Federal Female Incarceration in Canada:
What Happened to Empowerment?

by

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Abstract

Feminist engagement with criminology began several decades ago when feminist academics, scholars and activists brought attention towards the failure of criminology to focus on women. As a result there have been several efforts by feminist criminologists to make sense of women and girls who come into contact with the criminal justice system. Literature and research conducted within this area — beginning nearly forty years ago — provides the framework and analysis for this current thesis. This particular research analyzes the experiences of female inmates and the conditions within prisons for women. In particular, this research will examine whether the promises set out within Creating Choices (1990) and the Arbour Report (1996) have been fulfilled and whether there is evidence that the Correctional Service of Canada has reformed its practices and policies in the recommended ways. Through examining specific case studies — deaths, suicides, major and minor disturbances — that have occurred within federal female prisons since the release of Creating Choices, it will be possible to determine whether the Correctional Service of Canada has followed the key recommendations advanced by both reports.
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Chapter 1

Introduction

As a sociology student with an interest in criminology and socio-legal studies, I spent a significant portion of my undergraduate studies learning about prisons, inmates and the criminal justice system. Like most criminology and sociology students (or any individual for that matter) I was interested in studying “crimes” and drawn in by the “saliency” of crime and punishment. This fascination coupled with my interest in ‘criminalized women’ — as a result of working with the Canadian Woman’s Foundation\(^1\)— led me towards an integration of these two areas of concern. The main concern and question that guided my interest was how these women — who ranged in experiences, race, culture, and personalities — managed to survive in an environment apparently constructed to control them, confine them, and provide safety to the public (Cayley 1998; Comack 2006b; Hayman 2006).

With a strengthened orientation to my studies, I began to question the sociological and criminological understandings of female inmates, a diverse population, subjected to an institution designed according to a very narrow and confined view of female inmates. These perceptions of women influenced the way policy-makers and practitioners constructed prison programmes and regimes (Comack 1999a, 2006a, 2006b; Harris 2002; Hayman 2006). In Canada, there have been numerous reform movements that have attempted to change prisons for women, including, nineteenth and twentieth century feminist activists and maternal reformers, feminist academics and scholars, and feminist

\(^1\) The Canadian Women’s Foundation is the first and only National Public Foundation for women and girls. The foundation is focused on ending violence against women, and empowering women and girls. I was a research assistant conducting information on “criminalized women” and intimate partner violence.
lobbying to state-generated projects. There have also been numerous reports that have attempted to initiate change within the penal system such as the Brown Commission (1848), Nickle Commission (1921), Archambault Commission (1938), Ouimet Committee (1969), the MacGuigan Report (1977), and the Daubney Committee Commission’s Report (1988). However, these reports were generally not successful at initiating reform. It was not until Creating Choices (1990) and the Arbour Report (1996) [the latter reflecting on events that occurred within the Prison for Women in 1994] that change came about. The Prison for Women’s final closure came about in 2000. With this came an orientation of prisons for women towards principles of empowerment. The question remained, how could I, using my knowledge as a sociology and criminology student, shed light onto the experiences of female offenders and potentially influence the understanding of others as well? It was this curiosity that inspired this work.

Background

Feminist sociologists, criminologists and policy-makers have worked diligently to challenge the stereotypes of criminalized women. This effort has been made in order to shed an alternative light on female offenders — one that situates women’s crimes in the appropriate context in which they offend — and ultimately, to develop more effective means to respond to their needs as women (Burgess-Proctor 2006; Carlen 2002; Comack 2006a, 2006b; Hayman 2006; Smart 1977). Although feminist thought has influenced policy in the carceral domain, many practices are still riddled with the patriarchal assumptions about how best to respond to and manage female offenders (Balfour 2006; Carlen 2002; Naffine 1997). Feminist criminology has reached a significant stage in discussions of women’s imprisonment, one where claims about ‘criminal women’ in
prison have been deconstructed. They have also revealed past discourses that claimed that women could be reformed in a prison setting through religious instruction. While these advancements have altered the appearance of feminist discussions of female penality and to a certain degree the imprisonment of women, the experiences of female offenders and the conditions they are subjected to within prisons are still pressing contemporary concerns.

For centuries, research in the field of punishment, imprisonment and corrections has been produced by a number of diverse disciplines. The female offender of criminological discourse began with classical criminology, characterized by Cesare Beccaria in *An Essay on Crimes and Punishment* (1778). The woman identified by nineteenth century criminology was deformed, deranged and a product of inferior biology, less significant and vastly different from her male counterpart (Balfour 2006; Morash 2006; Morris 1987; Smart 1977; Snider 2003). This history has been heavily critiqued and led to the development of what became identified as feminist criminology (Morris 1987; Naffine 1997; Smart 1977, 1990; Snider 2003). Feminist criminological (both historically and presently) critiques attack the gender, race and class biases that permeated earlier literatures. Feminist criminologists noted that, for the fathers of criminology, only women were designed by nature to behave irrationally. The ability of the “scientist to remove or transcend his gender-blindness” was an issue initially raised by feminist critiques (Snider 2003:357).

Research onto the history of female incarceration revealed the invisibility of female offenders, both to academics within criminology and to penal authorities. Female prisoners were initially constituted by traditional criminologies as worse than their male
counterparts — harder to handle, and more opposed to instructions of “religious betterment” (Snider 2003:17; Comack 2006a, 2006b; Hannah-Moffat 2001). The woman constructed by reformers of first wave feminism in the 19th century, in comparison, was a woman who had to be rescued from sin, rather than inherently evil. Such a woman needed religious instruction, supervision, and guidance. Later feminist criminologists, constituted a female offender doubly victimized by traditional male criminologists and by the state and elite reformers (Balfour 2006; Comack 2000, 2006a; Carlen 2002; Hannah-Moffat and Shaw 2001; Morris 1987; Naffine 1997).

Freedman (1981) was one of the first to examine the advancements of female incarceration from a left-liberal feminist perspective. Freedman examined the historical concerns expressed by women for female inmates, and the developments of nineteenth century reformers in America. According to Freedman, these women — nineteenth century reformers — had a significant impact upon female penalty. However, the approach adopted by these white middle-class women reformers of the 1800s — one of social protection — was problematic, in the sense that they attempted to reform women through religious instruction, teaching habits of virtue and skills of housekeeping and child-care. Further, she noted that a barrier existed between the keeper and the kept in nineteenth century reforms. Although women were responsible for many of the women’s institutions, power and class relations prevented the ‘sisterly’ environments that reformers sought (Freedman 1981). Freedman, in her research, also observed that 19th century reformers clung to the notion of woman as inherently different from her male counterpart, who therefore, should be treated differently. Freedman, overall, acknowledged that although separate institutions for women were created, these institutions still operated
within a male-dominated framework, forcing women to adhere to similar policies and practices as male offenders (Freedman 1981).

Freedman provided a more nuanced perspective of female prisons, shedding light onto many of the issues present within our modern-day system. She also provided one of the first critical analyses on the development of female imprisonment. In her work, Heidensohn (1981, 1985) expanded on these notions of women in the penal system. In analyzing, documents and narratives on women’s incarceration in Britain in the 20th century, Heidensohn identified the individuals incarcerated in women’s prisons (i.e., the female prison population). She also outlined the modern-day issues concerning women and the penal system, particularly with regard to equal opportunities. Heidensohn concluded through her research on 20th century U.K. prisons that “a small, expensive penal system is kept running for a tiny, but growing number of women” and further, that although attempts had been made to modify prison and make it distinctly ‘for women’ in practice, women’s prisons were still essentially governed by a system designed for men (1981:131). According to Heidensohn, it was essential that separate institutional and policy designs for women be constructed and prisons also be developed, with an appreciation of the diversity among women in mind.

As discussion of women’s imprisonment in the United States and Britain began to multiply, studies of female imprisonment from Canadian feminists emerged. Adelburg and Currie’s Too Few to Count (1987) is one such work. In their edited book, various scholars researched and reported on the lives of women convicted of indictable offences and sentenced to imprisonment. Gavigan (1987), in her contribution to Adelburg and Currie’s volume, acknowledged the significance of addressing historical perspectives and
theories on women’s incarceration. Gavigan’s work specifically applied these theoretical understandings — ranging from Lombroso, to Otto Pollack to the women’s liberation thesis — of women’s engagement in crime to the Canadian context. In her work, Gavigan addressed the historical debate concerning how best to manage, respond and treat the ‘criminal’ woman. She revealed, throughout this study, that the treatment of criminal women in Canada was largely one of neglect and misclassification (1987:60). Gavigan contended: “Because of the way female criminality has been perceived, women prisoners have not been of great concern to correctional officials of the Canadian state” (1987:60).

In her work, Gavigan also highlighted the uniquely Canadian situation concerning Native women, and the disproportionate attention and focus exhibited towards these female offenders. Thus, Gavigan (1987) broadened our understanding of the uniquely Canadian penal system for women and underlined the lack of research on criminalized women and female incarceration in this context.

The female offender today is a vastly divergent subject from the woman of past discourses. Snider argues: “Feminism has altered, and continues to alter, the framework of meanings, through which offenders, see, interpret and know themselves, and the framework through which they interpret attitudes, policies, programmes and agents of criminal justice” (2003:367). Feminist principles of equality, with the attractiveness of feminist work in academic disciplines, made it inescapable that ‘the criminalized woman’ would encounter similar analysis. Knowledge claims, once established within the academic arena, are revealed and acknowledged by other elites in the judiciary, and media to challenge existing perceptions and policies for female offenders (Snider 2003).

According to Snider, rising levels of inequality (Cossman and Fudge 2001), rising fear of
crime (Cayley 1998), the triumph of individualism (Bauman 1997) — three defining characteristics of the neo-liberal state — are all significant in understanding the increasing use of imprisonment and conditions within prisons today (2003:370). Under this neo-liberal state emerged a neo-liberal responsibilization model of crime control (Hannah-Moffat 2001); criminals were to be made responsible for the choices they make.

The language describing women’s imprisonment in Canada today speaks of empowerment, choice and healing. Yet many argue that little about the imprisonment of women has changed and few past lessons have been learned (Hannah-Moffat 2000a, 2000b, 2001, 2006; Hayman 2006; Monture 2000, 2006). Previous work by scholars, academics, and practitioners has shed light onto the key issues and problems within prisons for women and regarding the use of prison for women. Feminist research will provide the framework for my particular study. In this study, I will examine the experiences of female offenders and the conditions within prisons for women.

Research Question

The main questions guiding this research are: 1) Have the promises set out within Creating Choices (1990) and the Arbour Report (1996) been fulfilled? 2) Is there is evidence that the Correctional Service of Canada has reformed its practices and policies in the recommended ways? The research will demonstrate that the Correctional Service of Canada has failed to deliver an empowering and safe, healing environment as advocated by these reports. I argue that the Correctional Service of Canada has consistently ignored the key recommendations advanced by both reports. This failure has fashioned an aggressive, harmful, and unsympathetic environment for female offenders that has failed to address their specific needs. This research is intended to shed light onto the
experiences of female offenders and the conditions they are subjected to. There has been little information available to fully understand the experiences of female offenders. It is also my hope that this research, by shining a spotlight on conditions within female prisons, will allow for further change and reform to occur. Past research and efforts have initiated considerable change.2

Chapter Overview

In Chapter Two, the literature review, I will discuss the engagement of feminism with the discipline of criminology. I will focus on the origins of feminist criminology, the various schools of thought that have emerged (empiricism, standpoint, and postmodern feminism) and the effect(s) this has had upon both the discipline of criminology and on women within the criminal justice system. This chapter will then zero in on the historical developments of the institution of prison — focusing on female prisons — within Canada, discussing the ideologies, scholars, and practitioners that have influenced and shaped the female prison system. Chapter Two ends with the events that occurred at the Prison for Women in 1994, which led to its closure 3 and the two major reports and inquiries that resulted (Creating Choices and the Arbour Report). By tracing the roots, ideologies, and developments of prisons in Canada, this literature review will provide a framework for understanding the current Canadian penal system.

Chapter Three begins with the methodology section. I discuss the rational for using case study analysis and then set out how case studies are conducted, their importance, and the various limitations. I will also discuss why this particular method was

2 With respect to the perceptions of female offenders, programmes implemented to address the specific needs of women and a women-centered regime.

3 Briefly introduce the events at the P4W, as greater depth will be provided in chapter three.
chosen for this research. Chapter Three is an empirical case study of the events that have occurred in Canadian prisons following the publication of *Creating Choices* and Arbour. The recommendations of *Creating Choices* and Arbour are first summarized, to establish a framework for analysis. Specific case studies are then presented that document events and incidents that have occurred within prisons for women since this time. By analyzing the experiences of women within female prisons it will be possible to examine whether the treatment of criminalized women has changed as a result of the recommendations in *Creating Choices* (1990) and the Arbour Report (1996).

The findings provided in Chapter Three based on case studies — the failure to adhere to the principles and promises held within *Creating Choices* and the Arbour Report — will provide the framework for Chapter Four. This Chapter discusses what these findings reveal about the Correctional Service of Canada and the institution of imprisonment overall. I argue that the inability of the Correctional Service of Canada to provide a positive, healing and safe environment that addresses the specific needs of female prisoners is a failure at the institutional level. This chapter will argue that these failures, understood through the suicides, deaths, assaults and self-injurious behaviour that have come to light are both endemic and inevitable.

These institutional and systematic failures will be discussed in more detail in Chapter Five as a means of bringing the analysis to a more macro and organizational level. Chapter Five will discuss the rationales for using imprisonment. I will analyze why the institution of imprisonment is the central method of punishment utilized in Canada. This discussion will then lend itself to a final analysis addressing ‘where do we go from here.’
Chapter 2

Literature Review

Feminism and Criminology: History and Engagement

The modern feminist engagement with criminology started nearly forty years ago. Pioneers in the field, such as Frances Heidensohn (1968), and Estelle Freedman (1981) first brought awareness to criminology’s failure to acknowledge or rather focus upon women (Comack 1999a, 2006a, 2006b; Hannah-Moffat and Shaw 2001; Morris 1987; Smart 1977). Much like other academic disciplines, criminology had been a male-centered endeavour. Regardless of the use of terms such as “criminals” or “delinquents,” criminology has traditionally concerned itself with what men do, making women invisible in mainstream theory and research (Balfour 2006; Comack 2006a; Hannah-Moffat and Shaw 2001; Morash 2006; Naffine 1996; Silvestri and Crowther-Dowey 2008; Smart 1977; Worrall 2002). However, there have been some efforts to make sense of women and girls who come into contact with the criminal justice system. Variously referred to as “monsters, misfits and manipulators,” women were denounced by early criminologists to the status of the “other” (Comack 2006a:22). The male-centeredness of criminology is justified, to a certain degree, when analyzing official statistics on crime. In 2005, the overall rate of offending among females was 7 to 10 times lower than the rate of offending among males. For instance, for every 100,000 females, 13 were accused of robbery, whereas, the rate of males accused was 110 per 100,000 of the population (Statistics Canada 2008). More specifically, in 2009, males accounted for about 9 in 10 homicides committed, whereas women accounted for the remaining 1 in 10 (Statistics Canada 2010). Despite or because of such varying degrees of criminal involvement,
feminist scholars realized there was a need to examine and acknowledge the female offender.

Women were not entirely neglected in criminological thinking. Dating back to the nineteenth century, a small body of work, attempted to explain women’s involvement in crime. What could be regarded as the early approach to explaining women’s crime began with Cesare Lombroso and William Ferrero in 1895, followed by W.I. Thomas (1923), Sheldon Glueck and Eleanor Glueck (1934) and Otto Pollack (1950) (Britton 2004; Comack 2006a; Gelsthrope 1990; Naffine 1996; Smart 1977). While differences are present between these approaches, they all share the view of women as anomalous and infinitely different from men, women who engaged in criminal activity were even more so. For these theorists, it is women’s “inherent nature” that accounts for both the nature and level of their criminality. Specifically, women were cast as sexual beings and women’s sexuality was the basis for their involvement in crime (Britton 2004; Carlen 2002; Chesney-Lind 2006; Comack 1999a, 2006a; Gelsthrope and Morris 1990; Morash 2006; Naffine 1996; Smart 1977). Women’s sexuality, particularly their bodies, hormones, chromosomes, and menstrual periods, were used to explain or rationalize criminal behaviour. For instance, Premenstrual syndrome (PMS) has been described as a condition of “irritability, indescribable tension,” something that is thought to occur during the week or two prior to the onset of each menstruation (Osborne 1989:27). Premenstrual syndrome acquired recognition as a justification for women’s criminality in the 1980s, when it was introduced in two British court cases as a mitigating factor in homicide. According to Comack, as an explanation for women’s involvement in crime, however:
“PMS clearly locates the source of the ‘problem’ in women’s ‘unruly’ bodies” (2006a:27).

At its earliest juncture, feminist criminology critiqued the existing approaches to explaining crime. Scholars such as Carol Smart (1976, 1977), Eileen Leonard (1982), Allison Morris (1987), and Ngaire Naffine (1987), took concern with the prejudice of criminological theories. They claimed that socially unattractive features were accredited to women and believed to be intrinsic characteristics of their sex (Britton 2004; Comack 2006a; Chesney-Lind 1989, 2006; Daly 2004; Hannah-Moffat and Shaw 2001; Morash 2006; Silverstri and Crowther-Dowey 2008). With reference to the early approaches to explaining crime, Heidensohn (1985:122) noted how these approaches provided an appearance of intellectual respectability to many of the old folk tales about women and their behaviours. For instance, for those early criminologists, sex (a biological difference) and gender (a cultural prescription) were regarded as the same. The ‘ladylike’ features of the middle-class and upper-class white women were used as a measuring device for what is intrinsically female (Burgess-Proctor 2006; Comack 2006a; Silvestri and Crowther-Dowey 2008). The constructions of the “female offender” reflected the widely held assumption about “women’s nature,” including the good girl/bad girl duality. Relying on circular reasoning, subjective evidence and common sense [e.g., “things are as they are because they are natural, and they are natural because that is the way things are” (Smart 1977:36)], the ordered features of society and the gendered nature of the roles of men and women had failed to be called into question by early theorists (Britton 2004; Chesney-Lind 2006; Chunn and Menzies 1995; Comack 2006a; Hannah-Moffat and Shaw 2001; Morash 2006; Naffine 1996). Mainstream theories of crime (such as anomie, differential
association, social control and labelling) came under similar scrutiny. The invisibility of women and the failure to adequately explain or account for women’s involvement in crime led feminist criminologists to label such theories as “malestream.” As Lorraine Gelstroph and Allison Morris asserted:

Theories are weak if they do not apply to half of the potential criminal population; women after all, experience the same deprivation, family structures and so on that men do. Theories of crime should be able to take account for both men and women’s behaviour (1988:103).

The feminist critique raised a second issue within mainstream criminology, one that Daly and Chesney-Lind (1988:119) refer to as the gender-ratio problem. Attention to the gender-ratio problem initiated numerous studies in the 1970s and 1980s on the criminal justice system’s processing of men and women. The main question that guided much of this study began from Pollack’s (1950) assertion of chivalry on the part of criminal justice officials. In this manner, feminists such as Nicole Rafter (1981, 1995) and Elena Natalizio (1981), argued that chivalrous behaviour should be viewed as a means of preserving women’s inferior placement in society, rather than a compassionate effort to treat women with some special kindness (Bertrand 1995; Chesney-Lind 2006; Comack 2006a; Gelstroph and Morris 1990; Morash 2006; Naffine 1990; Rafter and Heidensohn 1995; Scatron 1995). During the period that research on the chivalry thesis was attracting attention of criminologists, another thesis was drawing considerable attention. The women’s liberation thesis argued that women’s involvement in crime would come to be similar to men’s as differences between men and women were weakened by women’s increasing participation and equality in society (Adler 1995; Comack 2006a; Hannah-Moffat and Shaw 2001). It suggested that changes in women’s gender roles was the cause of women’s involvement in crime and would be revealed in their rate of criminal
involvement. Law enforcement officials were quick to affirm its tenets, charging that the women’s movement was responsible for triggering a massive crime wave. Comack argued: “…representations of emancipated women running amok in the streets and workplaces did not hold up under closer scrutiny” (2006a:30). Smart (1976), for one, noted that the women’s liberation thesis was premised on a “statistical illusion,” the result of supposed increases in women’s crime being reported as percentages (cited in Comack 2006a:30). This meant that since the number of females (who commit crimes) were so small, the increases were converted into percentages, these figures looked astronomical. But a hundred percent increase can be from three to six (increase in the number of crimes being committed). For many feminist criminologists, the main difficulty with the women’s liberation thesis — similar to the chivalry thesis — was that it posed a question that took males to be the norm. Were women becoming more liberated and thus more like men, even in their involvement in crime? (Bertrand 1995; Cain 1990; Chesney-Lind 1997; Comack 2006a; Gelthrope and Morris 1990; Hannah-Moffat and Shaw 2001; Heidensohn and Silvestri 1995; Naffine 1996; Rafter and Heidensohn 1995; Scraton 1995; Silvestri and Crowther-Dowey 2008; Smart 1990). In Naffine’s (1997:32) judgement, the thesis that women’s liberation caused crime by women has been “perhaps the most time-consuming and fruitless exercise” in criminology.

