]Using Power: The Canadian Experience* Halifax: Fernwood Publishing
- Hudson, B. (2002), 'Gender Issues in Penal Policy and Penal Theory', in P. Carlen, ed. *Women and Punishment: The Struggle for Justice* Willan: Devon
- Ignatieff, M. (1978), *A Just Measure of Pain* London: Penguin
- Johnson, H. and Rodgers, K. (1993), 'A Statistical Overview of Women and Crime in Canada', in E. Adelburgh and C. Currie, eds., *In Conflict with the Law* Vancouver: Press Gang Publishers

- Kelley, J. (1967), *When the Gates Shut* London: Longman
- Kendall, K. (1993a), *Program Evaluation of Therapeutic Services at the Prison for Women* Ottawa: Correctional Service of Canada
- Kendall, K. (1993b), *Supporting Documents, Companion Vol. 11, to Program Evaluation of Therapeutic Services at the Prison for Women* Ottawa: Correctional Service of Canada
- Kendall, K. (1993c), *Literature Review of Therapeutic Services for Women in Prison* Ottawa: Correctional Service of Canada
- Kendall, K. (1994), 'The Discipline and Control of Women', in *The Journal of Human Justice* Vol. 6, No. 1
- Kendall, K. (1994), 'Creating Real Choices: A Program Evaluation of Therapeutic Services at the Prison for Women', in *Forum on Corrections Research* Vol. 6, No. 1 Ottawa: Correctional Service of Canada
- Kendall, K. (1994), 'Therapy Behind Walls: A Contradiction in Terms?', in *Prison Service Journal* Issue No. 96
- Kendall, K. (1998) 'Evaluation of Programmes for Female Offenders' in R. Zaplin, ed., *Female Offenders: Critical Perspectives and Effective Interventions* Gaithersburg: Aspen Publishing
- Kendall, K. (2000), 'Psy-ence Fiction: Governing Female Prisons Through the Psychological Sciences', in K. Hannah-Moffat and M. Shaw, eds., *An Ideal Prison? Critical Essays on Women's Imprisonment in Canada* Halifax: Fernwood Publishing
- Kidman, J. (1947), *The Canadian Prison: The Story of a Tragedy* Toronto: Ryerson Press
- Krosenbrink-Gelissen., L.E. (1993), 'The Native Women's Association of Canada', in J. Frideres, *Native Peoples in Canada: Contemporary Conflicts* Scarborough: Prentice Hall Canada Inc.
- Laishes, J. (1997), *Mental Health Strategy for Women Offenders* Ottawa: Correctional Service of Canada
- Lajeunesse, T. and Jefferson, C. (1998) *The Cross Gender Monitoring Project: Federally Sentenced Women's Facilities First Annual Report* Ottawa: Federally Sentenced Women Programme – CSC
- Lajeunesse, T., Jefferson, C., Nuffield, J. and Majury, D. (2000), *The Cross Gender Monitoring Project Third Annual Report* Ottawa: Federally Sentenced Women Programme – CSC

- La Prairie, C. (1992), 'Aboriginal crime and justice: Explaining the present, exploring the future', in *Canadian Journal of Criminology* 34 (3) 281-297
- La Prairie, C. (1992b), *Dimensions of Aboriginal Over-Representation in Correctional Institutions and Implications for Crime Prevention* Ottawa: Solicitor General
- LeClair, D. and Francis, S. (1998), *Okimaw Ohci Healing Lodge: Alternative Dispute Resolution Creating New Approaches through Institutional Dynamics* Ottawa: Correctional Service of Canada
- Lessons Learned from National Investigations from April 1, 1994 to March 31, 1998* (Presented at the Executive Committee Meeting September 17-18, 1998)
- Lewis, D. (1997), *Hidden Agendas: Politics, Law and Disorder* London: Hamish Hamilton
- Liebling, A. and Price, D. (2001), *The Prison Officer Aylesbury*: Prison Service Journal
- Luciani, F. (2000), 'Classifying offenders serving life sentences', in *Forum on Corrections Research* 12/ 3: 21-24. Ottawa: Correctional Service of Canada
- Manzer, Y. (1996), *Centre for Federally Sentenced Women* Unpublished paper, prepared for Maritime School of Social Work
- Native Women's Association of Canada (1991) *Maple Creek Healing Lodge Vision*
- Maracle, B. (1993), *Crazy Water: Native Voices on Addiction and Recovery* Toronto: Penguin
- Martel, J. (1999), *Solitude and Cold Storage: Women's Journeys of Endurance in Segregation* Edmonton: Elizabeth Fry Society of Edmonton
- Mathiesen, T. (1983), 'The Future of Control Systems', in *The Power to Punish* London: Heinemann Educational Books
- Matthews, R. and Francis, P., eds. (1996), *Prisons 2000* London: Macmillan Press Ltd.
- McGaa, E. (1990), *Mother Earth Spirituality: Native American Paths to Healing Ourselves and our World* San Francisco: HarperSanFrancisco
- McRoberts, K. (1993), *Québec: Social Change and Political Crisis* Toronto: Oxford University Press

Memorandum of Understanding between the Minister of Indian Affairs and Northern Development, the Solicitor General and the Nekaneet Band of Indians (1994)