During the 1970s and 1980s, feminists in their engagement with criminology worked within the boundaries of positivist social sciences. These academics and scholars attended to the view that the techniques of the natural sciences were applicable to the study of social life. Philosopher Sandra Harding (1990), in her expansion of different feminist epistemologies, named the approach feminist empiricism. This approach claimed
that “by bringing women into the mix and attending more rigorously to the methodological norms of scientific inquiry, would rectify women’s omission from the criminological canon” (cited in Comack 2006a:32).

As feminists were constructing their critique on the discipline of criminology, the women’s movement within Canada and other Western countries was bringing attention towards the issue of male violence against women. Their violence was understood as a manifestation of patriarchy, the systematic and individualized power that men exercise over women (Brownmiller 1975; Chesney-Lind 1997; Chesney-Lind and Irwin 2008; Comack 2006a; Heimer and Kruttschnitt 2006; Kelly 1988). As a political movement centered around changing the circumstances and value of women’s lives, in the late 1970s, feminism took as one of its central tenants the provision of supporting women who have been victimized by violence. The violence against women’s movement had several propositions for the work of feminist criminologists. First, the movement enabled feminists to separate and remove themselves from the boundaries of mainstream criminology which had been intent in silencing the issue of male violence against women. Second, the movement brought light to the issue of association with the state, particularly because of the law’s role historically in conditioning the violence. Finally, in attending to the pervasiveness and global nature of male violence against women, the movement raised the issue of the impact that experiences of violence have had on women who came into conflict with the law (Comack 2006a:35). To address this issue of the relations between victimization and criminalization, several feminist criminologists adopted the position known as standpoint feminism (Chesney-Lind 1997, 2006; Daly 2004; Comack 2006a; Heimer and Kruttschnitt 2006; Morash 2006; Naffine 1996).
Standpoint feminism began to emerge in qualitative research when Maureen Cain (1990) pushed through the confines of criminology and revealed more about the experiences of women coming into contact with the law. This research interviewed women about their lives to better understand the factors and conditions that brought them into initial conflict. Working in a Canadian context, Ellen Adelberg and Claudia Currie (1987, 1993) documented and examined the lives of seven women convicted of indictable offences and sentenced to imprisonment. Regular occurring themes in these women’s lives included “poverty, child and wife battering, sexual assault, and women’s conditioning to accept positions of submissiveness and dependence upon men” (Adelberg and Currie 1987:68) Similarly, Comack (1996), in her book *Women in Trouble*, was built around the stories of twenty-four incarcerated women. The women’s stories exposed the intricate associations between a woman’s law violations and her history of abuse (Comack 2006a). This type of work became known as pathways research, a term that has been used in an attempt to understand more thoroughly the experiences of women and the specific features that led to their criminal involvement (Bertrand 1995; Chesney-Lind 2006; Hannah-Moffat and Shaw 2001; Heimer and Kruttschnitt 2006; Morash 2006; Radosh 2004). These attempts at revealing the connections between women’s victimization experiences and their lawbreaking activities had the advantage of situating law violations by women in a larger social context categorized by disparity in gender, race and class (Burgess-Proctor 2006; Chesney-Lind and Irwin 2008; Chesney-Lind and Shelden 1992; Comack 2006b; Heimer and Kruttschnitt 2006; Radosh 2004). Attending to the issue of women’s involvement in crime with its broader social context also means addressing issues such as racial inequalities. For instance, Aboriginal people in Canada are disproportionately over-represented in crime statistics, but the over-representation of
Aboriginal women in Canadian prisons is even greater than that of Aboriginal men. Aboriginal women are incarcerated for more violent crimes than are non-Aboriginal women and alcohol has played a role in the offences of twice as many Aboriginal women in prison as it has for Aboriginal men (Statistics Canada 2001:12; La Prairie 1987).

Endeavours to illustrate connections between law violations and women’s histories of abuse led to a “blurring of the boundaries between ‘offender’ and ‘victim’ and raised questions about the legal logic of individual culpability and the law’s strict adherence to the victim/offender dualism in the processing of cases” (Comack 2006a:40). Blurring the boundaries between offender and victim impacted advocacy work conducted on behalf of imprisoned women (Chesney-Lind and Shelden 1992; Comack 2006a; Hannah-Moffat and Shaw 2001; Heidensohn and Silvestri 1995; Heimer and Kruttschnitt 2006; Radosh 2004). Less aggressive and less threatening than the male offender, women were perceived to be more deserving of help than of retribution. Women who engaged in violent behaviour were understood to be engaging in self-defensive reaction characteristically performed in a domestic context (Chesney-Lind 1997; Comack 2006a; Daly 2004). However, while the notion of blurred boundaries and the making of the women in trouble were imperative feminist offerings to criminology, these ideas later had important consequences for feminist criminologists to counteract challenging knowledge claims, ones established on images of women not as victims but as violent and dangerous (Chesney-Lind 2006; Comack 2006a; Heidensohn and Silvestri 1995; Naffine 2006; Radosh 2004; Silvestri and Crowther-Dowey 2008).

In addendum to feminist empiricism and standpoint feminism, a third position has influenced the work of feminist criminologists over the last decade. Postmodern feminism
surfaced principally as a critique of the two other feminist positions. Specifically, postmodern feminists rejected the claims to “truth” constructed by scientific neutrality. The postmodern critique of empiricism does not contradict empirical research that is, of engaging with women, interviewing them, documenting their oral histories (Carrington 1994; Naffine 1996; Smart 1977, 1990; Sumner 1990). Postmodernists were doubtful of efforts to confront male-centered methods through aligning them against a more accurate or correct account of women’s lives (Britton 2004; Comack 2006a; Daly 2004; Hannah-Moffat and Shaw 2001). Espousing to a postmodern epistemology has led feminist criminologists to question the language used to understand women’s involvement in crime. In particular, writers such as Carol Smart (1989, 1995), Danielle Laberge (1991), and Karlene Faith (1993) outline that crime categories are legal orders that characterize one way of organizing or understanding social life. Through this understanding, the offences for which women are believed to be criminal are the result of an ongoing process of discovery, hesitation, and judgement. Laberge (1991) proposed, given that crime is the product of relations between individuals and the criminal justice system, that one must think not in terms of criminal women but of criminalized women (cited in Comack 2006a:42).

In addition to the mounting influence of a postmodern epistemology during the 1990s, feminist criminologists started to rely on ideas from the postmodern, poststructuralist wave, examining the work of French poststructuralist theorist, Michel Foucault. Foucault has been classified as a theorist within this paradigm, although there are competing claims by feminists as to this classification of Foucault and also the different ways in which his work can be applied to feminist criminology. Postmodernism
refers to a mode of thinking which threatens to overturn the basic premises of modernism (Carrington 1994; Sumner 1990). It refers to subjugated knowledges, which tell different stories and have different perspectives (Smart 1990). Much of Foucault’s (1977, 1979) writing concentrated on relationships between power and knowledge. Foucault focused on the methods of power that came with the expansion of what he called the “disciplinary society” categorized by the growth of new knowledge of discourses that led to new forms of surveillance of the population. Comack contends that: “For Foucault, knowledge is not objective but political; the production of knowledge has to do with power” (2006a:43). In his later work, Foucault (1978) supplemented his notion of power/knowledge with the concept of governmentality to address the specific “mentality” of governance, the links between forms of power and domination and ways in which individuals conduct themselves (Carrington 1994; Comack 2006a; Naffine 1996; Scraton 1990). British criminologist Anne Worrall (1990) adopted a Foucaultian approach to explore the conditions under which legal agents claim to possess knowledge about the “offending woman” and the processes whereby such claims are translated into practices that classify, define and so domesticate her behaviour (summarized in Comack 2006a:43). As such, feminist postmodernism has had an unwavering influence on the direction of feminist criminology. Those who worked in the area raised important questions, such as, how women and girls are constituted and defined by professional discourses, and how specific models of governance work to control, contain, or prohibit those who are marginalized in society (Daly 2004; Hannah-Moffat 2000a; Hannah-Moffat and Shaw 2001).

During the 1990s, feminist criminologists were being influenced by epistemological and theoretical shifts occurring within academia. At the same time, shifts in the socio-
political arena and a number of important events relating to the issues of women and crime were having important effects on the work of feminist criminologists. As this period drew to a close, neo-liberal and neo-conservative political rationalities had begun to emerge and were immediately put forth and exercised in the construction of women and girls as violent, dangerous and malicious (Chesney-Lind 2006; Comack 2006a; Hannah-Moffat and Shaw 2001; Silvestri and Crowther-Dowey 2008). Privatization, along with globalization, had become one of the defining terms of the end of the twentieth and the beginning of the twenty-first centuries. In the 1980s, privatization referred specifically to the sale of government assets to the private sector, it had come to signify a critical shift in public policy (Fudge and Cossman 2002; Silvestri and Crowther-Dowey 2008). In the criminal justice arena, those economic and political advancements accompanied in an astonishing growth in the scope and scale of penalization.\(^4\) In the 1980s, it became emblematic of the economic dogma that the market was inevitably superior to politics as an allocative mechanism. This meant that responses to crime were concentrated on certain social groups and types of crime, leaving the markets and wealthy classes free from regulation. By the 1990s, privatization also came to signify a broader change in the political orientation of the liberal state, whose role and responsibilities in relation to the life chances of its citizens began to be reconfigured (Fudge and Cossman 2002; Heimer and Kruttschnitt 2006). This change in direction accompanied with an increasing view of ‘rising crime rates’ and a growing economic recession allowed for a crime strategy that rejected inmates with a concern for risk management. Under this neo-liberal responsibilization model of crime control (Hannah-Moffat 2001), criminals were

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\(^4\) In November 2001, Canada’s first adult private prison, Central North Correctional Centre (CNCC), opened in Penetanguishene, Ontario.
to be made responsible for the choices they make, “rather than clients in need of support, they are seen as risks that must be managed” (Garland 2001:175). The language describing women’s imprisonment in Canada (federally) today speaks of empowerment, choice and healing. Yet, many argue that little about the imprisonment of women has changed and that few past lessons have been learned (Hannah-Moffat 2000a, 2000b, 2001, 2006; Hayman 2006; Monture 2006).

Current and past attempts to create a new regime for women in prisons are in direct contrast to the quasi-military regimes forced on men during this period. Implicit in woman-centered models is the idea that the negative attributes of penal discipline are alleviated by involving women in the governance of institutions for women. Only a small number of accounts of women’s governance of female prisoners overlook the imbalance of power inherent in the relationships between prisoners and guards, the keepers and the kept (Hannah-Moffat 2000b, 2001). Studies on the imprisonment of women have outlined the patriarchal oppression of women offenders at the hands of their male keepers throughout the eighteenth, nineteenth, and twentieth century (Carlen 2002; Heidensohn and Silvestri 1995; Morash 2006; Morris 1987). Concerns about male power, especially patriarchal relations and sexual exploitation, dominate many of these studies. For instance, recent studies have analyzed the link between gender, class, and racial oppression in the history on women’s oppression (Burgess-Proctor 2006; Comack 2006b; Daly 2004; Monture 2006). Studies conducted specifically within a Canadian context have analyzed such links. Canada is in a unique position as one of the first countries to have attempted to develop a new prison regime for women that incorporates feminist principles, as well as recognizing the need to respond to the extraordinary experiences of
Aboriginal women (Adler 1995; Burgess-Proctor 2006; Hannah-Moffat and Shaw 2001; Rice 1990).

This unique prison regime established within Canada will be discussed by tracing its historical origins, influences, ideologies and practices/policies within the Canadian federal system. Next, I provide an historical overview to understand and examine the present correctional system and prison regime.

History of Canada’s Federal Prisons for Women

In the nineteenth and twentieth century’s, maternal reformers and the idea of motherhood played a key role in the governance of women prisoners and in the reform of women’s prisons. Maternalism has typically been characterized as an ideology that emphasizes the tasks and qualities of motherhood. It is often associated with a woman’s duty and responsibility to be a mother. Maternalism implies that women have natural abilities and capacities that are specific to their biological sex (Hannah-Moffat 2001; Zaitzow 2003). With respect to prison reform, at different historical periods, materialists advocated and lobbied for the involvement and employment of female matrons, police officers, parole officers and social workers for women-only institutions. However, the agendas of these reformers were not always compatible. While prison reformers often had important feminist insights with respect to the experiences of women and sexual inequalities, nineteenth century reformers rarely became women’s rights activists. Early American and Canadian prison reformers accepted traditional institutions of crime control: “they wanted to improve the penal treatment of women and to do so they eventually, became keepers in their own prisons” (Freedman 1981:2). Reformers’ responses to female crime were profoundly entrenched in a complex value system, “at the
heart of which was the highly artificial construct of ideal womanhood” (Zedner 1991:320 cited in Hannah-Moffat 2001:27). In Victorian constructions of femininity, contradictory images of women were presented. Women reformers were portrayed as “virginal, honest and sober, and as uplifting moral influences; while criminal or fallen women were constructed as threatening, deceptive and dangerously susceptible to corruption” (Hannah-Moffat 2001:27). The female criminal was, for many, a ‘moral menace.’ The only way to reform the woman was to bridge the gap between the feminine ideal and female immorality through a complicated system of agreed upon female behaviour (Bosworth 2003; Hannah-Moffat 2000b, 2001; Hayman 2006; Zaitzow 2003).

During the nineteenth century, the pioneering activities and ideals of feminist activists and reformers, such as Elizabeth Fry, were important because they point to a number of significant changes in the governance of women prisoners that emerged with the rise of maternal penal logic. Elizabeth Fry was the first advocate of prison reform to recognize and argue that the needs of women prisoners were different from those of male prisoners. Fry advocated for the introduction of matrons and female wardens to the prisons. The goal of this was to reinforce feminine and family values to the women who have ‘strayed’ from these ideals. Fry believed that matrons and female wardens should be able to teach the women to value hard work and help them to better take care of themselves by placing an emphasis on hygiene, religion, and literacy (Carlen 2002; Hannah-Moffat 2001; Hayman 2006; Worrall 2002).

The upper-middle class voluntary association that emerged during the nineteenth century in England, the United States and Canada played an important role in connecting the private female sphere of household and family to the public, male-dominated world of
politics (Carlen 2002; Hannah-Moffat 2001; Hayman 2000, 2006). Women reformers imagined that the advancement of state policies and institutions were based on the qualities of idealized, upper-middle class motherhood and in which women would play an active role as volunteers, electors, policy-makers, bureaucrats, and workers within and outside the home (Hannah-Moffat 2001). By the late 1840s, female prisoners were usually supervised by women officials in wings of mixed prisons. The conditions in these units prompted changes that fundamentally altered the face of women’s penalty.

Throughout the nineteenth and early twentieth century, American reformers, inspired by the work of Elizabeth Fry, initiated a reform movement that ultimately affected Canada, Britain, and the United States. The construction of separate prisons for women, based on the principle of maternal guidance, was a result of this wave of reform. The movement affected more than women’s prisons; it fundamentally changed the governance of women more generally. In the sphere of penality, it resulted in the hiring of many women matrons (Hannah-Moffat 2001; Hayman 2006).

The American women’s prison reform movement and its logic of separate spheres has had a profound impact on how women’s crime was interpreted and managed in other Western countries. That said, the evolution of separate institutions for women in the late nineteenth century occurred under different circumstances in Canada than in the United States. American reformatories emerged from a particular set of historical circumstances and were designed to deal with a specific type of offender, the ‘reformable woman.’ American efforts to construct women’s prisons were inspired and encouraged by a structured and powerful women’s reformatory movement that existed long before Canadian women were actively engaged in penal reform (Chunn and Menzies 1995;
Hannah-Moffat 2001; Heidensohn 1995). In Canada, the reform movement was less ordered and more divided. Many worried individuals visited women in gaols, prisons and penitentiaries, and offered released prisoners financial support, but it has been difficult to determine whether these efforts were coordinated, and whether they affected specific state policies (Chunn and Menzies 1995; Hannah-Moffat 2001; Hayman 2000, 2006; Heidensohn 1995).

In Canada, separate reformatories for women were not originally developed through feminist lobbying; rather they were a state-generated project. State reformers shaped by American penality, such as J.W. Langmuir (Ontario Prison Inspector 1868), promoted the state to support a maternal penal reform strategy based on the belief that honourable women could encourage their fallen sisters. Langmuir’s successful use of maternal logic secured support for the construction of the Andrew Mercer Reformatory, a provincial facility for women. In 1874, the Mercer signified the institutionalization of this new form of women’s governance, which drew on a variety of rationalities and technologies to justify and promote a specific women-centered strategy (Hannah-Moffat 2001, 2006; Hayman 2006). The distinctly “feminine” disciplinary methods resulted in the creation of an environment that was a language of domesticity. In many ways, the construction of the prison as a ‘home’ ignored material and legal realities that revealed the suppressive features of imprisonment. Women’s behaviour in the Mercer was constantly monitored, and mobility was severely limited. Specialized programming for women prisoners was one innovation of the Mercer regime. Part of the Mercer’s public appeal lay in its claims to reform fallen women through strict gender-specific regimes of domestic labour, moral and religious training and after care (Hannah-Moffat 2001; Hayman 2000, 2006; Pollack
The closure of the Mercer Reformatory came about in 1969. Female inmates housed within the Mercer were transferred to the Vanier Centre for Women (Ontario provincial facility) or in some instances the Prison for Women. The consensus of feminist historians today is that, regardless of the best efforts of maternal reformers, the good intentions of these advocates of motherly obedience were weakened by the realities of imprisonment as a place of punishment and control.

The Mercer is an important part in both the history of Canadian imprisonment and the history of maternal logics. When this experience is placed in a broader correctional context, it becomes evident that the problems encountered in attempts to institute a maternal regime in many ways symbolize the contradictory nature of the correctional enterprise, a contradiction that Ekstedt and Griffiths (1988) and other Canadian correctional historians have characterized as ―the split personality of corrections‖ (Hannah-Moffat 2001:69). Prison, penitentiaries, and reformatories have adopted two fundamentally contradictory objectives: to punish and to reform.

Historically, responsibility for Canada’s correctional system has been split between the provinces and the federal government, with those sentenced to imprisonment for two years or more being held in a federal penitentiary while those sentenced to less are held in provincial jails and prisons. Penitentiaries were classified as institutions where the goal was for prisoners to repent. This was achieved through religious teachings as well as labour and discipline (Faith 1993). Prisons or jails were institutions established with the goal that the attitudes and habits of those who committed crimes could be reformed and housed for a shorter duration (Faith 1993). While there are numerous penitentiaries for
men in Canada, the small percentage of federally sentenced women were generally confined in Kingston Prison for Women (Hannah-Moffat and Shaw 2001; Hayman 2006).

Specialized federal prisons for women in Canada, however, are historically rather new. For one hundred years, female prisoners were placed and confined within penitentiaries and prisons for male offenders, and subject to the same treatment, facilities and programs as their male counterparts. Nowhere was this more notable than within Kingston Penitentiary (Hayman 2006). Kingston housed a number of penal establishments, but even today none is more prominent than Kingston Penitentiary. The Prison was built between 1833 and 1835. Although built to incarcerate men, women were imprisoned in the penitentiary almost as soon as it opened. In 1848, what became known as the Brown Commission was appointed by the government to investigate the administration of Kingston Penitentiary. Brown recommended that women should be kept entirely apart from men and that a separate prison could be provided for them. Yet women continued to be housed in various cramped locations within the penitentiary for another eighty years (Gamberg and Thomson 1984; Gosselin 1982; Hannah-Moffat 2001; Hayman 2006). Similarly, in 1921 the Nickle Commission, notable for being the first to consider federal women prisoners separately from male prisoners, emphasized what it regarded as “the inappropriateness and vulnerability of the women’s situation within Kingston Penitentiary” (cited in Hayman 2006:15). Their primary concerns (Brown and Nickle Commission) were about women’s morality and sexuality, and inappropriate physical sexual contact between the keepers and the kept. Nickle believed that there should be “adequate segregation of female convicts from male convicts and male staff” (1921:4-5 cited in Hayman 2006:15). Nickle’s argument for closure led directly to the
beginning of construction in 1925 of what is known as the Prison for Women (Hayman 2006).

The Prison for Women formally opened to women in 1934 and was administered by the Correctional Service of Canada (CSC). As a facility for federally sentenced women, it received all women sentenced to custodial terms of two years or more. However, those sentenced to lesser terms could be transferred to the Prison for Women if their behaviour became in provincial corrections’ eyes ‘difficult to manage’ (Hayman 2006). The type of ‘rehabilitation’ applied at the Prison for Women was to a large extent organized around the knowledges of white middle-upper class women that reinforced certain expectations about appropriate feminine conduct. In its later years (influenced by the attention of academics and scholarly research on the sciences and medicine), the logic of ‘rehabilitation’ included both scientific and non-expert claims about women’s experiences and needs, which led to an overwhelming focus on medicalizing women’s behaviour (Hannah-Moffat 2001; Pollack 2000, 2006).

Within four years of the opening of the Prison for Women, the Archambault Commission (1938) recommended that the prison be closed and the women transferred to institutions controlled by provincial authorities. The Archambault Commission was one of the first “to acknowledge the rights of women prisoners to equal treatment with men” (Cooper 1993:43). Since the Archambault Report, numerous government and private sector reports have examined the Prison for Women, including the Fauteux Committee (1956), Ouimet Committee (1969), the Royal Commission on the Status of Women (1970), the MacGuigan Report (1977), Clarke Report (1977), Needham Report (1978), Chinnery Committee (1979), Canadian Bar Association (1981), and the Daubney
Committee Commission’s Report (1988). The main problems identified in these reports were that the system: 1) imprisoned most federally sentenced women hundreds, often thousands of kilometres from their families and home communities; 2) confined them in conditions of security disproportionate to their needs and their offences; 3) allowed no possibility to transfer to a less secure environment; 4) offered relatively few learning, educational or rehabilitative program opportunities; and 5) operated within a building totally inadequate for its self-declared purpose, which was to ‘rehabilitate’ the female offender and address women’s specific needs (Hannah-Moffat 2001; Hayman 2006).

Rethinking Female Incarceration in Canada: Creating Choices and Beyond

For more than fifty years, advocates had been arguing for the closure of the Prison for Women and for programs that accommodate the needs of women. The context of this reform initiative was shaped by the long history of struggle and survival. Tragic conditions and overt discrimination in the Prison for Women, Canada’s only federal institution for women prisoners has been a source of aggravation for many since its opening in 1934 (Hannah-Moffat 1995). The most recent report of the Task Force on Federally Sentenced Women, Creating Choices (1990), appears to have dislodged the sequence of unconcern and neglect. Although the content of this report is similar to that of previous reports — its organization, philosophy, and aftermath — it marks a significant change in responding to women in prison (Hannah-Moffat 1995; Hayman 2006).

The Task Force on Federally Sentenced Women was established in March 1989, by the Commissioner of the Correctional Service of Canada in collaboration with the Canadian Association of Elizabeth Fry Societies (TFFSW 1990). The mandate of the
Task Force required members to examine the correctional management of federally sentenced women to develop a policy and a plan which would guide and direct this process in a manner that was responsive to the unique and specific needs of female prisoners. The Task Force was organized into two committees; a Steering Committee, compromised of senior officials from various relevant agencies and organizations and a Working Group, staffed by government and non-government representatives with direct expertise pertaining to federally sentenced women. A variety of different perspectives and experiences were represented among members of the Task Force. The membership included federally sentenced women, community, Aboriginal and women’s groups, along with a number of government agencies (TFFSW 1990). This was the first time that women outside the field of corrections came together to fight for the rights of federally sentenced women. These individuals set out to politicize and contextualize the discrimination faced by women, and to use the networking capabilities of the women’s movement to lobby for changes on a national level (Hannah-Moffat 2001).

The Report of the Task Force on Federally Sentenced Women, Creating Choices (1990), was unique in four ways: 1) it focused exclusively on imprisoned women; 2) it involved both civil servants and representatives from the voluntary sector; 3) it recognized the potential contribution of a prisoner’s socio-economic status to her offending; and 4) it acknowledged the significance and impact of ethnicity and culture within the field of imprisonment (Hayman 2006:5). As the Task Force discovered, its discussions could not be separated from Canada’s colonial history, with the effect that Creating Choices appeared as a combination of punitive, feminist, postcolonial and political theorizing (Hayman 2006; Monture 2006).
The writers of *Creating Choices* believed that they were adhering to a largely feminist vision, even if the language used was not entirely ‘owned’ by feminism. This was particularly evident in the document’s principles (although there was no consensus by either Task Force members of their respective employers on these issues):

- **Empowerment**, meaningful and responsible choices, respect and dignity, supportive environment and shared responsibility (Hannah-Moffat 2000b, 2001; Hannah-Moffat and Shaw 2001; Hayman 2006). “Empowerment,” in *Creating Choices* (1990:105), is aligned with the structural inequalities (i.e., education, employment, status) experienced by the majority of women prisoners and also connected to the view that women prisoners lack self-esteem, and as a result, are believed to have little power to make decisions.

- **Meaningful Choices,** the second guiding principle of the woman centered-approach, is defined as the need to provide women with “choices which relate to their needs and make sense in terms of their past experiences, their culture, and their future realities and possibilities” (TFFSW 1990:108). The creation of meaningful choices in this report indicated that there are two kinds of meaningful choice: the choices offered to the prisoner by the institutions (i.e., programming) and the choices made by the women while residing in the institution (Hannah-Moffat 1995). The third principle, “respect and dignity,” acknowledges that many of the rules in prison have been managed in a degrading manner and have added to the prisoner’s sense of powerlessness. “Supportive environment,” the fourth principle, is closely connected to the objective of empowerment, and to notions of equality for women prisoners. The mutually dependent nature of all parts of the environment allowed for equality of programming and security to be achieved (Hannah-Moffat 1995; TFFSW 1990). The final guiding principle outlined in the Task Force is “shared responsibility.” Similar to the other principles, the conceptualization of
shared responsibility emphasizes the responsibility of the prisoner, the government, and the community (Hannah-Moffat 1995; Hayman 2006).

The document was influential because it encapsulated and illustrated the inadequacies of prisons for women and focused upon the female prisoner and her needs. The document set out a woman-centered regime to address what it saw as the key failures and injustices of the Prison for Women. *Creating Choices* also aimed to include a Canadian agenda through its recognition of Canada’s diverse background and history, attending specifically to the overrepresentation and needs of Aboriginal prisoners (Hannah-Moffat 2000b, 2001; Monture 2006). The report was unique because it acknowledged that Canada was made of three distinct cultures which operate within an uneasy association of provinces (the French, British and Aboriginal peoples). Euro-Canadians began the process of depriving the First Nations of Canada [the Aboriginal peoples] of their authority over land that had been theirs initially. The way in which these two groups — the Aboriginal and Euro-Canadian — were represented on the Task Force is important, because these perspectives were combined with the Report’s recommendations. The Euro-Canadian Task Force members found their work greatly influenced by a passionate group of Aboriginal women, who had themselves only been invited to join the Task Force as an afterthought. According to Hayman: “The Aboriginal members captured the agenda, politicized the discussion to an extraordinary degree, and finally managed to have “their” language integrated throughout *Creating Choices*” (2006:71). By contrast the Quebecois members, with significant issues of their own, exerted very little influence because they were claimed (by members of the government
and the Task Force) to be part of the Euro-Canadian population (Hayman 2006; Monture 2000, 2006).

The Task Force’s Report led to the closure of the infamous Prison for Women and its replacement by five regional prisons, among them an Aboriginal Healing Lodge (Hannah-Moffat 2001; Hayman 2006; Monture 2006). The Prison for Women closed in 2000. A prevailing recollection of the prison continues to wield power upon the civil servants accountable for the care of federal women prisoners and upon individuals from the voluntary division who act as activists for women. These two groups are identified with the planning that led to the publication of Creating Choices. They both argued forcefully that the Prison for Women was an unsafe and unfair environment for any woman. How these two constituencies came to be united in such a project is an important part of Canadian international history of incarcerated women (Hannah-Moffat 2000b; Hayman 2006).

The Task Force recommended the construction of four new prisons (after much debate about the location) to be situated in Truro (Nova Scotia), Joliette (Quebec), Kitchener (Ontario), Edmonton (Alberta), and an Aboriginal Healing Lodge located in Maple Creek (Saskatchewan). 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 — to participate in treatment programmes and counselling, follow the policies and rules of the prison. Unfortunately, in the course of implementing these revolutionary changes, serious incidents occurred at the Prison for Women (before its closure) and its environment further deteriorated (as will be discussed in the ensuing chapter). These events led to a re-examination of the principles and philosophy of the Correctional
Service of Canada and its commitment to *Creating Choices*. This investigation and inquiry known as the Arbour Report (1996), castigated Correctional Service of Canada for its failure to adhere to the rule of law and address the specific needs of female prisoners. In the subsequent chapter, these events, incidents and responses employed by the Correctional Service of Canada (as a reaction to such events), will be discussed and then further analyzed in conjunction with the principles and recommendations put forth in *Creating Choices* (1990) and in the Arbour Report (1996).

**Creating Choices: A Discussion and Critique**

When these developments (woman-centered regime of *Creating Choices*) are placed in a wider historical context, the proposed changes become alarming. This is because Canadian histories of women’s imprisonment reveal that building an institution based on the perceived needs and experiences of women prisoners, employing only female staff and administrators, and integrating feminist, material and therapeutic discourses with a penal regime is not original or radical idea, as it had been utilized previously at the Mercer Reformatory (Hannah-Moffat 1995; Hayman 2006). The language of woman-centered corrections incorporated problematic assumptions concerning how to manage and respond to female offenders. It also overlooked certain experiences of incarcerated individuals. The language that defines the new woman-centered regimes was not contested in the Report, even though it became increasingly apparent, particularly when the Correctional Service of Canada took measures to implement its recommendations, that feminists and correctional officials had conflicting interpretations of terms such as ‘empowerment.’ For instance, unlike Correctional Canada, feminists generally do not believe that the woman-centered model is contingent
on the construction of new institutions (Hannah-Moffat 1995, 2000b; Hayman 2006). Indeed, critical criminologists and feminists both emphasize the commonalities shared by women as a disempowered and marginalized group. Although this assumption of common disempowerment illustrates some of the experimental and demographic similarities between women and prisoners and “free” women, it fails to show differences among women. Hannah-Moffat contends (1995:142): “The experiences of women in prison are much more than a microcosm of the experiences of all women” (Hannah-Moffat and Shaw 2001; Hayman 2006).

The language of woman-centeredness has the ability to reject other types of repression experienced by women prisoners. An emphasis on gender-based repression diminishes and disguises types of oppression such as race and class. Creating Choices discussed extensively the significance of cultural understanding, although, the majority of these sensitivities were restricted to Aboriginal women’s experiences. Such attentiveness is important because Aboriginal women are disproportionately overrepresented in Canadian prisons. Nevertheless, the needs of other minority women were overlooked (Hannah-Moffat 1995, 2000b).

A third critique of Creating Choices was that advocating the construction of two independent and distinctive models of corrections, woman-centered and male-centered, presents a false dichotomy, where the woman-centered approach is juxtaposed to its counterpart. This split reproduces and reinforces stereotypical ideals of femininity in the correctional discourse (Hannah-Moffat 1995; Hayman 2006), reproducing male-centered views about what women need and want. The image of a woman-centered prison as compassionate, generous, and healing implicitly reinforces beliefs that such
characteristics are not necessary in men’s prisons. And finally, the notion of a woman-centered prison “is its rejection of the physical and legal reality of carceral relations embodied in all prisons” (Hannah-Moffat 1995:147). The explicit intention of imprisonment is to punish and to limit the freedom and autonomy of individuals subject to this sanction. In spite of the appearance and premise of a woman-centered regime, it is still, in several forms, about retribution, surveillance and control (Hannah-Moffat 1995, 2000a, 2000b, 2001; Hayman 2006).

*Creating Choices* characterized federally sentenced women as “high needs” but “low risk.” This classification portrayed only a small part of the importance of the report. The Report was heavily influenced by the reluctance (of Task Force members) to label women as potentially violent. Federally sentenced women were perceived as victims as much as victimizers and this resulted in the Task Force’s failure to make arrangements for the roughly five percent of women it unwittingly decided might need higher levels of security. Hayman contends: “This failure left *Creating Choices* with a potentially fatal flaw at its core because the absence of any recommendations to deal with violent women allowed Correctional Service of Canada, rather than the Task Force, to decide what type of secure accommodation should be provided” (2006:108). The Report’s underlying assumption was that the great majority of federally sentenced women could live with relatively low levels of security and that this security should be ‘dynamic’ rather than ‘static’ (Hannah-Moffat 2001; Hayman 2006).

**Conclusion**

Throughout the centuries, there has been an abundance of literature that has analyzed, criticized and initiated reform regarding federally incarcerated women. Much
attention has been directed onto this domain because of the number of injustices that have occurred within the criminal justice system and more evidently the penal system. This has also been an important focus of analysis because of the failure by criminal justice officials and institutions to recognize the marginalized, vulnerable and subjugated status of incarcerated women. Analyzing these literatures and policies has led not only to a greater awareness of the inequalities experienced by women within the criminal justice system, but also to government policies and initiatives intended to address these issues and provide for better conditions for women.

Although many of these issues have been analyzed by a number of academics from different disciplines and perspectives, it is important to constantly question and probe the current state of conditions within the penal system. Until discriminatory practices are abolished, scholarly research is essential to continue shedding light on the injustices imposed upon women.

The next chapter will begin with a discussion of Creating Choices (1990) and the Arbour Report (1996) and outline the recommendations and findings provided within each report. The key recommendations will be used to analyze and examine whether the Correctional Service of Canada has adhered to the principles within both reports. This chapter will then discuss and summarize specific case studies (in chronological order) that reveal the general unrest occurring within prisons for women. These specific case studies will discuss incidents and events, including: suicides, deaths, major and minor disturbances (i.e., attacks, assaults, increased security and control) that have occurred within prisons for women since the introduction of Creating Choices. This will then lead to a discussion (Chapter 4) of what this suggests about the Correctional Service of Canada.
and the institution of imprisonment. The key themes and issues that resonate within each report will be analyzed to examine the commitment of the Correctional Service of Canada to *Creating Choices* and Arbour.
Chapter 3
Empirical Case Studies

The history of female incarceration within Canada is one that has been characterized by debate, apprehension and reform. More specifically, the 1980s and 1990s can be marked as one of major dissension, conflict, and change within federal corrections for women in Canada (Dell et al. 2009). Within this period, *Creating Choices* and the Arbour Report, both revolutionary and innovative documents on female incarceration, were published. These reports focused on the environment and conditions within federal institutions for women and offered a series of recommendations. These recommendations addressed the central inadequacies and problems within federal female prisons and questioned the management and administration of the Correctional Service of Canada. Questioning whether the Correctional Service of Canada has adhered to these recommendations and principles within both reports will be at the forefront of analysis in the next chapter. Chapter 3 will also be followed by a discussion of the institution of imprisonment (its ideals, philosophy and possible dilemmas in Chapter 4) and to a final discussion of ‘where do we go from here’ (in Chapter 5). Within Chapter 3, a brief summary of the recommendations to establish a framework for analysis will be provided. Chapter 3 will present, specific case studies that document events and incidents that have occurred within prisons for women since the publication of *Creating Choices* and the Arbour Report. By analyzing the experiences of women within female prisons, it will be possible to examine what has changed as a result of *Creating Choices* and the Arbour Report, and to discuss whether their recommendations have delivered the humane, empowering prison environment advocated by these reports.
Methodology

Case study analysis is a descriptive, non-experimental research method, using predominately qualitative data, that is conducted with a single person, groups, organizations, movements or events (Cassidy and Medsker 2004; Neuman 2003). Qualitative and case study research are not identical, but “almost all qualitative research seeks to construct representations based on in-depth, detailed knowledge of cases” (Ragin 1994:92). Case studies seek to understand and describe why and how behaviour occurred in unique, extreme, or even typical situations. Case studies may be used in an exploratory way, in preparation for a more controlled or quantitative study. They may also be used to provide cumulative information from several different cases at different times or may serve to investigate an extreme or critical stance, perhaps to challenge a widely-held generalization (Cassidy and Medsker 2004; Neuman 2003). This research method provides an excellent way to investigate “how” and “why” questions related to complex issues or situations. Data collection methods include observation, interviews, examination of records, collection or work samples, and artifacts. The collection method used within my research includes an examination of the Correctional Service of Canada’s inquiries, documents and media reports, academic literature, investigative journalism, and independent investigation reports (Ombudsman reports).

Several key methodological concerns arise with the use of case study analysis. These include: validity and reliability (information may vary markedly from source to source); personal bias; and availability of data (Kumar 2005). With that said, these issues, validity and reliability, personal bias and availability of data have been addressed while conducting this research and throughout this chapter. Validity and reliability have been
discussed by focusing on the source itself (is the source itself reliable and the claims made valid, rather than the data itself). Personal bias has been addressed with regards to the contested “truths” presented by each scholar, organization, investigator or federal Ombudsman. The vested interest of each resource has been outlined as a possible source of bias. With a vested interest, each source has the potential to shape the outcome of a report, document or inquiry. Lastly, availability of data as a potential problem has been discussed. Each source has the ability to influence access to information, the amount of information and detail given, and the time frame to access information.

In a case study, a researcher may intensely investigate one or two cases, or compare a limited set of cases, focusing on several factors. Case study uses the logic of analytic instead of enumerative induction (Neuman 2003). This means that case studies focus on the detail, description and analysis of information, rather than numerical data (numbers, frequency of events). Within a case study, the researcher carefully selects one or a few key cases to illustrate an issue and analytically studies the case(s) in detail. An example of case study analysis is Christopher Smith’s (1995) study, where he observed asian immigration into Flushing, New York, during the 1980’s through case study analysis. Smith examined the causes of immigration changes and described the processes and its consequences. His data included official statistical records, maps, historical accounts and government reports/documentation (summarized in Neuman 2003:33). Case study analysis is well-suited for my investigation because case studies help researchers connect the micro level, or the actions of individuals, to the macro level or broader social structures and process. This is the intent and aim of my research. Case study research also
raises questions about the boundaries and defining characteristics of a case (Neuman 2003).

The specific case studies chosen will be discussed in chronological order following the release of Creating Choices. This particular tactic was chosen to provide historical context and developments overtime. It will also provide an overarching analysis of the conditions of prisons for women by examining the experiences of female inmates. Creating Choices (1990) is the starting point as the report was the first of its kind to be heard by the superior levels of the federal government and led to the closure of the Prison for Women and to the establishment of five new prisons, including a Healing Lodge. The Arbour Report (1996) is the subsequent document chosen because it was written directly after the publication of Creating Choices. Both reports examined and criticized the treatment and response of the Correctional Service of Canada to the needs of female inmates. The Arbour Report led to a reestablishment of the ideals of Creating Choices.