Mercredi, O and Turpel, M. E. (1994), *In the Rapids: Investigating the Future of First Nations* Toronto: Penguin

Miller, J.R. (1996), *Shingwauk's Vision: A History of Native Residential Schools* Toronto: University of Toronto Press

Miller, J.R. (2000), *Skyscrapers Hide the Heavens: A History of Indian-White Relations in Canada* Toronto: University of Toronto Press

Ministerial Committee of Inquiry (1989), *Te Ara Hou: The New Way* New Zealand: Government Printing Office

Ministry of Justice (1992), *Proceedings of the International Seminar on Women In Detention: Perspectives for Change* The Hague: Ministry of Justice

Minnesota Department of Corrections (1996), *Backgrounder: Minnesota Corrections*

Monture, P. (1989-90) Abstract prefacing, 'Nistum Peyako Séht'wawin Iskwewak: Breaking Chains', in *Canadian Journal of Women and the Law* Ottawa

Monture-Angus, P. (1995), *Thunder in my Soul: A Mohawk Woman Speaks* Halifax: Fernwood Publishing

Monture-Angus, P. 2000) 'Aboriginal Women and Correctional Practice', in K. Hannah-Moffat and M. Shaw, eds., *An Ideal Prison? Critical Essays on Women's Imprisonment in Canada* Halifax: Fernwood Publishing

Morin, SkyBlue (1993), *Healing Lodge Land Rationale*

Morrison, A., ed. (1997), *Justice for Natives: Searching for Common Ground* Montréal: McGill-Queens University Press

Morrison, R. and Wilson, C. R., eds. (1995), *Native Peoples: The Canadian Experience* Toronto: Oxford University Press

National Workshop to Develop a Community Strategy for Federally Sentenced Women Ottawa: Federally Sentenced Women Program, Correctional Research and Development, Correctional Service of Canada

Overviews: Correctional Service of Canada Regional Facilities for Federally Sentenced Women (1995), Ottawa: Correctional Service of Canada

Palumbo, D and Palumbo, J. (1992), *What is Their Truth? Listening to the Voices of Aboriginal Federally Sentenced Women* Canada: Publisher unknown

- Pate, K. (1999), 'CSC and the 2 Percent Solution: The P4W Inquiry', in *Women and Justice* Vol. 19, Nos. 1 & 2
- Player, E. and Jenkins, M., eds. 1994), *Prisons After Woolf: Reform Through Riot* London: Routledge
- Proudfoot, P. (1978) *Report of the British Columbia Royal Commission on the Incarceration of Female Offenders* Vancouver: Royal Commission on the Incarceration of Female Offenders
- Rafter, N. H. (1985), *Partial Justice: Women in State Prisons 1800 - 1935* Boston: Northeastern University Press
- Rafter, N. H. (1995), *Partial Justice: Women, Prisons and Social Control* New Brunswick: Transaction Press
- Ratushny, Judge L. (1997), *Self Defense Review* Ottawa: Minister of Justice
- Razack, S. (1991), *Canadian Feminism and the Law* Toronto: Second Story Press
- Regional Facilities for Federally Sentenced Women Operational Plan* (1992)
Ottawa: Construction Policy and Services/National Implementation Committee
- Hamilton, A. C. and Sinclair, M. (1991), *The Justice System and Aboriginal People* Report of the Aboriginal Justice Inquiry of Manitoba Winnipeg: Queen's Printer
- Rivera, M. (1996), *Giving us a Chance. Needs Assessment: Mental Health Resources for Federally Sentenced Women in the Regional Facilities* Ottawa: Correctional Service of Canada
- Rock, P. (1986), *A View from the Shadows* Oxford: Oxford University Press
- Rock, P. (1996), *Reconstructing a Women's Prison: The Holloway Redevelopment Project 1968 - 88* Oxford: Oxford University Press
- Ross, L. (1998), *Inventing the Savage: The Social Construction of Native Deviance* Austin: University of Texas Press
- Ross, R. 1992), *Dancing with a Ghost: Exploring Indian Reality* Toronto: Reed Books Canada
- Ross, R. (1996), *Returning to the Teachings: Exploring Aboriginal Teachings* Toronto: Penguin
- Rothman, D. (1971), *The Discovery of the Asylum: Social Order and Disorder in the New Republic* Boston: Little, Brown & Company

Rothman, D. (1980), *Conscience and Convenience: The Asylum and its Alternatives in Progressive America* Boston: Little, Brown & Company

Rotman, E. (1995), 'The Failure of Reform', in N. Morris and D. Rothman, eds., *The Oxford History of the Prison* Oxford: Oxford University Press

Royal Commission on Aboriginal Peoples (1996), *Report of the Royal Commission on Aboriginal Peoples Vol. 1 Native Peoples - Canada* Ottawa

Royal Commission on Aboriginal Peoples (1996), *Report of the Royal Commission on Aboriginal Peoples Vol. 2 Native Peoples - Canada - Social Conditions* Ottawa

Royal Commission on Aboriginal Peoples (1996), *Report of the Royal Commission on Aboriginal Peoples Vol. 3 Native Peoples - Canada - Economic Conditions* Ottawa

Royal Commission on Aboriginal Peoples (1996), *Report of the Royal Commission on Aboriginal Peoples Vol. 4 Native Peoples - Canada - Politics and Government* Ottawa