The first case to be discussed is the attempted suicides and self-injurious behaviours of female inmates and the death of Denise Fayant (1996) that occurred at Edmonton Institution. The second case consists of a knife attack and assaults at Nova Institution (1996). The third chronicles incidents and minor disturbances at Joliette institution (1997, 1998). The fourth discusses allegations of sexual abuse and incidents at Okimaw Ohci Healing Lodge (1998, 2001). The fifth case study will discuss the suicide of Ashley Smith (2007) at Grand Valley Institution. Finally, the sixth outlines the death of Pierrette Anglehart (2008) at Joliette Institution and other ‘minor disturbances’ [Refer to Table 1 for an overview of each case, its key reports and recommendations].
# Table 1. Case Study Analysis

<table>
<thead>
<tr>
<th>Title</th>
<th>Key Reports/Cases</th>
<th>Recommendations</th>
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  *Secondary Analysis*  
  2) Stephanie Hayman (2006)  
  3) Michael Harris (2002) | - Staff must act fairly and follow the rule of law  
 - Establish a safe, healing environment  
 - CSC set up an effective and efficient external board of investigation |
  *Secondary Analysis*  
  3) Stephanie Hayman (2006) | - Improve communication, leadership and management among staff |
| Minor Disturbances and a Questioning of Ideals at Joliette Institution (1997, 1998) | No Official Reports  
 *Secondary Analysis*  
  1) Michael Harris (2002) | - Not applicable |
| The Okimaw Ohci Healing Lodge: A Place of Healing or Punishment? (1998, 2001) | No Official Reports  
 *Secondary Analysis*  
  1) Stephanie Hayman (2006) | - Not applicable |
  2) A Preventable Death: Correctional Investigation into the Death of Ashley Smith (2008)  
  3) Initial Assessment of the CSC’s Response to the OCI’s Death in Custody (2010) | - CSC set up an empowering and safe, healing environment  
 - Staff be trained to act fairly and follow the rule of law  
 - Segregation be used minimally  
 - Independent working groups set up to advise on administrative segregation  
 - Mental health needs of federally sentenced women be addressed  
 - CSC set up a system for prioritizing offender grievances and complaints |
  2) CSC: Death at Joliette Institution (2008)  
  3) CSC: Inmate Assault at Fraser Valley Institution (2009) | - Not applicable |
Through case study analysis, I will provide a comprehensive overview of all incidents and disturbances that have been reported within federal institutions for women from 1996 to 2010. My investigation covers all inmate deaths and ‘major’ incidents in prisons that have been reported by the Correctional Service of Canada or are accessible through other reliable sources such as the federal Ombudsman or through academic literature, and in one case through investigative journalism. Secondly, a random sample of the more “minor” incidents and disturbances that have been reported by the Correctional Service of Canada’s media release publication will be utilized. This source was chosen because of the difficulties of securing Correctional Service of Canada’s permission to interview incarcerated women and the time constraints of a Master’s thesis. A limitation that arises in using case studies is that such information is taken from a set of contested truths. These ‘truths’ of the cases are acquired from a number of academics, scholars, journalists, from the Correctional Service of Canada, and federal Ombudsman. The ‘truths’ (i.e., facts) of each case are challenged by the different sources because of the different interests and perspectives they represent. The second source, Correctional Service of Canada media reports of “incidents,” was chosen because it is the only available source for information on such incidents. Taking a random sample of these incidents reduces the amount of bias that would arise from specific case selection. The disadvantage is that such research is relying upon one source — the Correctional Service of Canada (CSC) — to gain information, and this source has a vested interest in shaping, veiling or concealing information that makes the CSC look bad — or at the very least an interest in presenting the Correctional Service of Canada in the best possible light. The media releases provided by the CSC also lack detail and description and are available only for the last six years (2004-2010). Despite such limitations and weaknesses, the CSC
is the only viable source to attain information on the many incidents and disturbances (excluding deaths and suicides) that have occurred within prisons for women.

Obtaining information on incidents and disturbances that have occurred within female federal facilities is a daunting task. Hundreds of news reports are sent out by the Correctional Service of Canada’s public relations department concerning incidents and disturbances across all federal institutions. These media news reports detail briefly the circumstances surrounding certain incidents, deaths, suicides and major disturbances within federal institutions. The year 2004 is the starting point because the Correctional Service of Canada only began this process then. The releases are carefully vetted.

According to Correctional Service of Canada,

...regionally distributed news releases dealing with incidents must be approved by the Regional Deputy Commissioner, Regional Communication Managers and/or operational unit heads (2007c:8).

According to CSC Commissioner’s Directive #022,

Institutions or parole officers shall normally issue a news release should one of the following incidents occur: a. hostage taking; b. large groups of offenders refusing to work or refusing to return to their cells; c. major assaults on staff or offenders; d. seizures of lethal substances, explosives or firearms; e. major disruptions of day-to-day activities; f. any major incidents’; g. escapes from maximum, medium and minimum security institutions including escapes from escorted temporary absences and failure to return from unescorted temporary absences or work releases; h. when an offender dies while under the responsibility of an institution; i. major seizure of contraband (i.e., drugs) (CSC 2007c:9).

Thus, access to incidents and disturbances within federal institutions is only made available at the discretion of the Correctional Service of Canada and in some instances access is restricted or prevented entirely. The Correctional Service of Canada holds the power to decide which and when events are made public and the amount of information
that is provided about each one. This in itself makes it arduous to obtain information on
the conditions and experiences of women in prisons and the rate at which disturbances
occur (this will be discussed further in case study six).

The lack of transparency within the correctional system and the veil of secrecy
upheld by the Correctional Service of Canada makes it difficult and at times impossible to
gain access to information or attain an accurate analysis of the level of unrest and conflict
that takes place. What has been made available (and used within this research) is probably
only the ‘tip of the iceberg,’ a partial glimpse at the experiences and conditions of female
inmates. This is, particularly apparent with obtaining information on ‘major’ or ‘minor’
disturbances that have not been reviewed or investigated by a National Board of
Investigation, public inquiry or Ombudsman, such as the death of Pierrette Anglehart, and
escapes of female inmates at the Okimaw Ohci Healing Lodge.

The reports and sources available for each case study overlap with one another
and in some but not all instances they reinforce each other. To minimize the potential bias
with using case studies to conduct such an analysis, I will summarize and discuss these
incidents and events from the reports, documents and inquiries produced in chronological
order (looking at facts rather than opinions and recommendations).  

This chapter begins with a discussion on the Task Force on Federally Sentenced
Women’s Report, Creating Choices (1990), and the recommendations provided within
the report. Subsequently, a parallel summary of the events leading up to the Arbour
Report (1996) and its recommendations are discussed. Following this, a discussion and
summary of each case is provided.

5 With my own biases in mind.
Creating Choices, the Arbour Report, Findings and Recommendations

The Task Force on Federally Sentenced Women provided a distinctly Canadian solution to the problem of imprisoning women and its project also sheds light on the wider enterprise of prison reform (Hayman 2006). On 26 February 1990 Creating Choices: The Report of the Task Force on Federally Sentenced Women was presented to Commissioner Ingstrup. Creating Choices was officially published on 20 April 1990, and on 30 September 1990 the Government of Canada publicly accepted the report (Hayman 2006). As outlined in Chapter 2, the Task Force was made up of representatives of the Correctional Service of Canada and with the publication of Creating Choices, the Task Force’s decisions were placed in the public domain. The report created a very big picture of what had led to the formation of the Task Force, providing an analysis of the history of federal women’s imprisonment alongside the voices of imprisoned women themselves. The Task Force-commissioned research was used to provide a fuller picture of these women, their backgrounds, and their histories. An entire chapter was devoted to the specific voices of Aboriginal Peoples (Hayman 2006). But unlike the earlier reports [Ouimet Report (1969); MacGuigan Report (1977); Clark Report (1977); Needham Report (1978); Daubney Committee Report (1988); Canadian Bar Association Report (1988)], the report drew attention to the senior levels of the federal government.

After years of administrative neglect, public indifference, hesitant policies and insufficient resources, there was a major turning point in the early 1990’s with the release of Creating Choices (TFFSW 1990). The Task Force reiterated the findings of previous governmental and non-governmental reports on the Prison for Women: that it was over-secure; erroneously based on a male model of corrections; that women prisoners were
geographically dislocated from their families; that the programs did not meet the needs of prisoners; and that there were few community or institutional links (TFFSW 1990).

In summary, the Task Force recommended five new prisons, one being a Healing Lodge, all of which should have spacious grounds to which the women would have ready access. There would be cottage-style architecture, allowing the women to live independently in small groups, sometimes accompanied by their younger children. The staff would be carefully selected and trained, and the prisons would offer innovative, holistic programs, appropriate to the needs of women, while recognizing cultural differences. A complimentary package of community-based services, including half-way houses and addiction treatment centres would facilitate the women’s eventual return to the community. The Healing Lodge would be planned and managed by Aboriginal people, with Aboriginal ceremonies and programming being central to its day-to-day functioning (Hayman 2006).

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, the Correctional Service of Canada had committed itself to a new operational philosophy for federally sentenced women. This, however, 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 (Hayman 2006). The events that occurred at the Prison for Women in April of 1994, and in the subsequent months, must be understood in the climate that prevailed at the time, within the Correctional Service and in the broader interested community, with respect to the treatment of women offenders. Planning for the new prisons had the effect of
discouraging experienced staff at the Prison for Women to apply for positions in other prisons, because, quite early on, it had been made clear that they were not considered suited to the new philosophy of Creating Choices. Long term staff members were replaced by employees with relatively little correctional experience. Budget cutbacks led to the reduction of psychological services and contributed to tensions among 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” at the Prison for Women, which severely restricted the movement of the women on the ranges (Harris 2002; Hayman 2006).

Events began to surface in April 1994. On 22 April 1994 a brief, violent confrontation took place between six women at the Prison for Women and correctional staff. A staff member believed herself to have been stabbed by a syringe, and other staff members were physically threatened. The women prisoners were maced, placed in the segregation unit but left in shackles, unable to shower to decontaminate themselves. Tensions were extremely high and the next day three women, who had not been involved in the earlier incident but were already in segregation, individually harmed themselves, took a hostage, and attempted suicide. Staff had urine thrown at them and further macing took place, with the inmates involved again not allowed to shower until the following day. On 26 April correctional staff protested outside the prison, demanding that the women in the original incidents be transferred. Staff also refused the warden’s request that they should unlock the women involved in the incident from segregation (Harris 2002; Hayman 2006). On the evening of 26 April a male institutional emergency response team (IERT) conducted a cell extraction and strip searched eight women in the
segregation unit. The extraction occurred during the night, when all the women were securely contained within their cells and some were asleep. Following the extraction the women either had their clothing cut off them, primarily by males, or removed their own, and were marched, naked, from their cells. Their cells were then cleared of all furniture. The women were eventually returned to their original cells and left lying on the concrete floors, wearing paper gowns, leg irons and body belts (Hayman 2006). The following evening seven of the women were subjected to body cavity searches and these took place on cell floors while they remained in restraints. They were then permitted to shower and were returned naked to their cells where the water had been turned off and the toilets could not be flushed. All of the women involved in the various incidents were denied access to lawyers. On 6 May 1994, five women (those held in segregation) were transferred to a wing of the Regional Treatment Centre within Kingston Penitentiary (for men) and the three remaining women were kept under lock and supervision within the segregation unit at the Prison for Women.

A National Board of Investigation was convened by the Correctional Service of Canada in response to the media outrage. It consisted of four correctional employees, including the warden-designate of the Nova Institution for Women. The Board failed to review all of the available evidence, and in particular, only briefly viewed the IERT videotape. The report gave a great deal of detail about the women involved in the incidents, emphasizing their long-standing records as violent offenders, and in a sense, provided justification for the way in which staff responded to them. The final report made no recommendations of the IERT videotape, and there were numerous omissions and errors of fact (Arbour 1996:116). As a result of such omissions, the Correctional
Investigator met with the women involved in the incidents and thereafter consistently raised relevant issues with Correctional Service of Canada. In Canada a Correctional Investigator acts as an “ombudsperson, independent of the CSC,” and reports directly to the Solicitor General (Arbour 1996:20). On 14 February 1995 the Correctional Investigator sent a special report to the Solicitor General, outlining 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 inquiry. On 19 April 1995 Madame Justice Arbour was appointed to head the inquiry. Her eventual report castigated Correctional Service of Canada for its “deplorable defensive culture” (Arbour 1996:174) and showed in forensic detail, how Correctional Service of Canada chose to disregard “the rule of law” whenever it suited its purpose and had a “disturbing lack of commitment to the ideals of justice” (1996:198).

Recalling how recently the Correctional Service of Canada had accepted *Creating Choices*, and that it was in the middle of planning the proposed new prisons, one of Madame Justice Arbour’s comments appears to signal a particular relevant 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). Madame Justice Arbour’s Commission of Inquiry into the events at the Prison for Women was a landmark for corrections and the report’s findings and recommendations focused attention on the need for openness, fairness and accountability in all correctional operations (CSC 2009b). The Arbour Report resulted in 87 recommendations/sub-recommendations (with 14 primary recommendations made) to improve the conditions and needs of incarcerated women. The most important of these were the following: 1)
senior managers and front-line staff should be trained to act fairly and follow the rule of law; 2) task forces and working groups should be set up to advise on administrative segregation; 3) segregation be used minimally; 4) committees should be appointed to promote reintegration and human rights in women’s prisons; 5) new procedure regarding cross-gender searches should be instituted; 6) new strategies to address specific mental health issues of federally sentenced women; 7) a new CSC system for prioritizing offender grievances and complaints; and 8) CSC set up an effective and efficient external board of investigation (Arbour 1996). The inquiry and report were concerned not only with what happened at the Prison for Women in 1994, but with ensuring follow-up by the Correctional Service of Canada. Corrections is the least visible branch of the criminal justice system and occasions such as these, where its functioning is brought under intense public scrutiny, are few and far between (Arbour 1996:3).

The recommendations and insights provided within Creating Choices and the Arbour Report envisage prisons for women that contribute to the personal growth of inmates. They emphasize a prison environment where punishment and segregation are minimal — in fact Creating Choices virtually ignores the existence of “difficult” inmates (a fact heavily criticized by Hayman, 2006 and others). Whether these policies and principles that both Creating Choices and Arbour put forth were employed by the Correctional Service of Canada will be examined through specific case studies. The main question guiding my research is whether the promises set out within both reports have been fulfilled and whether there is evidence that the Correctional Service of Canada reformed its practices and policies in the recommended ways.
Before a discussion of each case is presented, the format that will be used within each specific case will be outlined. Because the sources used within each case study differ in almost every scenario, I will begin each episode with a discussion of the sources (where the information about the incident was obtained from), as well as their strengths and weaknesses. I will then provide a brief introduction of the institution where the incident took place, a discussion of the event (the relatively uncontested “facts”), the investigation(s), and finally the points from each case that are analytically relevant to the recommendations of Creating Choices and the Arbour Report.

Case Study One: The Death of Denise Fayant and Its Aftermath

*Primary Data Sources*

The major source of information utilized in this particular case study comes from a public inquiry by the federal Ombudsman, supplemented by academic research. A public inquiry is begun when the Solicitor General appoints an officer (independent of the CSC) to investigate the circumstances involving an incident (i.e., a death, suicide or ‘major’ disturbance). The advantage of using information from such an inquiry is that it is one step removed from the Correctional Service of Canada, thus the source does not have a direct vested interest in making the Correctional Service of Canada “look good.” Therefore this source provides a degree of neutrality and objectivity. The limitation to such a source is that reports from the office of the Ombudsman are also based on a set of contested truths. That is they are challenging claims (“facts”) made by the Correctional Service of Canada. Secondly, most of the primary data (“the facts”) relies on the Correctional Service of Canada which conducted the original investigation. Details on this case are also taken from scholars and academics that have analyzed, reviewed, and
discussed the incident (and its reports, investigations, and inquiries conducted). The advantage of academic literature as a source is that it is once removed from the Correctional Service of Canada and the Office of the Ombudsman and does not have a vested interest (to the extent of CSC) in the incident. The limitation is that scholars also present an interpretation based on their summary and discussion of the incident. Despite such limitations, each source to be used, discusses at great length and detail the facts of the case (consensus across sources on the basic “facts” of this case).

The Institution

Edmonton Institution for Women (EIFW) is a multi-level facility located in Alberta. The institution opened in 1995, the first of the ‘newly’ established federal prisons for women (CSC 2010b). Its initial years were conflict-filled because, as a result of 1994 events at the Prison for Women, Edmonton was asked to take a larger than anticipated number of maximum security women. The prison was not designed to cope with such numbers, and management had no power to refuse to admit them. This created a hostile, disorganized and unsafe environment for female prisoners, leading to numerous incidents within the first months of its opening (Hayman 2006).

The first case to be discussed occurred on 29 February 1996, when Denise Fayant, a prisoner within the Edmonton Institution, was found with a ligature around her neck in the enhanced unit. She died on 2 March 1996. Denise Fayant arrived at Edmonton Institution on 28 February 1996. While at the Prison for Women she had made five suicide attempts since being admitted in 1994 and she was involved in twenty-one violent incidents, many of which had targeted her rather than instigated by her. Concern had been expressed by correctional staff before she arrived at Edmonton because she was known to
be ‘incompatible’ with a large number of women on the enhanced security unit, and was due to testify in court against a prisoner held within the Edmonton facility (Harris 2002; Hayman 2006). Not only was Ms. Fayant ‘incompatible’ with many of the women in the enhanced unit but these women were also incompatible with each other. This left the staff at Edmonton with no clear alternatives, as they could not separate everyone.

On arrival at the enhanced unit Denise Fayant was visibly frightened by her reception. Fayant had repeatedly told correctional staff that she feared for her life if sent to Edmonton Institution. She was later advised to remain in the view of staff if she was concerned for her safety, and she was given the choice of being locked up for the night, which she declined. Just prior to lock-up a staff member went into her wing and noticed that Ms. Fayant was not in her cell. She was finally 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 mouth piece, and oxygen could not be supplied because keys were unlabelled and staff could not find the correct ones for the health care centre. Denise Fayant was eventually taken to a hospital where she died (Chrumka 2000; Hayman 2006). The police, having been told by the prison staff that Ms. Fayant had been suicidal in the past, assumed that this was again the case and conducted no immediate interviews, nor did they collect evidence. This theory was passed onto the hospital and to the medical examiner, who made the same assumption. It later emerged that a member of the prison staff told police the night of the suspected suicide that she was unsure Denise 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 (Harris 2002; Hayman 2006). Inmate Natalie Dubreuil pleaded guilty to killing Denise Fayant. It turned out Dubreuil had strangled Fayant with a piece of sinew (used for craft projects). Fayants’ parents sued the Correctional Service of Canada and the Justice Department in 1997. The government settled out of court with the Fayant family in December 1999, burying the details of the arrangements in the terms of the deal (Harris 2002).

Incidents at the prison did not end with the death of Denise Fayant. On 12 April 1996, three medium security women escaped over the fence, one was at large for two days and the other for a week. On 27 April another prisoner climbed out of a window in the maximum security house, scaled the fence, spent three hours outside and then phoned the police and asked them to come retrieve her (Hayman 2006). On 30 April, three 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. All of these events received heavy publicity in Edmonton media, particularly the right-wing Edmonton Journal. Thus, with public concern continuing to increase, the pressure on officialdom proved overwhelming, and on 1 May 1996 it was announced that the prison would be closed (Hayman 2006). On 2 May, Alberta’s Minister of Justice, Brian Evans, was 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 Correctional Service of Canada would be spending $400,000 to make Edmonton more secure. Staff within the prison were confused and uncertain, managing a prison reduced to holding eight minimum security women in a maximum security enhanced unit, not knowing when or if the other women would return.
The President of CAEFS’, Susan Hendricks, was highly critical of the tactics employed by Correctional Service of Canada. In a speech to staff at Edmonton prison she said,

Despite all you have learned about the manner in which the senior managers of the Correctional Service of Canada have consistently and unabashedly misled you in the past [as revealed in 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 (cited in Hayman 2006:155).

Almost four months passed between the prison’s almost complete closure and its reopening on 29 August 1996. The staff underwent retraining, but yet again this was not fully completed by the time the women returned. The prison now 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 (Dell et al. 2009). Throughout this period, minimum security women continued to reside at Edmonton, however, no maximum security women were allowed to return. They were placed in either Saskatchewan Penitentiary or the Regional Psychiatric Centre both of which were male prisons (Hayman 2006).

A National Board of Investigation was set up to investigate both Ms. Fayant’s death and certain other incidents that occurred within Edmonton Institution during the same time period (Hayman 2006). 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 investigation to be enlarged. The Board of Investigation began work at the Institution on 18 March 1996, and by then two further incidents had occurred, so the board ended up investigating one suicide, two attempted suicides, two assaults on staff, and thirteen incidents of self-injury (Hayman 2006). The Board’s report excluded
certain facts and details about the circumstances leading up to and surrounding the
death of Denise Fayant and was criticized for its failure to put the events in context (Chrumka
2000).

As a result, the Solicitor General appointed an external investigator (Provincial
Judge) to re-investigate the incidents that occurred at Edmonton in 1996. In February
2000, after examining the circumstances of the fatality, Judge Albert Chrumka of the
Alberta Provincial Court released a damning report. In the Fatality Inquiry, Chrumka
concluded that Fayant was a victim of “an untested concept to manage federally
sentenced female inmates” and her death was avoidable (cited in Harris 2002:124). The
inquiry into Ms. Fayant’s death also revealed that “the process failed tragically and
inhumanely. The evidence demonstrates a lack of forethought, a lack of administrative
accountability and a callous and cavalier approach with the CSC which cannot be
condoned or tolerated” (Chrumka 2000:98). The Fatality Inquiry placed the Correctional
Service of Canada and its ‘new’ philosophy under intense scrutiny and investigation.

In this case we see that the Correctional Service of Canada failed to deliver a
humane, empowering prison environment. Specifically, both Creating Choices and
Arbour recommended that the Correctional Service of Canada set up an empowering and
safe healing environment, and that staff be trained to act fairly and follow the rule of law.
There is no evidence in the various inquires and reports on the death of Denise Fayant
that any of these recommendations were in force. These themes, recommendations and
their implications will be discussed in more detail in Chapter 4.
Case Study Two: Knife Attack in the SLH and its Upshot

Primary Data Sources

The sources of information that will be employed to discuss the events and incidents that occurred at Nova Institution for Women (case study two) include: the Correctional Service of Canada and academic literature. The Correctional Service of Canada is responsible for the maintenance of a safe society by carrying out sentences imposed by courts, as set out in *Corrections and Conditions Release Act* (CSC 2010a). Within this case study, the report it produced on the ‘major’ disturbances at Nova Institution will be utilized as a source. The advantage to using this source is it provides the facts and specific events that took place rather than a critical analysis or interpretation of the events. It is taken from the “source” itself and thereby provides a glimpse into the manner in which Correctional Service of Canada responds and reports/investigates such incidents. However, with that being said, the limitation to using the Correctional Service of Canada as a source of information is that it has a vested interest in the matter and is directly affected by the findings and event itself. This direct interest will surely shape the information that is reported. The second source, academic literature, is taken from scholars and academics who have discussed, reviewed and have interpreted the incidents in this second case study. Despite limitations, these sources represent the only available source of information on the incident.

The Institution

Nova Institution is a multi-level facility located in Truro, Nova Scotia and is one of five regional facilities for women. It opened in 1995 and can accommodate up to 70 inmates (CSC 2010e). In May 1996 the Correctional Service of Canada reaction to the
escapes at Edmonton spilled over onto the other prisons (with the exception of the Healing Lodge), as all the fences at the new prisons were to be raised three meters and crowned by barbed wire. These security measures were deemed necessary in order to ensure adequate protection both within and outside of the prisons. This was nowhere more evident than within Nova Institution, which was directly affected (its management, staff and acceptance of offenders) by the opening of Edmonton Institution and the events that followed.

The second incident to be discussed occurred against this backdrop in the structured living houses [SLH] (units for female inmates) on 4 September 1996. Following an attempted knife attack on one of the women living in the SLH, an attempt was made to detain the assailant. 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 proceeding day the women had damaged the two cells they were occupying and as a result that evening an all-women cell-extraction team (CET) entered the enhanced unit and removed the women. They were strip searched and removed to a provincial remand facility for women in St. John, New Brunswick. Following this incident, it was announced that maximum security women would no longer be held at Nova or for that matter any of the new institutions (Hayman 2006). The women (three maximum security women) were to eventually be moved to Springhill Institution, a male prison.

On the morning of 19 September 1996, the day that the maximum security women were to be removed from the facility, two women in the SLH began to behave disruptively, to the point that CET thought it was necessary to remove the women from
the house. 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’ (CSC 1997a). 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 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). An hour later this woman managed to remove the flexicuffs, retrieve the handcuffs from the toilet and break the sink 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. The report noted: “in the camera cell, the CET removes the handcuffs from—, replacing them with a body chain. 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). It was not until nearly twelve hours after the original incident that the woman was fully (and forcibly) decontaminated by staff, who held her under the shower. The woman was eventually removed to Springhill Institution some time after 10:00pm (Hayman 2006).

Shortly thereafter, two investigations and two separate reports were commissioned by the Correctional Service of Canada. By contrast with Edmonton’s National Board of Investigation, this first investigation was a middle trier investigation (a smaller investigation in terms of individuals involved, scope of investigation). Its role was to
investigate the incidents and events that occurred within Nova Institution on 19 September 1996, once the regional deputy commissioner had signed the consenting order. The first investigation and its report criticized aspects of the treatment of the women involved, however, the report excluded key events that occurred at Nova the day of the incident (Hayman 2006:176). Yet another disciplinary Board of Investigation was assembled in consequence. When the Board of Investigation Report was eventually released by the Correctional Service of Canada, the many deleted sections prompted speculation as to whose names fitted the gaps, leaving staff members vulnerable to assumption about their individual culpability (Hayman 2006). The reports as published gave a very general idea of what transpired, but failed to provide context by mentioning what else had happened at Nova that day. 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: I). Both reports failed to make clear that the regional commissioner and the deputy commissioner for women were both at the prison on the day the events occurred, which itself might be interpreted as Correctional Service of Canada’s continuing to protect its more senior employees as it did during the Arbour Inquiry (Hayman 2006).6

In this second case study, it is apparent that the endeavour to implement recommendations put forth by Creating Choices and Arbour was a futile attempt made by Corrections Canada. Particularly, both Creating Choices and Arbour recommended that the Correctional Service of Canada establish an empowering and safe healing environment, that staff be trained to act fairly and follow the rule of law, that segregation

6 Refer to Table 1 for CSC reports.
be used sparingly and that an effective and efficient external board of investigation be established to investigate incidents separately from CSC. Based on the various inquiries and reports on ‘major’ disturbances at Nova, there is no evidence that any of these recommendations were followed.

Case Study Three: ‘Minor’ Disturbances and a Questioning of Ideals at Joliette Institution

*Primary Data Sources*

The main source of information to be utilized in this case study is taken from investigative journalism. This source provides a comprehensive discussion, review and analysis of the specific events and incidents that have been compiled by investigative journalists [namely Michael Harris].\(^7\) The advantage of investigative journalism as a source is that the source is one step removed from the Correctional Service of Canada and does not have an explicit stake in the incident. This source is also the only means available to attain information on case study three (this due to the lack of transparency in the CSC). The limitations in using this particular source is that investigative journalists have their own particular “lens” — Harris’s study is his analysis and interpretation of the events taken from a set of contested truths.

*The Institution*

Joliette Institution, located in a residential community seventy kilometres northeast of Montreal, opened in January 1997. It was designed for eighty-one women and the institution was constructed so that its inmates could move relatively freely behind a fence more than eight feet high, topped with a razor wire (CSC 2010d; Harris 2002). Female inmates at Joliette live in five semi-detached housing units. During the first six

\(^7\) Michael Harris had access to such information that I was unable to attain.
months of operation, the institution ran smoothly. The relationship between staff and inmates was open and friendly, and there were no major security or disciplinary incidents. But a few inmates began to arrive who were deemed in Correctional Service’s ‘eyes’ more aggressive and resisted authority. Threats, assaults and harassment emerged between inmates, inmates and staff and finally gangs were formed within the prison (Harris 2002:128).

Behaviour that was previously controlled within the institution was now having a negative impact on all the women at Joliette, where there was not enough staff and staff were confused about how to deal with this situation (Harris 2002). Instead of promoting a relaxed and friendly environment among and with inmates, the exhausted and stressed staff concentrated on security. In August 1997, a staff member was assaulted by a female prisoner and in response the inmate was segregated in the enhanced unit until further solutions could be reached (Harris 2002). Even though Joliette had only been open for a brief time period, an inquiry found “signs of discouragement, burnout and/or questioning of career choice, particularly among Primary Workers” (Harris 2002:128). On 1 July 1998, the local union sent an official letter to the warden outlining staff concerns about the behaviour of certain inmates and the lack of human resources. Warden Cyrenne responded that she was “aware of the fact that interventions relative to certain inmates have not always produced expected results...” and that the institutional environment “had been tense for some time” (Harris 2002:128).

In August 1998, the environment at Joliette became even more tense. Twenty-two of the total population of sixty-four women at Joliette at the time had been convicted of homicide, attempted murder, or manslaughter and a growing drug problem was an
ongoing concern. Although drug use was not necessarily more widespread at Joliette than at the other federal institutions, the impact was greater because of the smaller population of inmates. Staff members often smelled marijuana in the units and witnessed women smoking drugs, a problem that became more obvious and rampant. Over the period of 1998 and 1999, as in other institutions, even though staff knew certain inmates were regularly using drugs, there was no intervention conducted to prevent drug use or distribution (Harris 2002:129). The situations and incidents at Joliette were further compounded by various escapes and assaults. On 17 August 1998, at 9 pm, inmates at Joliette were returning to their units at the end of their evening activities when, three of them climbed over the fence, triggering the alarm. The security camera showed that the three women were assisted by a fourth inmate as they made their escape. Three staff members ran to the yard in an attempt to prevent the escape. Four minutes later, an alarm went off in another sector, where the fourth inmate was making an attempt to get over the fence. The fourth inmate was pursued back to her housing unit by prison staff. When the primary workers tried to get her to accompany them to the enhanced-security unit, she refused. After being shown a gas cylinder, the woman grabbed a pair of scissors and threatened staff and the other inmates in the house. The primary workers left at her insistence and the inmate barricaded the doors at her house (Harris 2002:130).

The three women who had escaped were recaptured by the Joliette police less than an hour later and returned to the prison, and by 1:05 am the transfer team from the Regional Reception Centre (RRC) had arrived. At 4:22 am the escapers were strip searched on video-tape prior to their transfer to the RRC. A Board of Investigation was launched in 1998, and it found evidence of inadequate management on the part of
correctional staff. The Board established that a great deal of effort had been put into managing the four women at Joliette — through security and control — rather than placing these women in a facility that would address their specific needs (Harris 2002). According to the report, as a result of such events, the rest of the population suffered consequences, such as increased surveillance and security, lack of access to programs and conflict and distrust from staff and management (Harris 2002:131).

Within case study three, it is evident that several key recommendations set out within *Creating Choices* and Arbour have been ignored by the Correctional Service of Canada. Both *Creating Choices* and Arbour explicitly recommended that Correctional Service of Canada set up an empowering and safe healing environment and that staff be trained to act fairly and follow the rule of law. The responses employed by the CSC violated the rules and laws contained with *the Charter of Rights and Freedoms, CCRA*, *CCRR*, and *the Canadian Human Rights Act*. Within each of these documents, the Correctional Service of Canada claimed to be committed to enforcing the various rules and laws. There is no evidence in the various reports on the disturbances at Joliette Institution that any of these recommendations were followed. The implications of this failure will be discussed in Chapter 4.

Case Study Four: The Okimaw Ohci Healing Lodge: A Place of Healing or Punishment?

*Primary Data Sources*

The major source of information that will be employed in case study four is academic literature. This source is taken from scholars who have analyzed, reviewed and discussed the incidents within this case study. The advantages and limitations in using
this particular source have been discussed and noted in detail previously (refer to case studies one and three).

_The Institution_

The Okimaw Ohci Healing Lodge formally opened in 1995. The Healing Lodge was conceived and inspired with input from independent Aboriginal women from concept to physical reality, in order to avoid the conflict and shortcomings that resulted within previous correctional facilities (increased security and surveillance, conflict between staff, managers and inmates). However, the Healing Lodge was not excluded from all the requirements for higher security and tighter control over the movements and choices of inmates. The Healing Lodge originally featured small cottage “houses,” low levels of security and surveillance, spacious grounds, with staff and management selected primarily from the Nakaneet community, the peoples who resided within Maple Creek, Saskatchewan, where the facility was located — and from other local First nations communities. These features all, added to its unique Aboriginal and healing principle (CSC 2010f; Hayman 2006; Monture 2006).

The fourth incident to be discussed occurred at the Okimaw Ohci Healing Lodge following its initial opening in 1995. In the establishment of the Lodge, there was a clear divergence in operating manner between the Aboriginal and Maple Creek representatives, on the one hand, and those of the Correctional Service of Canada, on the other. It quickly became clear that Aboriginal perspectives did not necessarily sit happily within the formal structures of a government department (Hayman 2006). Involvement of the Nakaneet Elders played a reduced role at the Lodge. Two Aboriginal women within the Correctional Service of Canada were hired to do the same work undertaken by Elders at
the Lodge. This was largely the result of Aboriginal members who wanted to emphasize that the Lodge was a national facility and therefore the Aboriginal programs should be national in scope, whereas the Nakaneet band felt that their teachings should be utilized first (Hayman 2006; Monture 2000, 2006).

By late 1998 the environment had visibly changed. Staff screened visitors 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 the Healing Lodge operated without this. The Healing Lodge had managed to incorporate more fully than the other new prisons the concept of “dynamic security.” Dynamic security is the use of relationships (between inmates, inmates and staff, staff and management) to build a more secure prison (Hayman 2006). During this time, staff numbers had also increased. However, staff members were manifest by their absence from living units and other places where informal interaction took place, and were generally to be found in their offices, with doors shut. The burdens of the administrative system seemed to have overtaken them. The majority no longer sat with the women at meal-times, and there were few signs of the casual conversations that had previously been visible within the Healing Lodge (Hannah-Moffat and Shaw 2001). There was also evidence of the changing relationships between staff and their managers, with distinct groups having formed (among staff, management, and between Aboriginal staff and “white” staff), and an underlying unhappiness with what some staff perceived to be the changing style of the Healing Lodge. According to Hayman, it was not uncommon to be told, by both inmates 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 that
which made the Healing Lodge unique, its Aboriginal dimension was being lost (2006:221).

Hayman reports another suspected reason for these changes (2006:222). A number of the original staff left and their replacements were not exposed to the intense training of the first group. Their replacements came to the Healing Lodge with more traditional correctional approaches and contributed to altering the balance of power between the residents and the staff. Additionally, the top tier of management with the exception of the Kikawinaw (staff within the Lodge, known as keepers of the vision), remained largely 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 Aboriginals in the system at large, and certainly too few with the necessary qualifications available to create a spiritual, healing environment (Hayman 2006; Monture 2006).

The shifting atmosphere and attitudes within the institution created an eroding and negative environment within the Healing Lodge, which led to further incidents and events that questioned the success of the institution. On New Year’s Eve 1998, four women were found to be under the influence of prescription drugs: one assaulted another woman. All four were removed from the Lodge. There had also been allegations of sexual abuse at the Lodge, details of which were not released by the Correctional Service of Canada because of provisions of the Privacy Act, 1985. However, after consultations with the female Elders, it was decided male Elders would no longer be alone with any of the women (Hayman 2006).
At a later date, on 5 October 2001, two women escaped from the Lodge after hitting a staff member over the head with a makeshift club as she did her routine check for residence. Renee Ascoby and Myra Bird, using a fellow inmate as a hostage, forced their way into the main administrative centre. Holding a knife to the woman’s throat, they forced a staff member to open the cash box, and then locked the staff in a small room, after failing to obtain the vehicle keys from another employee, who had managed to lock herself into an office and sound the alarm. The two then fled on foot into the woods surrounding the Lodge. They were recaptured the following day by the RCMP, hiding in a house on the Nakaneet reserve (Harris 2002:86).

No National Board of Investigation, the Correctional Service of Canada or Ombudsman investigation were launched into these events (Hayman 2006). What did occur, as a result of such escapes and incidents was that in subsequent years at the Lodge, Aboriginal maximum security women were consistently denied admittance. In 2003, The Canadian Human Rights Commission recommended that maximum security Aboriginal federally sentenced women should be admitted to the Healing Lodge, but the Correctional Service of Canada refused to permit this, just as it refused the earlier request from Justice Arbour 1996 (Hayman 2006).

Within this case it is evident that the Correctional Service of Canada failed to carry out the recommendation proposed in *Creating Choices* and Arbour. In particular, *Creating Choices* and Arbour recommended that the Correctional Service of Canada train staff on how to conduct cross-gender searches, that staff be trained to act fairly and respect the culture of Aboriginal prisoners and that an effective and efficient external board of investigation be established to investigate incidents separately from CSC. Based
on the reports into the disturbances at the Okimaw Ohci Healing Lodge, there is no evidence that any of these recommendations were in place.

Case Study Five: The Suicide of Ashley Smith

Primary Data Sources

The principle sources of information in this case study are reports by the federal Correctional Investigator (OCI) and Office of the Ombudsman & Child and Youth Advocate (OCYA). In this first source, the Correctional Investigator (Howard Sapers at present) is mandated by Part III of the Corrections and Conditional Release Act as an Ombudsman for federal offenders. The Correctional Investigator operates independently of the Correctional Service of Canada and investigates and attempts to resolve individual offender complaints. The second source is also taken from an Ombudsman, an officer of the Provincial Legislative Assembly, independent of the government. The Ombudsman of the Province of New Brunswick is responsible for investigating and critically analyzing policies, procedures and government records concerning the rights and interests of youth. These three sources — two from the OCI and one from the office of the OCYA — will be utilized to provide information on the death of Ashley Smith. The advantage of using these sources are that they are autonomous from the Correctional Service of Canada (and its authority and potential bias), providing a degree of neutrality and objectivity. These sources also base their claims on facts and evidence gathered through their own independent investigations of the institution where the incidents and events occurred. The limitations to such sources are that it can be argued that the Correctional Investigator and Ombudsman & Child and Youth Advocate are representing the interests of those who appointed them, and/or the individual(s) making the complaint (who has been allegedly
harmed by Correctional Service of Canada). However, these sources combined provide the best chance to limit partiality.

The Institution

Grand Valley Institution (GVI) is a multi level federal facility located in Ontario. Grand Valley Institution opened in 1997 and it accommodates up to one hundred and fifty two female inmates. Inmates are housed in building (houses) arranged in campus style (clusters), one structured living environment house and one secure unit (CSC 2010c).

The fifth case that will be discussed took place on 19 October, 2007, when Ashley Smith, a young women, 19 years old, died while serving a prison sentence in Grand Valley Institution for Women. Ms. Smith was incarcerated from 2003 to 2006 in two provincial correctional facilities in New Brunswick: the New Brunswick Youth Centre (NBYC) and the Saint John Regional Correctional Centre (SJRCC) and from 2006-2007 within two federal facilities, Nova Institution and Grand Valley Institution (OCYA 2008).

During the period between April 2003, and October 2006, the most frequent types of actions taken with Ms. Smith when she was institutionally charged were placing her in restraints or TQ (Therapeutic Quiet) units, or sometimes both. Often upon returning home from a court appearance or leisure time in the institutional yard, Ms. Smith would refuse mandatory strip searches. Refusal would result in her being pepper-sprayed, tased or constrained. Constraints were applied to ensure that she could not free up her hands to inflict harm, and also to provide for staff and video surveillance monitoring (OCYA 2008:20). On 26 June 2004, while serving time in TQ, Ms. Smith was going through her regular routine of obstructing supervision checks by covering the cell window and camera with food, toilet paper, and blankets. She then refused staff directives to remove the items
so they could make visual contact. As a result, staff were authorized to place Ms. Smith in a restraint belt called the “WRAP.” The “WRAP” consists of applying restraint belts beginning at the inmate’s feet, all the way up to his or her shoulders, ceasing all possibility of bodily movement. A hockey helmet is then placed on the inmate’s head which would prevent one from injuring themselves in the event they topple over, and also preventing the subject from biting anyone. After the “WRAP” was applied, Ms. Smith was picked up by staff in order to move her to another location, as all movements, including walking, are impossible (OCYA 2008).

In later incidents, on 1 March 2005, after a long series of negotiations with staff to leave the shower area and return to her cell, Ms. Smith was pepper sprayed. At the time she was nude in the shower area, and in possession of a piece of metal. Female staff members were unsuccessful in removing her from the shower area and it was decided then to introduce the use of pepper spray. It was in fact a regular occurrence to have several male and female staff members to be called for back-up when Ms. Smith was causing a ‘major’ disturbance and respond with the use of pepper spray. Rather than discussing or resorting to alternative methods, the application of mace was the only option employed (OCYA 2008).

Given the persistence of such incidents within the NBYC and after weighing the arguments put forward by the correctional staff and warden, on 5 October 2006, the youth court Judge granted the application to transfer Ms. Smith to the SJRCC. Immediately upon her admission, Ms. Smith was confined to a cell in the segregation unit and would remain there for the greater part of her twenty-six day stay (OCYA 2008). The first incident filed by correctional officers regarding Ms. Smith is dated 5 October 2006, the
day of her admission at the SJRCC. Several hours into her new correctional setting, Ms.
Smith had already been segregated for refusing a strip search and was threatened with an
electronic device (taser). In fact, an additional two occurrences where Ms. Smith was
threatened with the use of pepper spray, she was also threatened with use of the taser a
total of seven times. This was a result of the failure to cooperate or consent to strip
searching. Exceptionally, from October 17 to 19, Ms. Smith was moved out of
segregation onto Unit 2-A, a female unit. Less than twenty-four hours following her
admission to a regular female unit, Ms. Smith was back in shackles and restraints on the
segregation unit (OCYA 2008).