Shaw, M. (1991a), *The Federal Female Offender: Report on a Preliminary Study* Ottawa: Solicitor General of Canada

Shaw, M. with Rodgers, K, Blanchette, J., Hattem, T., Seto Thomas, L., Tamarack, L. (1991b) *Survey of Federally Sentenced Women: Report to the Task Force on Federally Sentenced Women on the Prison Survey* Ottawa: Solicitor General of Canada

Shaw, M. with Rodgers, K., Blanchette, J., Hattem, T., Seto Thomas, L., Tamarack, L. (1991c) *Paying the Price: Federally Sentenced Women in Context* Ottawa: Solicitor General of Canada

Shaw, M. (1992), 'Issues of Power and Control. Women in Prison and their Defenders', in *British Journal of Criminology* Vol. 32, No. 4 Oxford: Oxford University Press

Shaw, M. (1993), 'Reforming Federal Women's Imprisonment', in E. Adelburgh and C. Currie, eds., *In Conflict with the Law* Vancouver: Press Gang Publishers

Shaw, M. (1995), *Session on Managing Risk and Minimising Violence* Presented to Phase II, Inquiry into certain events at Prison for Women

Shaw, M. (1996a), *Knowledge Without Acknowledgement: Violent Women, the Prison and the Cottage* Paper presented at the 48th Annual Meeting, American Society of Criminology, Chicago

Shaw, M. (1996b), 'Is there a Feminist Future for Women's Prisons?', in R. Matthews and P. Francis, eds., *Prisons 2000* London: Macmillan Press Ltd.

- Shaw, M. (1997), *Conflicting Agendas: Evaluating Feminist Programs for Women Offenders* Unpublished Ph.D thesis, submitted to University of Nottingham
- Shaw, M and Dubois, S. (1995), *Understanding Violence by Women: A Review of the Literature* Ottawa: Correctional Service of Canada
- Solicitor General's Special Committee (1992) *Blueprint for Change: Report of the Solicitor General's Committee on Provincially Incarcerated Women* Nova Scotia: Nova Scotia Correctional Services
- Sparks, R., Bottoms, A. and Hay, W. (1996), *Prisons and the Problem of Order* Oxford: Clarendon
- Stern, V. (1994), 'The Future of the Voluntary Sector and the Pressure Groups', in E. Player and M. Jenkins, eds., *Prisons After Woolf: Reform Through Riot* London: Routledge
- Stetson, D.M. and Mazur, A., eds. (1995), *Comparative State Feminism* London: Sage
- Strange, C. (1995), 'The Criminal and the Fallen of their Sex: The Establishment of Canada's First Women's Prison 1874 – 1901', in *Canadian Journal of Women and the Law Vol. 1: 79-92*
- Sugar, F. and Fox, L. (1990), *Survey of Federally Sentenced Aboriginal Women in the Community* Ottawa: Correctional Service of Canada
- Sullivan, L.E. (1990), *The Prison Reform Movement: Forlorn Hope* Boston: Twayne Publishers
- Task Force on Federally Sentenced Women (1990), *Report of the Task Force on Federally Sentenced Women: Creating Choices* Ottawa: Correctional Service of Canada
- Topping, C.W. (1929), *Canadian Penal Institutions* Toronto: The Ryerson Press
- Waldram, J. (1997), *The Way of the Pipe* Peterborough, Ontario: Broadview Press
- Wagamese, R. (1996), *The Terrible Summer* Toronto: Warwick Publishing
- Warner, A. (1998), *Implementing Choices at Regional Facilities: Programme Proposals for Women Offenders with Special Needs* Ottawa: Correctional Service of Canada
- Whitehall, G. (1995), *Mental Health Profile and Intervention Strategy for Atlantic Region Federally Sentenced Women* Ottawa: Correctional Service of Canada

Wines, E.C. and Dwight, T.W. (1867), *Report on the Prisons and Reformatories of the United States and Canada* Albany: van Benthuysen's Steam Printing House

Woolf, Lord Justice and Tumim, His Hon. Judge S. (1991), *Prison Disturbances April 1990: Report of an Inquiry* London: HMSO

Young, P. (1983), 'Sociology, the State and Penal Relations', in *The Power to Punish* London: Heinemann Educational Books

Zedner, L. (1995) 'Wayward Sisters: The Prison for Women', in N. Morris and D. Rothman, eds., *The Oxford History of the Prison* Oxford: Oxford University Press

Collected papers

Provided by the Canadian Association of Elizabeth Fry Societies

Press cuttings

Edmonton Examiner

Edmonton Journal

Edmonton Sun

Kitchener Waterloo Record

Mill Woods Newsletter (Edmonton)

The Canadian Press

The Chronicle Herald (Edmonton)

The Daily News (Truro)

The Law

The Record (Truro)

The Vancouver Sun

Toronto Globe and Mail

Toronto Star

Winnipeg Free Press

Winnipeg Sun

Video transcript

CBC 5th Estate *The Ultimate Response* 22nd February, 1995

ADDENDUM to the thesis submitted for the PhD in Social Policy, London School of Economics and Political Science, 2002