On 19 October, while being transferred from the admission unit back to her
segregation cell, the young inmate refused to comply with a strip search. As a result, eight
correctional officers were dispatched to restrain her while the nurse on duty removed her
clothes by cutting them with scissors (OCYA 2008:28). Following this incident, on 21
October, correctional officers were dispatched to the segregation unit only to find Ms.
Smith standing on her bed with two cups filled with an unidentified liquid substance.
After several attempts at having her come down from her bed and empty the cups,
correctional officers barged into her cell, hitting her with their shields and while four
officers restrained Ms. Smith on her bed, a fifth correctional officer entered the cell and
tasered her in a “stun mode.” Contrary to departmental policy, Ms. Smith was not given
verbal warning that the device was going to be used. Three days later on 24 October, after
returning from a court appearance, Ms. Smith refused to comply with a mandatory strip
search. After being threatened with pepper spray and use of the taser, she complied.
Following her return to the segregation unit, the situation deteriorated and in a matter of a
few hours, during two separate incidents, she was pepper sprayed and subsequently tasered (OCYA 2008:29).

In January 2006, still on segregation status at the youth facility, Ms. Smith turned eighteen years of age. This meant that any criminal conviction she incurred from that point forward would result in an adult sentence. On 24 October, 2006, Ms. Smith appeared in adult court and the presiding Judge imposed an adult sentence for criminal charges laid while Ms. Smith was still at the NBYC. Because the merged adult sentence was more than two years, Ms. Smith was transferred to Nova Institution for Women on 31 October, 2006 (Sapers 2008).

Throughout the duration of her incarceration, Ms. Smith had to be transferred out of the Regional Psychiatric Centre, after a few short months, for her own personal safety. She had been physically assaulted by correctional staff during the month of March 2007 (Sapers 2008:57). Evidence indicates that there were lapses in security during Ms. Smith’s period of incarceration and that these contributed to her opportunities to fashion tools to self-harm. There were numerous instances when Ms. Smith was let out of her cell either in error or without adequate supervision. Over time, Ms. Smith’s behaviours began to exhaust front-line staff. During an institutional visit in June 2007, Saper’s staff was advised that Ms. Smith would often “play with ligatures” and then taunt staff with them. There were also times when she would wrap a ligature around her neck, hide herself from view, or lie face down on the floor and “pretend” to be unconscious. Staff indicated that they were growing more and more uncertain as to when to intervene in these situations (Sapers 2008:65). Despite these discussions, evidence indicates that by mid-August 2007, some staff at Nova Institution shifted from removing ligatures from Ms. Smith as soon as
one was visible, to permitting her to retain ligatures in her possession for extended periods of time. The shift to such conventions appears to be related to factors such as staff fatigue, the over-reliance on largely security-focused intervention approaches, lack of appropriate training, and a misrepresentation of the Situation Management Model (SMM) (Sapers 2007:68).

When Ms. Smith was transferred to Grand Valley Institution in August 2007, the above “wait and see” approach continued (Sapers 2008:71). More specifically, senior managers at the Grand Valley Institution were directing staff to strictly adhere to the Situation Management Model by ‘assessing and reassessing’ Ms. Smith whenever she had tied a ligature around her neck. According to the Situational Management Model, all interventions employed by correctional staff must be reflective of an inmate’s behaviour at the point of intervention (Sapers 2008:69). Video surveillance indicates that there were times when Ms. Smith would turn blue, have trouble breathing, and break blood vessels from her ligature use, before staff would physically intervene. In fact, documentation indicates that senior managers at the Grand Valley Institution had disciplined front-line staff for intervening too early when Ms. Smith had tied a ligature around her neck, even though she appeared to be in medical distress (Sapers 2008:71). Front-line staff simply referred to the Situation Management Model, despite the increased frequency and intensity of Ms. Smith’s extremely hazardous behaviours. These management plans were not effectively communicated or explained to front-line staff (Sapers 2008).

A Board of Investigation was launched by the Office of Ombudsman & Child and Youth Advocate to investigate the circumstances surrounding the death of Ashley Smith (the report tracing and examining Ms. Smith’s experiences within provincial facilities).
This was largely the result of complaints made by the offender and her family during her time in incarceration and also as a result of the media outrage concerning the treatment of the young offender. The Office of Ombudsman & Child and Youth Advocate noted in its report that Ms. Smith had over one-hundred and fifty self-harm related incidents in a span of three years. The report found that, “...being locked down and placed in restraints did not appear to have any beneficial effect on her behaviour. As such, there were no alternative measures in place to respond or cope with Ms. Smith’s needs” (OCYA 2008:21). According to the Ombudsman & Child and Youth Advocate Report, intrusive and brutal force was exercised upon Ms. Smith during her time within each institution in order to ensure compliance with institutional rules and directives. The investigation concluded that the treatment of Ms. Smith while in incarceration, “was inhumane and unjust,” and could have been avoided through more effective and adequate treatment programs, attention and care from staff and management (2008:41).

A second investigation into the death of Ashley Smith took place shortly after the initial investigation made by the Office of Ombudsman & Child and Youth Advocate and was conducted by the Correctional Investigator (Howard Sapers). As noted previously, a Correctional Investigator is required to investigate and bring forth resolution to individual offender complaints. The Correctional Investigator operated in conjunction with the Office of Ombudsman & Child and Youth Advocate. Much of the Correctional Investigators findings and investigations were parallel to those produced in OCYA’s earlier report. The Correctional Investigator noted in his report that, “Ms. Smith had been kept in a segregation cell, at times with no clothing other than a smock, no shoes, no mattress, and no blanket. During the last week of her life she often slept on the floor of
her segregation cell, from which tiles had been removed” (Sapers 2008:5). The investigation revealed that, while in federal custody over eleven and a half months, Ms. Smith was involved in approximately 150 security incidents, many of which revolved around her self-harming behaviours. These issues were not addressed by the Correctional Service of Canada or its management and staff. Sapers in his report (2008) suggested that CSC should have immediately addressed Ms. Smith’s self-injurious and violent behaviour through, for instance, treatment programmes and counselling. The investigation concluded that the Correctional Service of Canada was at fault for the death of Ms. Smith and that her death was avoidable. As stated by Sapers (2008:115) issues and discrepancies in the treatment and response to Ms. Smith created a hostile and aggressive environment which exacerbated her behaviour and resulted in her eventual death.

A third investigation into the events at Grand Valley Institution (the death of Ashley Smith) was conducted by the Correctional Service of Canada as a response to the Office of the Correctional Investigator’s Report on the death of Ashley Smith. The Correctional Service of Canada appointed Dr. Margo Rivera to conduct an independent psychological review of the treatment and management of Ms. Smith during her time in federal custody (OCI 2010). Dr. Rivera’s report included five key recommendations, those of which (to the surprise of CSC) highlighted the failure and inadequacies of staff, and management and administration on the part of the Correctional Service of Canada (OCI 2010). The investigation by Dr. Rivera concluded that “structures should be in place whereby all staff have an opportunity to address issues of concern to them regarding any of the practices they are asked to carry out” (OCI 2010:4) and that the environment at
Grand Valley Institution “was lacking in even the most basic sensation and stimulation” (2010:4).

In this case we see that the Correctional Service of Canada failed consistently to deliver a humane, empowering prison environment as advanced by both Creating Choices and Arbour. The key principles and recommendations contained within both reports are no where present in the Ashley Smith case. Specifically, both reports recommended the Correctional Service of Canada set up an empowering and safe healing environment, that staff be trained to act fairly and follow the rule of law, that segregation be used scarcely, that the mental health needs of federally sentenced women be addressed, that staff be trained on cross-gender searches, and that CSC set up a system for prioritizing offender grievances and complaints. There is no evidence in the various inquires and reports on the death of Ashley Smith that any of these recommendations were in force.

Case Study Six: The Unresolved Death of Pierrette Anglehart

Primary Data Sources

The primary source of information for this case study are media releases issued by the Correctional Service of Canada. As noted previously, the Correctional Service of Canada is responsible for carrying out the sentences imposed by the courts, as set out in Corrections and Conditions Release Act. It releases information to various media when deaths, suicides, or ‘major’ disturbances (as defined by CSC) occur within female federal institutions. The main advantage of this source is that until and unless a Board of Investigation is appointed or the Ombudsman’s Office gets involved, media releases are the only available means to attain information on events and incidents within federal
prisons. Of course the Correctional Service of Canada has a vested interest in shaping the material released, and has the discretionary power to decide how much information and which incidents will be revealed and thus accessible. A second limitation is that the media releases have only been made available by the Correctional Service of Canada for the past six years (2004-2010). The general claims that can be made from this source are different from and more limited than in the previous case studies. This case study section will argue that because the Correctional Service of Canada controls access to information on all prison disturbances, and this produces a lack of transparency, both the general public and prison inmates suffer. However, these media releases provide a framework for showing the general types of disturbances that occur within prisons for women.

The limitations to the Correctional Service of Canada as a source of information have been outlined throughout this chapter, and are evident in the findings on access to disturbances within the Correctional Service of Canada in the Access to Information and Privacy (ATIP) Act. During the reporting period (2007-2008), these findings show the difficulties in obtaining access to information on events and disturbances that occur within prisons. The Correctional Service of Canada received 269 requests from the public, 100 requests from the media, 62 from business and 20 from organizations (CSC 2008a), concerning obtaining access to correctional discrepancies or incidents (from 2007-2008). Of the 385 requests that were completed during this reporting period, full disclosure was provided in response to 67 requests, partial disclosure was provided in response to 135 requests, nothing was disclosed in response to 44 requests (39 were exempted in their entirety and 5 were excluded). The department was unable to process

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8 In reference to the frequency and number of disturbances and the detail about what occurred.
9 The death of Pierrette Anglehart and two random media release cases.
53 requests, 15 requests were transferred to other government institutions, 2 requests were treated informally and 69 requests were abandoned by the applicant (CSC 2008a).

Incidents that have been gathered from the Correctional Service of Canada’s media release publication have concentrated on less serious incidents (in comparisons to suicides, and for example, deaths). These incidents, hundreds of which are reported each year, reveal (to a certain degree) the general level of unrest that occurs within Canadian prisons (i.e., inmate fights and assaults, seizure of contraband, breaches in security and safety). No statistical information has been released by the Correctional Service of Canada regarding the number of incidents that occur within federal facilities, and reported incidents are separated by year and region and then institution. Rather than providing a discussion or description of all the recorded incidents and events made available by the Correctional Service of Canada, two incidents that reveal the archetypal events occurring within prisons for women have been selected. The first example of such reports occurred on 22 August 2005, at around 12:30 pm, when two inmates at Grand Valley Institution took two staff members hostage. The incident took place in an office of the maximum security unit. Following ongoing negotiations, one hostage was released at 3:35 pm, the second at 5:21 pm. The two inmates were reprimanded by correctional staff and secured in segregation (CSC 2005). The second example of “typical” incidents reported happened on 6 November 2009, when inmates at the Fraser Valley Institution for Women were locked down after an altercation between two inmates. The altercation resulted in both inmates sustaining injuries and requiring hospitalization. Fraser Valley remained on a modified routine (restricted access to certain facilities) until the matter was resolved later that day (CSC 2009a).
In the Correctional Service of Canada, gaining access to specific case studies, whether they concern a death, suicide, a ‘major’ or ‘minor’ disturbance is a difficult process because of this lack of transparency (for instance, the disturbances at Joliette Institution and allegations of sexual abuse at the Okimaw Ohci Healing Lodge). The Correctional Service of Canada maintains power and control over which events and incidents are released to the public and over the information that is presented. It also has discretionary powers over which incidents are deemed sufficiently ‘serious’ or ‘major’ and thus must be reported to the public. There is also ambiguity surrounding events that occurred prior to 2004, the starting point for these media reports. Thus, there may be numerous incidents and events that have occurred or rather are occurring on a regular basis that will never be revealed, as witnessed in the Ashley Smith case. These excluded aspects from the Ashley Smith case in the Correctional Service of Canada’s media release include: Ms. Smith self-injurious behaviours; Correctional Staff hitting Ms. Smith in a March 2007 incident; Ms. Smith being tasered, pepper-sprayed and constrained by CSC staff as a response to her disruptive behaviour or any behaviour caused by a single inmate (based on the criteria and regulations provided by the CSC Commissioner’s Directive #022).

The final incident that will be discussed occurred on 13 September 2008, where Pierrette Anglehart, an inmate at Joliette Institution, died at the Centre hospitalisé de Joliette. Ms. Anglehart was pronounced dead at 2:14 pm and the Correctional Service of Canada is currently conducting an investigation to determine the circumstances surrounding Ms. Anglehart’s death (CSC 2008b). Currently, no information has been made available concerning her death; however, it has been made clear that the death was
not a result of ‘natural causes.’ This incident is not a case study of her death and is different from the previous five incidents. Pierrette Anglehart’s death began as a media report but is now an ongoing official investigation. This case may suggest that many other incidents (‘major’ disturbances) are currently under investigation, but no further information is available or provided.

In these cases it is evident that the practices, methods and choices employed by the Correctional Service of Canada fail to coincide with those proposed and set out within Creating Choices and Arbour. Distinctively, both Creating Choices and Arbour recommended that Correctional Service of Canada set up an empowering and safe healing environment, and that an effective and efficient external board of investigation be established to investigate incidents separately from CSC. Based on the media reports and investigations into these various incidents, there is no evidence to suggest that such recommendations have been implemented.

Conclusion

Through using a case study approach, the unrest and conflict that occurs within prisons for women can be discussed and more importantly analyzed. Providing a totality of the deaths, ‘major’ and ‘minor’ disturbances provides a glimpse into the experiences of female inmates and the conditions within the institution of imprisonment during the decades since the release of Creating Choices (1990) and Arbour (1996).

The case studies utilized throughout this chapter reveal that the Correctional Service of Canada has failed to deliver the humane, empowering prison environment advocated by Creating Choices and Arbour. They show that key recommendations, particularly — that senior managers and front-line staff should be trained to act fairly and
follow the rule of law; task forces and working groups should be set up to advise on administrative segregation; segregation be used minimally; new strategies to address specific mental health issues of federally sentenced women be developed; an effective and efficient external board of investigation be established to investigate incidents separately from CSC; and a new CSC system for prioritizing offenders grievances and complaints be put in place — have been ignored time and time again. As far as can be understood through examining such cases, suicides, deaths, self-injurious behaviour, increased security and surveillance are endemic. Is this inevitable due to the systematic and institutional inadequacies of the prison system? Is this the result of the commitment to the ideals of punishment and control rather than ‘empowerment’ on the part of the Correctional Service of Canada? These questions will be examined in Chapter 4 and Chapter 5.
Chapter 4

Analysis

The case studies utilized throughout this research reveal that the Correctional Service of Canada has failed to deliver the benign, empowering prison environment advocated by Creating Choices and Arbour. The multitude recommendations produced within these reports appear to have been ignored in each of the incidents discussed. This failure has fashioned an aggressive, harmful, and unsympathetic environment for female offenders. The more nuanced principles and ideals put forth within Creating Choices and Arbour appear to have slipped to secondary (to that of security, surveillance and control) importance to the Correctional Service of Canada. Rather, what has surfaced is a commitment to the ideals and principles of control and regulation.

The failure to adhere to the principles and promises held within Creating Choices and the Arbour Report and what this reveals about the Correctional Service of Canada and the institution of imprisonment will be examined through broader themes that resonate within each report. These themes include: 1) the Rule of Law; 2) Management and Staff Procedures; 3) Administration and Use of Segregation; and 4) Complaints, Grievances and Boards of Investigation. Each theme will begin with a brief discussion of the recommendation(s) put forth by Creating Choices (1990) and Arbour (1996). I will discuss the specific evidence showing that the recommendations were ignored by the Correctional Service of Canada. Finally, the chapter concludes with a summary of what this suggests and reveals about the Correctional Service of Canada and the institution of imprisonment.
The Rule of Law

Both *Creating Choices* and the Arbour Report, emphasized the importance of the Correctional Service of Canada following the rule of law. The core of the existing principle is that, firstly, everyone is subject to the law, even the sovereign or ruler, since the law is presented as something separate and distinct from the interests of particular groups or classes. Second, the law treats everyone the same, as legal equals (Bingham 2007; Comack 1999b). Both reports stressed the need for the Correctional Service of Canada to implement effective policies and measures to accomplish this and thus improve the overall environment for female inmates. The case studies reveal that such recommendations fell short of being realized. As evidenced throughout each case study (suicides, deaths, major and minor disturbances) the failure to provide a humane environment has threatened the safety and prevented the healing of female inmates. Both *Creating Choices* and Arbour underlined:

...that the obligation of the Correctional Service of Canada to treat offenders humanely goes beyond the legal obligation to ensure their physical needs are met; and that the Correctional Service of Canada must recognize its responsibility for providing the best possible correctional services... (TFFSW 1990:41).

...that the Correctional Service properly educate its employees with respect to the rights of incarcerated offenders and inform them of the Service’s commitment to seeing that these rights are respected and enforced (Arbour 1996:8c).

The failure to uphold correctional law\(^\text{10}\) was first witnessed at Nova Institution for Women following the opening of the facility. As noted in Chapter 3, the decision to employ an all women cell extraction team and remove the “difficult to manage” women

\(^{10}\) Correctional Service of Canada’s legislative mandate for ‘the rule of law’ is based upon the *Charter of Rights and Freedoms, CCRA, CCRR, and the Canadian Human Rights Act*. These rules and laws encompass the general right of prisoners’ to safe and humane custody, the right to be dealt with in the least restrictive way, the right to fair decision-making, and the right to have sexual, cultural, linguistic and other differences and needs respected.
from the facility violated the laws that govern the behaviour of prison staff and the rule of law principle because staff did not respond to the needs of prisoners but rather focused on maintaining control over them. The evidence produced in the Correctional Service of Canada’s ‘Discrepancy Board of Investigation’ and ‘Investigation into Minor Disturbances’ (1997) indicates that strip searching and segregation were not needed to achieve compliance or to improve the situation. In fact, other alternatives were available that might have produced an outcome that respected the prisoners’ rights to dignity, healing, and respect (Hayman 2006). While the incidents at Nova are important because of the questions the inquiries raised regarding the general preparedness of the prison, perhaps the more pressing question is why, and how, such an event could have happened so soon after the release of the Arbour Report in April 1996. A woman had been left naked and constrained to a bed, without a mattress to lie on and without having been decontaminated after being pepper-sprayed. How could staff members on that unit possibly have thought such behaviour was acceptable, irrespective of whether or not they were being supervised?

These findings of the initial Board of Investigation convened to examine specific developments during the 19 September 1996 incident, were that the use of force had not been excessive. What it did find unjustifiable was the apparent lack of care or treatment subsequent to each use of force (Hayman 2006). Not two years after Arbour’s scathing examination of the strip-searching at the Prison for Women, a similar disregard for the law was shown at Nova and by staff largely new to corrections, and thus recently trained in post-Arbour techniques. Thus, it can be questioned why the responses by staff and

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11 Programmes available, staff trained in post-Arbour and Creating Choices recommendations, adequate number of staff, availability of beds and cells.
management were so similar to those critiqued in *Creating Choices* and Arbour? The event may reflect a prison culture that was basically unchanged, which suggests that training offered to the new staff had not been revised to be consistent with the recommendations of *Creating Choices* and the Arbour Report. Alternatively it may indicate that the new staff did not receive training or it was not reinforced by management at Nova Institution, or even, that staff were unable to put their training into effect. This inability to carry forth principles of the rule of law draws on the issue of theory versus practice, the ever-present dilemma in implementing the rule of law, since, the ability to adopt in theory the rule of law is separate from the ability to put the law into effect or practice. According to Smart (1989:164), theory and practice in law is problematic because it is not possible to develop anything other than *ad hoc* tactics. The ‘theory’ of law does not provide clear tactics to enforce laws, as laws are always open to interpretation precisely because the general theory operates at a level of considerable abstraction. This profound gap between the theory and practice of law occurs because the law does not have one single appearance; it is different according to whether one refers to statute law, judge-made law, administrative law, or the enforcement of law (Comack 1999b; Smart 1989). This may have been the case in the Correctional handling and response of female prisoners.

These questions regarding the legal ways to handle prisoners and practice of law by Correctional staff are discussed in a 2002 Correctional Service report, *Canadian Federal Women Profiles: A Strategic Model*. The report found that until quite recently, training material tended to take a lecture-like form, with relatively few situational, case-study or workshop elements focusing on applying the rule of law in specific situations.
And perhaps worse, beyond a brief period of initial training that presents that law and the rational for dealing with inmates according to the rule of law, there has been little ongoing practical education in these matters, making front-line employees heavily dependent on the “oral tradition” as to “the way things are really done” (CSC 2002a:4). According to the report, many front-line employees when questioned, still consider themselves unclear as to what precisely is required of them, which makes them reluctant to act on the basis of their own understanding and initiative (CSC 2002a:4).

This failure to train staff to apply the rule of law and respect the rights of prisoners’ is also evidenced nearly a decade later at Grand Valley Institution with the death of Ashley Smith. Throughout Ms. Smith’s incarceration she was denied treatment that the Correctional Service of Canada was legally bound to deliver.12 This is obvious in the correctional decision to use the “WRAP,” the removal and cutting of Ms. Smith’s clothes to require in strip searches and also the March 2007 incident, where a correctional officer hit Ms. Smith to ensure conformity (OCYA 2008; Sapers 2008).13 According to the Ombudsman & Child and Youth Advocate Report and the Correctional Investigator’s Report (2008), there were hundreds of incidents and occasions where Ms. Smith’s rights and the most essential principles of the rule of law were ignored. These events indicate such behaviour was not rare or unusual but rather exercised on a regular basis within the prison. One can question once again how staff could believe that such restraints were justified and/or legal, especially when prior incidents led to inquiries that have castigated these responses as failures to act in accordance with the rule of law and to be respectful of prisoners’ individual rights. Admittedly, in this case some of the inhumane responses

12 According to the Charter of Rights and Freedoms, CCRA, CCRR, and Canadian Human Rights Act.
13 Refer to chapter three for details.
(e.g., the ‘WRAP’) were exercised in a provincial rather than a federal facility. However, do these harmful responses, which have apparently been adopted in both provincial and federal institutions, not suggest something about the environment and use of incarceration in general? Do these behaviours suggest that the culture of prison is itself problematic, since at every level, it continues to disregard the needs of incarcerated women or the prison’s obligation to respect the rule of law? Might it indicate that the disregard for the rule of law occurs routinely and has become of minor significance to Correctional Service of Canada, preoccupied as its appears to be with security and surveillance? Rather, what has emerged is the dominance of principles of control.

The breakdown of the rule of law in corrections has been criticized in the past, often in the most powerful terms. Back in 1977, the Report of the Subcommittee on the Penitentiary System in Canada, chaired by the Honourable Mark MacGuigan stated that, “there is a great deal of irony in the fact that imprisonment, the ultimate product of our criminal justice itself epitomizes injustice” (cited in Arbour 1996:6). It is evident from these cases and inquiries that the rule of law will not find its place in prisons through the use of force, constraints or segregation. And there is no evidence that it will emerge spontaneously. There are several possible reasons for the Correctional Service of Canada’s failures in this regard: inadequate staff training (discussed above), or the fact that there are so many rules and regulations in Correctional Service of Canada’s guidelines that staff do not know the applicable law or policy. Or it may be that staff here and perhaps the Correctional Service of Canada overall, allow pragmatic concerns for penal control to override the legal rights of inmates.
Management and Staff Procedures

Literatures on staff recruitment and training in Canadian prisons have traditionally focused on whether security or the integration of inmates should be primary (Dell et al. 2009). It has, however, becoming increasingly clear that achieving integration, because of its dependence on establishing stable, productive personal relationships rather than institutional ones, will be difficult in traditional correctional environments. Such issues were brought to light throughout Creating Choices and Arbour. Both reports argue that the Correctional Service of Canada tended to resort to traditional solutions such as video surveillance, motion sensors, and segregation when problems within prisons arose. Creating Choices and Arbour recommended that more effective training be required for staff and management, training that was not focused solely on security.

Comprehensive recruitment criteria will allow staff to be selected from a wide variety of backgrounds and educational traditions. Mandatory training for staff in all positions will emphasize counselling, communications and negotiation skills...focused on sexism, sexual orientation, racism, as well as issues related to power and class (TFFSW 1990: XI).

...I would therefore regard it as essential that a plan be developed for the ongoing training of recruits...into the institutions for women prisoners. There should also be refresher programs specially designed to keep alive the correctional philosophy which inspired Creating Choices (Arbour 1996:23).

Is there evidence to indicate that these recommendations have been followed?

According to the evidence presented here, the present correctional system is still security driven in that by far the greatest number of staff are security staff, the largest proportion of the correctional budget is allocated to security, and many restrictions and limitations to programs and other activities are based on “security needs” (Dell et al. 2009). For instance, the Correctional Service spent $400,000 of its budget to construct a higher fence, install video surveillance, motion sensors, and increase security at Edmonton
Institution (Hayman 2006:154). The continual obsession with security and control were witnessed after Edmonton Institution for Women when a number of incidents (including, the death of Denise Fayant, two attempted suicides, several escapes, two assaults on staff and thirteen incidents of self-injury) created a hostile environment for female prisoners and a highly insecure environment for staff. As the Fatality Inquiry into Denise Fayant’s death revealed, one of the women held in the enhanced unit had earlier been involved in the 1994 incidents at the Prison for Women, and this created confusion, concern and fear amongst staff as to how to manage the prisoners at Edmonton (Chrumka 2000). There was a lack of communication, understanding and agreement among staff and management as to the correct response. This would have been added to the worries of new members as they struggled to apply a new philosophy of corrections, while lacking many of its basic components, such as adequate understanding of the needs of women from different cultural, educational and medical backgrounds and the ability to provide consistent treatment based on each prisoner’s needs (Harris 2002; Hayman 2006). Rather than focusing on the need to implement effective training and policy for staff and management, or on balancing internal and external security training/responses with the specific needs of women (medical concerns, treatment programmes), the Correctional Service of Canada responded by instituting rigid security measures. The prison at Edmonton, and later every federal facility for women, was provided with 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 (Dell et al. 2009).

This response by the Correctional Service of Canada was frequently employed during the operation of the Prison for Women and has continued despite being criticized
by both Creating Choices and Arbour (Harris 2002; Hayman 2006). The lack of training and education of staff in ameliorative principles of empowerment has fashioned an environment where a safe, healing space was unattainable. For instance, Correctional training on programs of ‘women-centered needs’ instructs its staff, “to be thoroughly trained to understand and respond appropriately to the needs of female offenders based on cultural, sexual, racial and medical differences” (CSC 2003a:11). However, the training actually offered in the ‘women-centered program,’ has been reduced from 10 days of training to 4 or 5 days. On the other hand, staff training on the proper use of the taser, pepper-spray and proper search and seizure of female offenders has increased in duration by 2 or 3 days (CSC 2003a:16).

As we have seen, the Correctional Service of Canada’s dedication to the ideals of security and control has been instituted within each of the new prisons. This was its most frequent response to all the incidents and events documented thus far. As demonstrated at Nova Institution, the escapes, attacks and a failure to manage the “more difficult” women led to an abandonment of the ideals of empowerment and healing and a marked increase in security and surveillance. The Correctional Service of Canada immediately transferred these women (involved in disturbances) to a higher, more controlled environment. At Joliette, following the transfer of the more “difficult to manage” women, conflict and tension among and between staff, management and prisoners began to surface. As a result, there were numerous escape attempts and unprovoked assaults (on staff by inmates) each of which produced a more hostile environment within the prison. Rather than adhering to the ideals to ‘empower’ female

14 Edmonton Institution, Nova Institution, Grand Valley Institution, Joliette Institution and the Okimaw Ohci Healing Lodge (to a lesser extent with OOHL).
prisoners and provide them with counselling opportunities, Correctional Service of Canada increased surveillance and security and prohibited maximum security women from gaining access to programs within the institution. Similarly, at the Okimaw Ohci Healing Lodge, by late 1998 staff had begun using a hand-held scanner to screen both visitors to the Lodge as well as women returning from outside visits or work. The Healing Lodge was envisaged as an institution committed to the ideals of Aboriginal culture and to healing and empowerment, with very limited use of security and surveillance (Harris 2002; Hayman 2006). However, as early as 1998 it was clear that commitment to the traditional prison model prevailed. As at Edmonton Institution, management and staff became highly security focused, and the most essential principles of the Healing Lodge, if honoured at all, became secondary.

This focus on security and control is nowhere more evident than within the correctional response to the behaviour of Ashley Smith. Throughout the period of Ms. Smith’s incarceration, the evidence appears to suggest that management and staff resorted to the use of control and surveillance consistently and this became seen as the most appropriate response in dealing with Ms. Smith’s needs. The Correctional Service of Canada instructed staff to adhere to the “wait and see approach.” This meant that staff would not respond immediately when a prisoner was self-harming or in a state of harm (Sapers 2008). As noted in the Correctional Investigators Report, the videotape produced by the Correctional Service of Canada showed Ms. Smith turning blue and lying unconscious on the ground and staff waiting until instructed by management to intervene.

15 Resorting to security, control, surveillance and segregation to manage women rather than employ alternative methods. These alternative methods include: inmate-staff discussion about inmate concerns and problems within the institution; providing alternative programmes to offenders (than the ones currently offered); allowing the prisoners to make suggestions about their own needs, as suggested by Creating Choices and Arbour.
When staff did respond they employed force, mace, strip searching and further segregation on Ms. Smith (2008:71). This was due largely to the Correctional Service of Canada’s continual reliance on security and surveillance to manage female prisoners, ideals which Sapers (2008) says were consistently emphasized by the Correctional Service of Canada’s management as the most effective methods to manage prisoners behaviour.\footnote{Forced, according to Sapers (2008) by the ‘higher’ administration of CSC.} Rather than act on their mandate to educate and train staff on issues of negotiation (between staff and inmates, and between inmates), behavioural responses (how to respond when a female prisoner is causing a disturbance, self-harming or harming others), sexism, and racism (i.e., how differences among female prisoners are important)\footnote{Recommendations found within Creating Choices (1990) and Arbour (1996).} or balancing inmates’ needs with internal and external security priorities, the evidence appears to indicate that staff were either never trained, or were unable to put their training into effect.

That the Correctional Service of Canada continues to respond to defiant or misbehaved women through greater control is evidence of their inability to balance security priorities with female offenders’ needs. It also shows the failure of staff to place whatever ameliorative training they receive into effect. The increased security in all the new institutions, the incarceration of maximum security women in male institutions, and the failure to accept certain female offenders into certain prisons and programmes were the common methods employed (Dell et al. 2009; Hannah-Moffat 2000a).

Since the creation of the new regional facilities, there has been a hardening of Correctional Service of Canada’s approach to dealing with federally sentenced women.
Most notably, it has developed “new managerial techniques and rationales for the
resistant prisoner” (Hannah-Moffat 2000a:526). Hannah-Moffat (2000a) suggests that:

Correction’s Canada’s redefinition of some prisoners as “difficult to manage”
and “unempowerable,” requires deployment of what Garland (1996:46) called
a criminology of the other, “which represents criminals as dangerous
members of distinct racial and social groups that bear little resemblance to
us”...The construction of this group as ‘disruptive,’ ‘risky’ and ‘potential
escapees’ is used to justify use of force, involuntary transfers, searches,
prolonged segregation in solitary confinement, and the transfer of some
women to segregated units in men’s maximum security penitentiaries
(pages 526-527).

These responses appear to defy the recommendations proposed by Arbour and those
within Creating Choices, which were to allow all federally incarcerated women access to
female prisons and programs and to limit the amount of surveillance and security used
within each new facility (Arbour 1996; TFFSW 1990). The Correctional Service of
Canada’s unwillingness and/or inability to adopt such principles and recommendations
was made abundantly clear from the outset of the newly developed prisons. The report of
the Fatality Inquiry on Denise Fayant, conducted by Justice Chrumka, for example,
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 forethought, 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).

Once again, the Correctional Service of Canada, shortly after the opening of the
Edmonton facility, was imposing solutions which adhered to a security based model
rather than those proposed within Creating Choices and Arbour. CAEFS’ Kim Pate was
immediate in her condemnation of the decisions of the CSC, saying that “despite a
commitment to a more open, community based approach to rehabilitation of women
offenders, federal correctional staff are reverting to old solutions when problems at the new facilities arise” (cited in Hayman 2006:155). This was a presentiment of the fear articulated by Madame Justice Arbour (1996:178) who wrote that: “the Correctional Service resorts invariably to the view that women’s prisons are or should be, just like any other prison.” It had been suggested that the increase in security and surveillance within the prisons, shortly after the construction of each new facility (1995 to present) would be made as inconspicuous as possible (Hayman 2006), but the fact that the Correctional Service of Canada felt necessary to do that further underscores the anomaly.

Similar concerns have been echoed in recent reports investigating the training and preparation amongst staff and management within federal correctional facilities (Sapers 2008). In the 2006 response action plan for inspections of Nova and Grand Valley Institution, the reports, *Nova Institution for Women (19-23 September 2005)* and *Grand Valley Institution (26-30 September 2005)*, found that the role of primary workers should be reviewed and reinforced, with a view to ensuring that properly trained staff have sufficient skills and time to carry out their roles as supportive role-models as envisaged in *Creating Choices* (CSC 2006a; CSC 2006b; CSC 2007a). These concerns were also addressed in a report that investigated the functioning of the Healing Lodge. This report, *Women Offender Programs and Issues: Response Action Plan for Federal Institutions* (2007a), revealed that tools and interventions that recognize specific needs of Aboriginal women must be implemented, starting with adequate staff training, training with a particular focus on how to conduct cross-gender searches (CSC 2007a).18 Based on the findings in these reports, inquiries and case studies, the question then becomes one of

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18 A recommendation made previously by Arbour (1990:42).
inevitability: Can such institutions ever institute new practices and techniques amongst its staff, management, and correctional members? As witnessed in all this material, the philosophy of the prison remains one of punishment (marked with hostility, conflict, and threat), which damages any possibility of instituting such far-reaching change. This may be due in part to the unwillingness and/or inability of the Correctional Service of Canada to refrain from the continual use of security and surveillance.

The increase in security and control within every federal institution over the last two decades seems to indicate that the Correctional Service of Canada has viewed all the prisons it administers as non-autonomous entities and adopted a ‘one-size-fits-all’ approach to them. The decision to use motion sensors, wire fences, increased video surveillance, separate lockable doors and segregation in managing major and minor disturbances appears to be further evidence of this approach.

Administration and Use of Segregation

Within the framework of Creating Choices and the Arbour Report, the need for sound administration and the (over)-use of segregation were examined and debated thoroughly. Each report argues that utilizing segregation as a method of ‘treatment,’ ‘protection,’ or punishment is ineffective, futile and damaging (Arbour 1996; TFFSW 1990). According to Creating Choices and Arbour:

...punishment such as segregation, whether in response to disciplinary offenses, the ‘good order of the institution,’ or whether in response to an individual being victimized by other prisoners, is inappropriate when the aim is to empower women... (TFFSW 1990:54).

...that when administrative segregation is used, it be administered in compliance with the law and properly monitored...after 30 days, or if the total days served in segregation during that year already approaches 60, the institution be made to consider and apply other options... (Arbour 1996:46).
Segregation is a deprivation of liberty...there should be judicial input into the decision to confine someone to ‘a prison within a prison.’ There is no rehabilitative effect from long-term segregation and every reason to be concerned that it may be harmful...I recommend that it be placed under the control and supervision of the courts (Arbour 1996:3.5a).

However, as evidenced throughout the case studies (suicides, deaths, and major disturbances), the Correctional Service of Canada’s practices have changed very little. The CSC frequently resorts to the use of segregation to manage, control, and detain female offenders. This is evident, for instance, in the statistics on admission into administrative segregation (non-Aboriginal). In Joliette Institution, instances of administrative segregation per year, increased from thirty-nine (2000-2001) to fifty-nine (2001-2002) female offenders and in Edmonton Institution increased from seventeen (2001-2002) to twenty-six (2002-2003) female offenders [CSC 2003b]. Segregation has long been used in prisons for women (as well as prisons for men) as a method to restrain, manage and separate offenders who disrupt or misbehave within the prison (Dell et al. 2009; Hannah-Moffat 2001). As the evidence appears to suggest, if the Correctional Service of Canada and staff were unable to balance security issues with the needs of prisoners\(^\text{19}\) or put their training into effect, solutions that are immediate, easy to implement and can claim to ‘work’ will be employed, and segregation is one such tool (Cayley 1998; Garland 2001).

Whether the women involved in the incidents at Edmonton Institution were segregated or not was not discussed in Justice Chrumka’s report or in the other academic research (i.e., Hayman, 2006). Therefore, segregation is first critiqued in incidents at Nova Institution, when the Correctional Service of Canada’s response to attacks and

\(^{19}\) Those specific to the individual (medical needs, treatment and counselling).
assaults by female prisoners against staff and management was to segregate these women within the enhanced units. There was no counselling, treatment or discussion with the prisoners involved. Rather, segregation was the only method used to control and manage the situation (Hayman 2006). The use of segregation by the Correctional Service of Canada as a response to ‘disruptive’ behaviour was also utilized at Joliette Institution and the Okimaw Ohci Healing Lodge following attacks by inmates against other inmates or staff, escapes, and self-injurious behaviour. These incidents created a more antagonistic environment between staff and inmates.

The use of segregation as a means of control, according to Arbour (1996), Dell et al. (2009), Glube (2006), and Sapers (2008), fails to adequately address the more pressing needs of inmates whether they be behavioural, emotional or psychological. To constrain and confine female prisoners within a segregated unit is not in adherence to the principle of empowerment or those proposed within Creating Choices and Arbour. The use of segregation, according to Correctional Service of Canada, is necessary for the functioning and success of the prison (Hannah-Moffat 2001) and its negative effects on the individual prisoner are justified by the Correctional Service of Canada’s obligation to maintain a secure and controlled environment. These methods and justifications for the use of segregation were strongly challenged by the Correctional Investigator in the Ashley Smith case. As the Correctional Investigator’s report says, Ms. Smith was placed in a segregated status for more than two thirds of her imprisonment. Living in segregation essentially meant that she was on a modified program and as a result was excluded from regular programming (Sapers 2008). Her opportunities to participate in productive activities or to be with her peers were limited. As illustrated in Dell et al.’s (2009) study,
correctional staff tend to interpret a woman’s self-harm (as they did with Ms. Smith) in ways that identified the woman as manipulative or controlling behaviour and as threatening to the order and discipline of the institution. Sapers (2008) suggested that the excess of security in correctional responses to self-harming behaviour is rooted in the Correctional Service’s policy that inappropriately reconstructs such behaviour as risky and therefore impedes the potential adoption of a more appropriate holistic and needs-based approach (Dell et al. 2009; Hannah-Moffat 2001; OCI 2008).

Ms. Smith had significant mental health issues and this fact was well known to the Correctional Service prior to her arrival. She would often not cooperate or consent to assessment but continue with maladaptive, disruptive and self-injurious behaviours (Sapers 2008). In addition, the Correctional Service was aware that: 1) Ms. Smith had been in a segregated status since 2003, with no significant period in open population; 2) confinement had had a detrimental effect on her overall well-being; and 3) Ms. Smith had not, up to that point, agreed or responded to the treatment offered to her and it was clear that she required specialized care (Sapers 2008:21). Despite this knowledge, the Correctional Service placed Ms. Smith on administrative segregation status — under a highly restrictive, and at times, inhumane regime — and maintained her on this status during her entire period of incarceration. As a result, the treatment provided lacked mental health components that addressed Ms. Smith’s on-going self-harming behaviours (Sapers 2008).

The 1994 incidents that occurred at the Prison for Women in Kingston, where the Correctional Service was criticized for having mismanaged and transgressed the human rights of several female inmates, appears to have re-surfaced in Ms. Smith’s case. Justice
Arbour stated, among other things that corrective measures were required to: “...redress the lack of consciousness of individual rights and the ineffectiveness of internal mechanisms designed to ensure legal compliance in the Correctional Service” (cited in Sapers 2008:91). Justice Arbour emphasized that administrative segregation should only be used when an independent review, such as court proceedings, has been utilized and has indicated that the use of segregation is a viable solution when all other options have been exhausted. In 1996 the Correctional Service indicated that it would study the matter.