***The Evolution of the New Federal Women's Prisons in Canada*
Stephanie Hayman**

1 Bibliography

- Adler, F. (1975), *Sisters in Crime* New York: McGraw Hill
- Bothwell, R. (1998), *Canada and Québec. One Country: Two Identities* Vancouver: UBC Press
- Boyle, C., Bertrand, M-A., Lacerte-Lamontagne, C. and Shamai, R. (1985) 'Effects of Sexism on Sentencing', in *A Feminist Review of Criminal Law*, ed. J. Russell Ottawa: Minister of Supply and Services
- Bruckert, C. (1993), *Creating Choices: The Report of the Task Force on Federally Sentenced Women. A Critical Analysis.* Ottawa: University of Ottawa
- Carlen, P. (2002a), 'Carceral Clawback: The Case of Women's Imprisonment in Canada', in *Punishment and Society* 4(1) London: Sage
- Carlen, P. (2002b), 'New discourses of justification and reform for women's imprisonment in England', in *Women and Punishment: The Struggle for Justice* Willan: Devon
- Comack, E. (1996), *Women in Trouble* Halifax: Fernwood Publishing
- Ekstedt, J. and Griffiths, C. (1988), *Corrections in Canada: Policy and Practice* Vancouver: Butterworths
- Gavigan, S. (1987), 'Women's Crime: New Perspectives and Old Theories', in E. Adelburgh and C. Currie, eds., *Too Few To Count* Vancouver: Press Gang Publishers
- Home Office (2001), *The Government's Strategy for Women Offenders; Consultation Report* London: Home Office
- Jackson, M. (1988), *The Maori and the Criminal Justice System. A New Perspective: He Whaipanga Hou Part 2* Wellington: Department of Justice
- Moffat, K. (1991), 'Creating Choices or Repeating History: Canadian Female Offenders and Correctional Reform', in *Social Justice* 8(3): 184-203
- Oliver, P. (1998), *Terror to Evildoers: Prisons and Punishment in Nineteenth-Century Ontario* Toronto: University of Toronto Press
- Pizzey, E. (1974) *Scream Quietly or the Neighbours Will Hear* London: Penguin

Prison Reform Trust (2000) *Justice for Women: The Need for Reform* (The Wedderburn Report) London: Prison Reform Trust

Ratushny, Judge L. *Self Defence Review: Final Report* Ottawa: Solicitor General of Canada

Sim, J. (1990), *Medical Power in Prisons: The Prison Medical Service in England, 1774-1989*. Milton Keynes: Open University Press

Task Force on Aboriginal Peoples in Federal Corrections (1988), Ottawa: Department of the Solicitor General

Westervelt, S. D. (1998) *Shifting the Blame: How Victimisation Became a Criminal Defence* New Jersey: Rutgers University Press

Zedner, L. (1991), *Women, Crime and Custody in Victorian England* Oxford: Clarendon Press

2 Date incomplete, page 36

... to persuade the Canadian government to ... appoint its own Royal Commission on the Status of Women. The resultant Commission led directly to the appointment of an eponymous minister in 1971.

3 Expanding upon the methodology

a Site visits

In 1996 I visited Nova Institution for Women (Nova Scotia), Etablissement Joliette (Québec), Grand Valley Institution for Women (Ontario), Edmonton Institution for Women (Alberta), the Okimaw Ohci Healing Lodge (Saskatchewan), the Prison for Women (Ontario), Burnaby Correctional Centre for Women (British Columbia), the Provincial Correctional Centre (Sackville, Nova Scotia), Maison Tanguay (Québec) and the Minnesota Correctional Facility-Shakopee (Minnesota). In 1998 I revisited the first six of the prisons already listed, but more time was spent at the three I had by then decided to examine more closely – Edmonton, Nova and the Healing Lodge. I also visited Springhill Institution (New Brunswick), where a unit for maximum security federally sentenced women had been opened following the withdrawal of all such women from the new prisons, and the Regional Psychiatric Centre, in Saskatoon (Saskatchewan). In 2000 I again returned to the Healing Lodge, the only one of the new prisons I visited three times.

b *Ensuring confidentiality*

During the course of the fieldwork I conducted 32 semi-structured taped interviews with members of the Task Force, civil servants, representatives from the voluntary sector, academics, civil servants and prison wardens. Additionally, I interviewed some who preferred not to be taped, making brief notes during each unrecorded interview and expanding upon these considerably when completing my field notes each day. All interviewees were given verbal assurances regarding confidentiality and the subsequent transcriptions were later coded to ensure this. Those reluctant to be taped were entirely prison staff and the principal reason cited was their concern about confidentiality. This was largely understandable, as some had been interviewed in connection with events that had taken place at their own prisons and the consequent publicity had been widespread. A few, despite having no knowledge of me beyond the fact that I had been granted access to the prisons by CSC, made a point of seeking me out because they wanted their views to be heard, albeit anonymously. Some prison staff agreed to speak to me in the company of others, leaving me with the feeling that this was a protective strategy, ensuring a collective responsibility for what was said. It should also be clarified that this reluctance to be taped became more marked the longer the prisons were open and subject to public scrutiny and criticism. But the fact that I returned to the prisons seemed to suggest to some staff that I had not previously ‘rocked the boat’ and those who recognised me were more forthcoming than they had previously been.

The taped interviews generally lasted about an hour and were most frequently conducted in the interviewee’s home or office. On one occasion two interviewees participated in an interview and, as it happened, this was conducted – at their request – during a restaurant meal. As the surrounding tables filled, and the noise level increased, the recording was later increasingly difficult to transcribe, because their voices were similar and they tended to interrupt each other in an effort to give their view of particular events. On another occasion I unexpectedly met someone whom I had wanted to meet, but had not contacted because I could not afford to travel to where she lived. She was conducting her own research at one of the prisons I was visiting and this serendipitous meeting led to another noisy interview in a local bar. With the exception of these two interviews, most of the tapes took some four hours to transcribe and were often a good ten A4 pages in length. While each interview need not necessarily have been transcribed in such detail, I found it helpful to be able to review all that was said, as details which initially appeared incidental

sometimes assumed a new importance. The complete transcripts also indicated where I had been sidetracked by the flow of a conversation and needed to pursue angles more vigorously. This meant that some interviewees were later asked to expand upon certain points, either in a further face-to-face interview, by telephone or by letter. At no stage did I use a computer 'package' for any of the analysis, with the inevitable consequence being that examining them all the interviews took a considerable time.

Arranging all the interviews – indeed, the whole field-work timetable – was a protracted affair. When I first embarked upon the research I spent months prior to departure writing to individuals, first to ascertain that they would meet me and then to arrange a specific date. Few were linked to e-mail, so my letters were posted – and replies awaited, sometimes for many weeks. The telephone became the back-up and this often meant waiting until late at night so that I could speak to people on the west coast after they had returned from work. The timetable for my first field visit, which lasted seven weeks, took some months to finalise. It was also hopelessly optimistic, in terms of how much could be achieved each day, as I had underestimated the difficulties posed by the geographic scale of Canada. I failed to incorporate any 'rest' periods into the schedule and spent all of the first seven weeks of fieldwork in the prisons, travelling or interviewing. By the time I reached the Healing Lodge, which was the last of the prisons scheduled for a longer visit, I was tired, having unnecessarily driven from Calgary, when it would have been wiser to fly part of the way, had I known. The daily journey to the prison itself was initially demanding. I had been sent a hand-drawn map which, in effect, suggested that I follow the telegraph poles along what turned out to be an unsealed, largely single-tracked road. Upon arrival at the Lodge I was disconcerted by its very different operating style, compared with those prisons I had earlier visited, and felt doubly aware of my outsider status because of the prison's cultural dimension. This combination of tiredness and uncertainty led to my leaving the Healing Lodge a day earlier than planned; I had reached an impasse, but felt too foolish to explain fully. In subsequent trips to Canada I, unsurprisingly, knew better what to expect and planned accordingly. An added bonus was that many more interviewees could be reached via e-mail and, as the Wardens were by then known to me, I could also arrange visits by telephone.

Those listed so far were not, of course, the only interviewees. A particularly important part of the research centred on being able to talk with federally sentenced women. Understandably, I could not pre-arrange any of this and, as indicated in the body of the thesis, I was heavily reliant on the goodwill of staff whenever I wanted time alone with women. Generally, this was not a problem and all of the prisons allowed me to move relatively freely, as long as I carried a dyster.¹ None of the conversations with the women were recorded. I initially assumed that I would not be allowed to take a machine out to the women's houses, an assumption which I never chose to test and which might have been wrong. It would have been helpful to have had the women's comments in more detail, but I also wanted to retain a degree of informality, so instead relied on my field notes for general views. The Healing Lodge was the only one of the new prisons which did not allow me to visit women, by myself, in their living lodges; I had to be accompanied by a member of staff. As this made confidentiality impossible I relied on informal meetings with women in the main Lodge itself. Three of the prisons took care to ensure that I was introduced to the women through the formal mechanism of the Inmate Committee. At one of these prisons I was intensively questioned by the Chair of the Committee, who emphasised that my visit was yet another intrusion into their lives. Once she had made that clear, she then spent the following days ensuring that I met specific women and that I heard as many views as possible. Another aspect of meeting the women was that I met several twice, but in different prisons. Some had been transferred from the Prison for Women to one of the new prisons and a few had transferred from a new prison to the equally new Healing Lodge. Hearing their different experiences was invaluable, as they were in a position to compare developments and contrast them with what they had been led to expect.

The question of confidentiality remained a vexed one throughout, but more specifically at the writing-up stage. The perspectives offered by some of the participants were at times highly personal and, by this, I also mean highly identifiable. It was possible to use some of the information they provided in a general way when I was formulating questions for future interviews. Indeed, it was helpful to know of the antagonisms which existed during the life of the Task Force so that I could skirt around some issues, whilst not altogether avoiding them. However, the main difficulty resided in the fact that a number

¹ The term 'dyster' is explained in the Introduction.

of the respondents were civil servants or correctional officials, and their livelihood could be affected by any indiscretion on my part. Part of the function of being a public official is the acceptance of a degree of public accountability and in these interviews individuals were being questioned about policies they had helped draft and implement, in their capacity as public officials. Yet they were also being asked to respond to criticisms of the project which had been levelled by others, and repeated by myself. At various stages in each interview they could have resorted to an 'official' response and refused to engage in any debate, yet none attempted to deflect questions. I am not suggesting that confidentiality was an over-riding concern for these officials – and the very fact that their particular branch of the civil service had granted me research access implied that the subject matter was open to debate and scrutiny. But permission to speak does not absolve an official of responsibility for what he or she might say and these interviewees were dependent upon my discretion. I am not suggesting that any were foolishly outspoken; many strongly defended their positions, but were also prepared to acknowledge some failures in planning and implementation. Perhaps I was the one with undue concerns about any risks they took, being aware of how officials in the prison service in England and Wales had sometimes been pilloried for their (occasional) frankness.

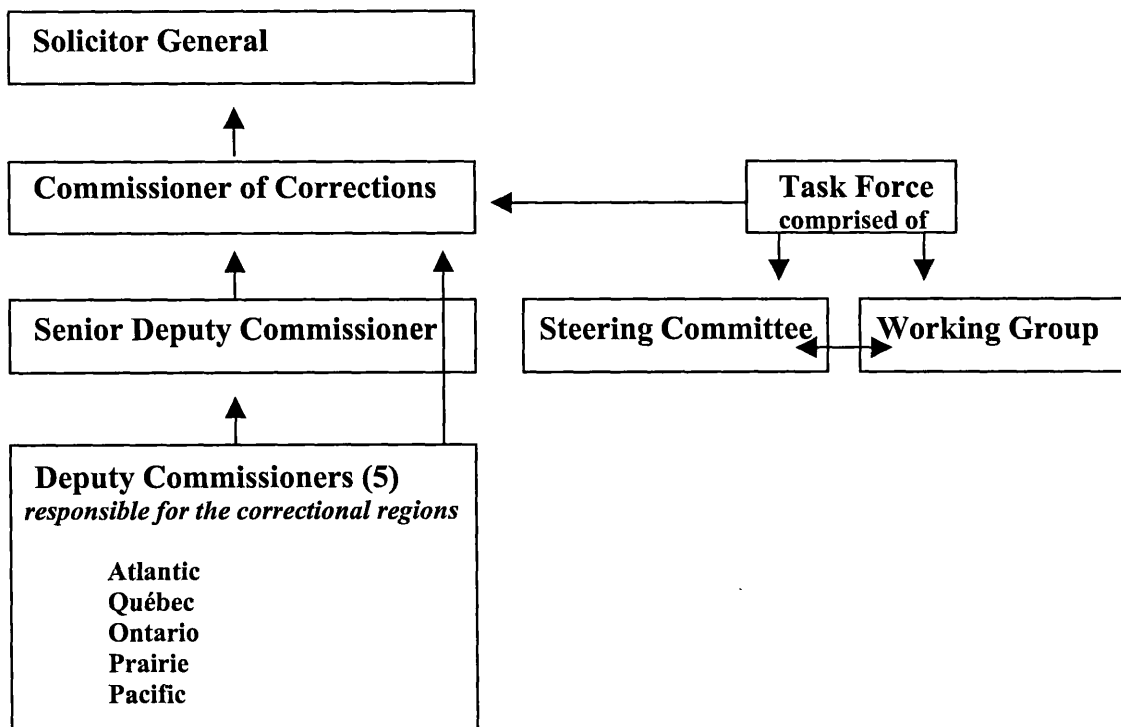
Representatives from the voluntary sector also expected anonymity, but were more accustomed to criticising policies and developments (for which they had no implementation responsibilities), because that was one of the aspects of their job. Using quotations in the thesis was consequently problematic because I had to ensure that an informed reader would not be able to identify an interviewee. On a number of occasions I chose to use information derived from interviews (which had been corroborated by other interviews and separate documentation) as a paraphrased background to the story I was developing. I also decided against specifying just how many individual civil servants or Task Force members, for example, were interviewed, so that the identifiable field could not be narrowed. Two of the interviewees subsequently agreed to provide named quotes, as is apparent in the text.

Problems of confidentiality were not confined to interviews, taped or otherwise. Gaining access to the Task Force records was a pivotal moment during the research, but led to my facing further difficulties, because a number of the papers were confidential. I might *read* what had happened, but could not necessarily quote from the documents and to use

them injudiciously could have had repercussions for those who granted me access. This left me with a dilemma, because some of the papers confirmed versions of events which I had been hearing about during interviews, but could not be cited as verifiable references. Fortunately, some documentation was available from non-governmental sources and, ultimately, there were very few points I had to ignore, and none that were fundamental to the accuracy of the thesis.

What I am trying to convey is that there was a network of information providers, almost all of whom knew each other. I found myself in the midst of this network, trying to act discretely and responsibly, but also becoming the repository of confidences which I had not expected to receive. It was very evident that participation in the Task Force had sometimes been a painful experience, to the extent that some of my interviewees did not want to read what I eventually wrote because they did not want to relive those days. For prison staff the situation was somewhat different, because they were still involved in the enterprise and some had been greatly affected by events at the new prisons. Maintaining the anonymity of all these sources was a constant preoccupation during the writing of this thesis.

c *Structure of CSC during the Task Force on Federally Sentenced Women*



NB A Deputy Commissioner for Women was first appointed in 1996, bringing the possible number of Deputy Commissioners to six. (The present incumbent is also responsible for a region.)

4 The victimised offender?

A major theme of this thesis has been the way in which federally sentenced women were characterised as victims, as much as victimisers, and the way in which this outcome was heavily determined by the Task Force's understanding of Canada's colonial engagement with its Aboriginal nations. I have detailed how the Task Force's failure to be prescriptive about providing accommodation for women seen to be 'difficult to manage' within the prison system was intimately linked to its reluctance to label such women. I have also shown that the Task Force, in accepting its Aboriginal members' construction of the Aboriginal female offender as the victim of her history and social environment, did not then choose to view other federally sentenced women differently. In other words, the Task Force did not establish a hierarchy of victimhood, let alone one based on ethnicity; all federally sentenced women were seen in the context of a socio-economic background from which the great majority emerged.

This willingness to see the wider picture did not emerge simply because of the conjunction of those particular people on the Task Force. During the eighties there was an emerging body of academic work focusing on victims and how they were characterised. There was a growing recognition that victims, in the criminal justice arena, were not necessarily only those who had suffered at the hands of offenders and this was nowhere more apparent than in the area of domestic violence. Women who killed their abusers were slowly being re-assessed as women who might sometimes have reacted to prolonged provocation; in short, they themselves had been victimised prior to their offence. Pizzey (1974) was one of the first to highlight the extent of domestic violence in the United Kingdom and in North America there was a parallel recognition of a hitherto hidden problem. In Canada Boyle et al (1985; cited in Ratushny, 1997) suggested that, in dealing with women who kill in self-defence, 'the law ... should require the court to examine the facts from the perspective of the accused'. Ratushny later led the *Self-Defence Review* of 'cases of women convicted of homicide which occurred in the context of an abusive relationship'. This Review was a government

response to the ground-breaking 1990 case of *Lavallée*², wherein ‘the Court recognised that the *experiences, background and circumstances of the accused* should be taken into account in determining whether she actually believed she was at risk of serious bodily harm or death and had to use force to preserve herself, and the reasonableness of her beliefs’ (Ratushny, 1997: 16, emphasis added). While this might not seem immediately relevant, particularly as the *Lavallée* decision was reached by the Supreme Court of Canada a month after the Task Force published *Creating Choices*, it is cited here as evidence of changing attitudes towards women. Such changes had been energetically pursued in many spheres, largely by feminists, during the preceding decade and would have been familiar to all on the Task Force. Additionally, as Westervelt (1998: 14, emphasis added) shows, the ‘victimisation defence strategy refers to the use of *social victimisation* as a means of explaining why an actor should be justified or a wrongful act excused, and therefore why responsibility should be absolved’. Westervelt demonstrates that such a defence may be used equally well by males but, in the context of this Canadian venture, the interpretation of ‘social victimisation’ may be expanded to incorporate those very issues which came to preoccupy the Working Group of the Task Force. Specifically, the federally sentenced women’s: socio-economic position; history of physical and sexual abuse, and addiction; and, in the case of Aboriginal women, their inherited experience of colonialism, manifest in dysfunctional families and communities.

The Task Force embraced this wider explanation of victimisation, whilst not absolving federally sentenced women of responsibility for their actions, and subsequently found it almost impossible to regard federally sentenced women solely as victimisers. Their reluctance to label came to be seen as a failure of the Task Force because it eventually allowed CSC to devise its own solution when some women did not cope with – or appear to fit – the new model prisons. While this may be true, until now there has been no coherent explanation of why the Task Force chose to emphasise, to such a degree, the social inequities faced by federally sentenced women, rather than their offending histories. It is important for the historical record to explain the very real dilemmas the Task Force faced in addressing Canada’s colonial record and the impact that this had on their decision-making.

² R. v. *Lavallée* (1990) 1 S.C.R. 852

However, there is a wider explanation for CSC's ability to subvert the report's intentions, and that resides in the language of *Creating Choices* itself. The terminology used by the Task Force in its final document relied heavily on a feminist-influenced (or 'woman-centred') language of reform. In offering the Correctional Service of Canada (CSC) a philosophical document written in this manner, the Task Force allowed the language of feminism to be incorporated into the official discourse of reform, precisely because *Creating Choices* could only be implemented by the authority legally mandated to administer federal prisons – which was CSC. *Creating Choices* was the official rationale for what was to eventuate.

I suggest that this was largely an unwitting action by the Task Force. During many months of often painful negotiation with each other the Working Group had agreed a terminology which was widely accepted, and understood, by other feminists and members were therefore confident that the report's meaning could not be misconstrued. What the Working Group, and Task Force as a whole, failed to anticipate sufficiently was the possibility that those responsible for implementation might be subjected to external, political pressures they could not withstand, leaving the report's feminist language vulnerable to re-interpretation by those unsympathetic to its intent. I have already suggested that a greater familiarity with the literature of prison reform might have alerted Task Force members to the possibility that their work would be used to legitimate the use of imprisonment itself, rather than simply to provide a more benign prison. As Carlen (2002b: 222) suggests, 'the power to punish by imprisonment is not static and its legitimacy has to be constantly renewed'. One of the means of doing so is the incorporation of reforming discourse (what Carlen calls 'common-sense ideologies') into the official discourse – and, for this to happen, reformers need to be engaged in debate with correctional authorities. Such debates do not necessarily have to be conducted within the constraints of formal alliances. They can be by means of reports drafted by campaigning groups (see *The Wedderburn Report*, 2000), or by means of reports from officials, such as those of the Chief Inspector of Prisons for England and Wales. The language of apparent reform used by correctional authorities may be taken from many sources. When such organisations actively encourage an exchange of views (as happened when the Women's Policy Group of HM Prison Service solicited the views of various voluntary groups, prior to publishing *The Government's Strategy for Women Offenders; Consultation Report*, Home Office, 2001), then subsequently quote from submissions in

their reports, this gives every appearance of the rhetoric having been absorbed. This is not necessarily the case, because the intentions behind the original language are not always observed, yet the words remain in the public domain, adding legitimacy to official discourse because they have been gathered from non-governmental sources.

When organisations, such as CAEFS in Canada, decide to collaborate with the correctional authorities – because they have reached the point where constructive criticism no longer seems sufficient, as ‘the prison’ is so patently seen to be unsafe and failing – they do so with considerable reservations. Largely, these centre on the risk of their being incorporated into the business of imprisonment, when their real function is that of astringent critic. As has been apparent in this thesis, CAEFS’ members felt that they had reached the point where their options were foreclosed. And although their reservations were apparent during the work of the Task Force, CAEFS’ representatives became, to a certain extent, caught by the momentum of what they were undertaking. They dared hope that *this* particular project would be the exception to those littering the wayside of penal reform. I have already discussed the lessons readily available to them by virtue of what had happened in North America once women’s reformatories began to be established (see also Freedman, 1981; Strange, 1983; Rafter, 1992; Hannah-Moffat, 2001). Zedner (1991), in chronicling Victorian attitudes to women’s criminality in England, offers rich parallels with those same North America reformatories and present-day attitudes to offending women, particularly in relation to their socio-economic status, their mental health and their addictions (then being largely alcohol, rather than alcohol and drugs, as now). Female prisoners during the period of Zedner’s study were, even then, subjected to closer surveillance than were males, leading to heightened tensions and, unsurprisingly, the emergence of a determined few whose ‘discipline ... subjected the whole female convict population to increasingly rigid regulation’ (Zedner 1991: 213). Zedner’s work would not, of course, have been available for the Task Force, but it is part of a body of work highlighting the limits, risks and consequences of reform (see also Rothman, 1970 and 1980 ; Cohen, 1985). In the Canadian case the consequences have been severe for those women defined as ‘difficult to manage’, in that their level of regulation is now infinitely greater than was ever anticipated by the Task Force.

If we return, at this point to Carlen (2002b: 221) we may reflect on her analysis of what she terms ‘carceral clawback’, a process which she sees, in one respect, as being

‘powered by the common-sense ideologies of optimistic campaigners’ and ‘the prisons’ continuing need for legitimacy’. The prison can never succeed fully (as this would mean its self-destruction), yet it must always be seen to be working towards success, because its efforts legitimate its existence. In these terms, the prison’s very failure ensures its continuance, as there is never a point reached where reformers feel it is safe for them to disengage from attempts to ameliorate the harm inflicted by the prison. Yet failure to disengage means that the rationale for the prison – punishment – is inconsistently examined and is even less likely to become part of a public debate. Despite its manifest failings the prison remains bewilderingly and resolutely triumphant as the pivotal means of punishing the deviant. As my concluding remarks make clear (see chapter 9) I believe that the Task Force, in the understandable wish to close the Prison for Women, lost sight of the fundamental fact that prisons exist to punish, and its members began to hope that their projected model prisons might actually do good. *Creating Choices* glossed over the reality that prisons are not benign places of rehabilitation and that any doing of good is incidental to the prison’s purpose. At this point I depart from Carlen (2002a: 120) when she refers to ‘those who might be disheartened by the *unexpected* turn of events in the Canadian federal prisons for women’ (emphasis added). The events in Canada have been entirely consonant with other attempts at penal reform, because they demonstrate the unflinching ability of the prison to reassert its supremacy over those attempting its reform. The present outcome should not have been unexpected.

Yet, while the ever-failing, ever-successful, prison exists as a central expression of society’s wish to punish the deviant, reformers cannot avoid engaging in debate. The scale and means of engagement, as exemplified by the Task Force on Federally Sentenced Women, will always be contentious, especially when it involves the planning of new prisons. Reformers have little alternative but to articulate an alternative vision of imprisonment, even while working towards its eventual demise, but face the risk that their language will be incorporated into – and will legitimate – official penal discourse. The Canadian reformers accepted that challenge and showed a manifest courage in refusing to categorise offending women solely by their offence. They, rather than their subsequent critics, acknowledged the reality of the lives of federally sentenced women. However, in planning their ‘ideal prison’ (Hannah-Moffat and Shaw, 2000), the Task Force also managed to conjure up an ‘ideal’ federally sentenced woman to benefit from their new penal environment. In ignoring the women’s inevitable diversity, the Task

Force also ignored the possibility that the women's socio-economic background, which they had taken such trouble to emphasise, might be the very reason that some of the federally sentenced women were so confounded by what awaited them. Those same women were then labelled by correctional authorities as 'difficult to manage' (in ever-increasing numbers) and their hard-won, and brief, status as victims (who had also victimised others) seemed increasingly illusory. What this shows is that the good intentions of those Canadian reformers, in wishing to avoid labelling women as violent, disruptive offenders, led directly to more federally sentenced women being labelled 'difficult to manage' and to their greater victimisation within the new prisons themselves.