When no policy changes resulted from this review by Arbour, the Correctional Investigation Office and the Canadian Human Rights Commission reiterated the call for independent adjunction of segregation decisions. These calls have been rejected (Sapers 2008:92). Sapers, on the matter of segregation in the Ashley Smith case, argued:

I believe strongly that a thorough external review of Ms. Smith’s segregation status could very likely have generated viable alternatives to her continued and deleterious placement on such a highly restrictive form of confinement (2008:93).

An independent adjudicator, as recommended by Justice Arbour two decades earlier, could have undertaken a detailed review of Ms. Smith’s case and forced the Correctional Service of Canada to rigorously examine alternatives rather than simply placing Ms. Smith in increasingly restrictive conditions of confinement (Sapers 2008). The legal requirement to review a segregation placement is at the sixty day mark and beyond such time regional authorities are required to ensure that the Correctional Service of Canada complies with the law and policy to remove the prisoner from segregation. In the case of Ms. Smith, sixty days regional reviews were not conducted even though she remained on segregation status for almost one year. The failure to review Ms. Smith’s segregation status at the sixty day mark was not only in violation of the principles of Creating
*Choices* and Arbour, but also in contravention of section 22 of the CCRR and paragraphs 29-32 of the Commissioner’s Directive 709-Administrative Segregation [i.e., the rule of law] (Sapers 2008:42).

The events, decisions, individual and systematic failures that ultimately contributed to Ashley Smith’s death need to be understood in a broader context. The report produced by the Office of the Correctional Investigator, *Initial Assessment of the Correctional Service of Canada’s (CSC) Response to the OCI’s Deaths in Custody Study* (2010), includes the recommendations made by Dr. Margo Rivera in this broader context. Dr. Rivera makes some important observations and recommendations that precisely address issues of authority and accountability of women’s corrections, as well as providing insight and expert directions on matters of professional, clinical and ethical judgement in corrections management (OCI 2010). Rivera’s recommendations are important here because they identify the more systematic inadequacies of the prison — balancing principles and policies of control with healing and empowerment. Her discussion highlights central themes and issues that have been heavily criticized by scholars, practitioners and independent investigators in past discourses and used throughout this research [i.e., Arbour (1996), Dell et al. (2009), Glube (2006), and Sapers (2008)].

The Rivera report, commissioned by the Correctional Service Board of Investigation, provided a psychological review of Ms. Smith’s time in federal custody. Dr. Rivera’s recommendations that security, health care and psychological services need to be more assimilated into a ‘continuum of care’ model, are particularly informative. As Rivera points out, the tension between security and clinical perspectives in managing Ms.

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20 Recommendations and claims that have been distilled through the Correctional Investigator.
Smith often led to decisions and actions that were clearly not in her best interest (OCI 2010:3). In several instances, security practices took precedence over clinical opinion; treatment was often withdrawn or withheld as a result of “behavioural” issues that were typically met by a security response. In a very important respect, the balance between security and clinical perspectives is largely missing (i.e., the clinical perspectives are consistently lost) in the Service’s response. The Service cites the construction of secure interview rooms in the Secure Units of women’s facilities as a positive development under the administrative segregation heading of its response (OCI 2010). The problem, according to Dr. Rivera, is that these “secure” rooms prohibit the kind of human-and humane-contact that mentally ill offenders urgently seek. As the Board of Investigation notes, Ashley Smith’s behavioural disturbances were a response to her continued confinement in segregation, an environment that, in Dr. Rivera’s opinion, “was lacking in even the most basic sensation and stimulation” (OCI 2010:4). The governing model which failed Ashley Smith is essentially the same system that is operating today, an assessment that is possibly equally as concerning. There continue to be offenders presenting a similar mental health profile as Ms. Smith’s currently in federal custody and several more who will enter in the future. While the specific circumstances that contributed to her death were unique, many of the documented failures were largely systematic in nature (OCI 2008; OCI 2010).

There is a body of clinical literature which supports the view that the effects of long-term segregation of prisoners are damaging to prisoner’s mental health. Grassian concluded from his research on inmates that “rigidly imposed solitary confinement may have substantial psychopathological effects and...these effects may form a clinically
distinguishable syndrome” (cited in Arbour 1996:3.3). Similarly, Dell et al. (2009) found evidence from studies by prison psychologists that prisoners experience damage in the form of cognitive impairment and emotional impairment as a result of detention in solitary confinement. The use of segregation by the Correctional Service for inmates in distress, including those who are at risk of self-injury or suicide, is clearly problematic. The imposed seclusion of individuals from their social and physical supports, and human contact, is an extreme form of deprivation (Arbour 1996). Why, then after countless inquiries, reports and studies that have documented the unsuccessful use of segregation, do Correctional staff still use segregation on a regular basis? Why is the CSC still so committed to the ideals of punishment and control? This may be the result of the difficulty the Correctional Service of Canada and its staff has in balancing security needs with those of healing.

The lack of adequate mental health services and appropriate correctional handling for all federal female inmates has been a longstanding issue in Canada. It was most recently raised by Howard Sapers in the 2005-2006 Annual Report to Parliament along with recommendations for action. This issue was also raised in a report produced by Justice Constance Glube, Chair of the Expert Committee that examined federal women’s corrections in Canada in 2006, and by Mr. Robert Sampson, Chair of the Correctional Service of Canada Review Panel (2007). In these various reports, the findings of Justice Glube and Howard Saper’s were echoed by Mr. Sampson [also similar to Justice Arbour’s findings] in the report of the Correctional Service of Canada’s Review Panel as follows:

Most penitentiaries have a limited number of psychologists on staff, and mental health care is usually limited to crisis intervention and suicide prevention...The primary and intermediate mental health care provided to
offenders is insufficient. Offenders with mental health problems usually do not receive appropriate treatment...many are segregated for protection because of their inability to cope in regular penitentiary settings, and therefore they have limited access to programming or treatment (Sapers 2008:88).

This indicates that the failure of the institution to provide for the needs of women can be attributed to the Correctional Service of Canada’s inability to balance internal and external security priorities with the clinical/medical needs of prisoners. It has been suggested by critics (Dell et al. (2009), Hannah-Moffat (2001), Hayman (2006), and others) that there may be a legitimate need to control women who are defined as disruptive, ‘risky’ and mentally unstable, as they may pose a threat to the security and the order of the prison. However, if these women need to be redefined,\(^\text{21}\) the Correctional Service of Canada should be given explicit directions (as this was lacking in Creating Choices, according to Hannah-Moffat) about how to handle and manage this small percentage of women (Dell et al. 2009; Hannah-Moffat 2000b, 2001).

Complaints, Grievances and Boards of Investigation

Creating Choices and Arbour emphasized the reluctance, secrecy and lack of transparency exhibited by the Correctional Service of Canada – whether it was conducting investigations, producing reports or appointing administrative staff. Both reports recommended that the Correctional Service of Canada set up systems and policies to improve the overall management and administration within women’s prisons. They focused on three key areas: 1) prioritizing and responding to offender grievances and complaints; 2) establishing effective and efficient external boards of investigation; 3) and appointing a Deputy Commissioner for Women to address the needs of prisoners. As outlined by Creating Choices and Arbour:

\(^{21}\) Better defined in terms of security classification and how to manage each different classification of female offenders.
...the Correctional Service should establish a mechanism through which complaints should be prioritized at the earliest possible opportunity. Priority should obviously be given to complaints that relate to an ongoing matter of a serious nature (Arbour 1996:18).

...all boards of investigations should be required to examine whether or not the Service, at all levels B correctional staff, institutional management, Regional and National Headquarters B compiled with the applicable law and policy in response to the events under investigation. More specifically, all boards of investigation should be required to report on whether or not there was any infringement of prisoner’s rights occurring at the time or as a result of the events under investigation (Arbour 1996:17).

...Members of the Task Force recommend that a new plan for all federal women must be managed by a women Deputy Commissioner in order to ensure the effective integration of the women centered approach (TFFSW 1990:50).

The position of Deputy Commissioner for Women be created within the Correctional Service of Canada, at a rank equivalent to that of Regional Deputy Commissioner (Arbour 1996:4a).

The federally sentenced women facilities be grouped under a reporting structure independent of the Regions, with the Wardens reporting directly to the Deputy Commission for Women (Arbour 1996:4c).

Is there evidence to indicate these rules have been followed? First, has the Correctional Service of Canada implemented a system for prioritizing offender grievances and complaints? They have not. The failure to establish this system was first witnessed in the Denise Fayant case (1996). Ms. Fayant (prior to her transfer to Edmonton and within Edmonton Institution) made several requests to correctional staff concerning her fears about entering and residing within the institution. These requests were given little attention. Instead, Ms. Fayant was given the option of being placed in a security enhanced unit where she could be monitored by staff if she feared for her safety (Hayman 2006).

The Correctional Service of Canada responded here in a way that indicates they preferred to handle these issues with greater security rather than follow the options recommended in Creating Choices and Arbour. This response not only ignored the recommendation to
set up a system for prioritizing offender grievances and complaints but also the recommendation to limit the use of security and surveillance when responding to female inmates. This failure suggests that the Correctional Service of Canada finds it difficult to implement policies, procedures and systems that depart from a highly security focused, controlled environment. One alternate method, for instance, would be providing the option to female offenders to choose which institution to reside within. This decision would be based on a reasonable set of circumstances and factors, determined by a system independent of the CSC (e.g., fear for safety, programmes offered in certain institutions, location of institution and employment/community possibilities once released). This alternative tactic may resolve issues such as providing female offenders with meaningful choices/options and limit any potential problems that may arise later on, as witnessed with Denise Fayant.

This inability to carry forth the ideals within *Creating Choices* and Arbour is again evidenced by the Correctional Service of Canada’s management of Ashley Smith’s (2007) complaints and concerns. In the Correctional Investigator’s Report (2008), it was noted that Ashley Smith made a number of complaints against the CSC during her imprisonment. Ms. Smith stated that it used excessive force against her during an incident (March 2007, where a correctional officer hit her) and inappropriately refused to accept a complaint from her that was written by another inmate on her behalf because she (Smith) was not permitted paper or writing instruments. For a four day period, she was not permitted to leave her cell to engage in physical exercise. Ms. Smith also claimed that she was not permitted sufficient toilet paper, soap, deodorant or sanitary napkins for hygiene purposes; and was fed only finger foods (Sapers 2008:45).
According to Commissioner’s Directive 101-Offender Complaints and Grievances, when a complaint or grievance is received from an offender the Correctional Service must identify the appropriate time frame for response. That is, the response must be either routine priority (requiring a response within 25 working days) or high priority (requiring a response within 15 working days). Correctional Service policy defines high priority as, “...complaints and grievances concerning matters that have a direct effect on life, liberty or security of the person or that relate to a griever’s access to the complaint and grievance process” (Sapers 2008:46). Based on the above definition and the Correctional Investigator’ review of the grievance documentation, many, if not all of Ms. Smith’s complaints should have been designated high priority and assessed immediately.\textsuperscript{22} As stated by Sapers (2008:115), these issues and discrepancies created an environment which exacerbated Ms. Smith’s maladaptive behaviour and resulted in her eventual death. The Correctional Service of Canada’s inability to adhere to the promises of Creating Choices and Arbour, he claims, has produced an institution that is detrimental to the safety and does nothing to promote healing of female prisoners (Sapers 2008:99).

The second issue concerns the recommendation that effective and efficient external boards of investigation be set up to investigate serious disturbances at the prisons. The main issue in these cases is not that the Correctional Service of Canada either did not investigate, or when it did no independent investigator was appointed. It is alleged by several academics, scholars and federal Ombudsman that investigations conducted were done late, reluctantly, and only in response to heavy external pressure from media, politicians and academics.

\textsuperscript{22} As the majority of complaints were deemed by CSC to be routine priority.
Madame Justice Arbour specifically critiqued the Correctional Service of Canada, noting that its report on the 1994 events at the Prison for Women was edited at National Headquarters so that the most serious aspects of the April incidents disappeared (Hayman 2006). The original 1994 Board, composed solely of Correctional Service of Canada personnel, inspired recommendation 10(a) of the Arbour Report, which stated “that all National Boards of Investigation include a member from outside the Correctional Service” (Arbour 1996:256). Arbour also suggested that the list of incidents eligible for a national investigation should be extended to include “mistreatment of prisoners” (1996:119).

The evidence presented in each case study (suicides, deaths, major and minor disturbances) indicate that the Correctional Service of Canada failed to act on these recommendations, once again putting their commitment to the principles of Creating Choices and Arbour in doubt. Only six months after the publication of the Arbour Report, the investigation at Nova contained a community member, who though it was not a national board and the regional commissioner (who was at the prison on the actual day), still thought it appropriate to investigate the Nova events as a “minor disturbance” (Hayman 2006). I am not suggesting that there were deliberate attempts to minimize the seriousness of what happened at Nova. But why was the presence of the regional commissioner absent from the initial reports produced by the Correctional Service of Canada? This puts into doubt the ability of the Correctional Service of Canada to conduct an effective and efficient investigation and produce accurate reports reflecting on incidents and disturbances within prisons.
The failure of the Correctional Service of Canada to set up a more effective and efficient external board of investigation is again evident in the initial examination into the death of Denise Fayant. The CSC’s Board of Investigation excluded certain facts and details about the circumstances leading up to and surrounding her death (Chrumka 2000). Only after questions were raised by the Correctional Investigator (prompted by media coverage that her death was not a suicide), did a Provincial Investigation separate from the Correctional Service of Canada take place. Justice Chrumka, who was appointed to head the Provincial mandated Fatality Inquiry, criticized the Correctional Service of Canada for its failure to put the events in context at Edmonton Institution (2000). It can be questioned why the Correctional Service of Canada felt the need to conduct its own investigation and to exclude certain information about the case. This decision may suggest in part that the manner in which the death and other incidents occurred (was believed by CSC) to produce negative or damaging perceptions of its management and administration. While it may not indicate that the CSC was veiling or concealing information, it certainly shows an interest in presenting itself in the best possible light.

The lack of transparency within the correctional system and the veil of secrecy the Correctional Service of Canada maintains makes it difficult and at times impossible to gain access to information or attain an accurate analysis of all the incidents that take place inside female prisons. The lack of transparency causes ambiguity, for instance, in the allegations of sexual abuse at the Okimaw Ohci Healing Lodge. As discussed in Chapter 3, when sexual abuse was alleged to have occurred at the Lodge in 1998, the only information available came from academic literature (Hayman 2006). No details were released, no official inquiry appears to have been held, and no National Boards of
Investigation were conducted. This lack of transparency presents a massive barrier to researchers and media wishing to examine incidents and disturbances that occur within prisons. A full picture and image of the experiences of women within prisons, therefore, cannot be fully attained, nor can all the issues that were raised by Arbour be completely understood.

The third recommendation was the appointment of a Deputy Commissioner for Women. This official would be responsible for ensuring that the needs, rights and interests of female prisoners [rather than CSC] were upheld (Arbour 1996; TFFSW 1990). The Correctional Service did appoint a Deputy Commissioner for Women. However, it did not give this official position line authority. That is to say, the authority to make decisions concerning management, training, and programmes, or the authority to provide an independent review of CSC practices. As Saper notes, “Instead, the Deputy Commissioner for Women was mandated to provide advice, guidance and support to women’s facilities, while the warden continued to report to the respective Regional Deputy Commissioner for operational matters” (Sapers 2008:102). According to Sapers, “the current operational structure for women’s corrections has been in place for a decade...and as exemplified by the death of Ms. Smith, it is reasonable to state that the current governance structure for women’s corrections is flawed and lacks the required accountability” (2008:107). This was not the “separate stream” for women’s corrections that was envisioned by Justice Arbour. Similarly, Justice Glube in 2006 closely reviewed federal women’s corrections in Canada, including the governance model that Correctional Service of Canada chose to put into place for women’s facilities. Justice Glube found that there were problems with the governance model and she subsequently recommended that:
“...the Correctional Service revisit the women’s corrections governance structure in order to have the Wardens of the women offender institutions report directly to the Deputy Commissioner for Women” (cited in Sapers 2008:103). The Correctional Service rejected Justice Glube’s recommendations (Sapers 2008) as they had rejected Justice Arbour’s report a decade earlier. The continual denial of recommendations proposed by Creating Choices, Arbour and numerous investigators demonstrates the CSC’s reluctance to allow outside members access to its documentation and protocol or to allow external input into its management.

Conclusion

This chapter has taken selected aspects of the case studies discussed in Chapter 3 to illustrate that the Correctional Service of Canada has consistently failed to deliver the humane, empowering prison environment advocated by Creating Choices and Arbour. The report’s main recommendations, namely: 1) the Rule of Law; 2) Management and Staff Procedures; 3) Administration and Use of Segregation; and 4) Complaint, Grievances and Boards of Investigation, appear to have been consistently ignored. These failures have created a hostile, unsafe, unstable and stressful environment for female prisoners. This chapter has argued that the inability of the Correctional Service of Canada to provide a positive, healing and safe environment that addresses the specific needs of female prisoners is a failure at the institutional level. That is, these situations, as far as can be understood through the suicides, deaths, assaults and self-injurious behaviour that have come to light are both endemic and inevitable due to the institutional inadequacies of the prison itself. These institutional and systematic failures will be discussed in the next chapter (conclusion) as a means of bringing the analysis to a more macro and
organizational level. This discussion will lead to a final analysis as to ‘where do we go from here.’
Chapter 5
Conclusion

The history of female incarceration within Canada has been described as one of major dissonance, change, conflict and reform (Dell et al. 2009). There have been many reports, inquiries and studies that have examined the experiences of women within prisons, the conditions of prisons and the effects and outcomes that imprisonment produces on the prisoner (Bosworth 1999, 2003; Cayley 1998; Hannah-Moffat 2001; Harris 2002; Hayman 2006). All of these have castigated the inhumane and unsafe conditions of prisons for women and underlined the negative impact prisons have on the individual. However, most have been ignored by government officials. Creating Choices (1990) and the Arbour Report (1996), two of these reports, were actually ‘heard’ amongst senior government officials, in the sense that many of the principles, ideals and policy changes they recommended were officially adopted. Despite the Correctional Service of Canada’s official commitment to these principles, the conditions of the prisons, experiences of female prisoners and the effects the conditions produce onto prisoners appear to remain largely unchanged. In my research study, these issues and themes were examined through case study analysis. The findings revealed that the Correctional Service of Canada has failed to deliver an empowering, safe and healing environment for female prisoners as advocated by Creating Choices and Arbour.

Although the number of cases used in this study is small, the data provide consistent evidence that the Correctional Service of Canada has steadily ignored the recommendations advanced by Creating Choices and Arbour and has instead remained committed to the ideals of punishment and control. This research has revealed that
virtually all key recommendations have been ignored, particularly: 1) that senior managers and front-line staff should be trained to act fairly and follow the rule of law; 2) task forces and working groups should be set up to advise on administrative segregation; 3) segregation be used minimally; 4) new strategies should be developed to address specific mental health issues of federally sentenced women; 5) an effective and efficient external board of investigation should be established to investigate incidents separately from CSC; and 6) a new CSC system for prioritizing offenders grievances and complaints should be put in place. The inability of the Correctional Service of Canada to provide an encouraging, healing environment that addresses the specific needs of female prisoners is a failure at the institutional level. That is, the failures revealed through this study of the suicides, deaths, assaults and self-injurious behaviour of female prisoners — are both endemic and inevitable due to the institutional inadequacies of prison themselves.

The prison has long been a popular site of analysis. Jeremy Bentham (1787) portrayed it as central to the utilitarian vision of an ordered society. Lombroso and Ferrerro (1890) found, calibrated and quantified their sample of criminogenic types. Foucault (1978) traced the roots and representation of the contemporary disciplinary society in its genealogy, and feminists’ uncovered continuities between women’s sexualization throughout society and their treatment within penal institutions (Heidensohn 1981; Morris 1987; Naffine 1996; Smart 1977) (cited in Bosworth 1999). Imprisonment as the primary punishment for criminal offences is less than two hundred years old. The practice emerged towards the end of the eighteenth century, as traditional methods of punishment became perceived as inhumane. Prison has historically (and to this present day) been characterized as a place that manages and incapacitates criminals. Its appeal is
enduring because it segregates those individuals who are defined as ‘dangerous’ from the rest of the population. The image is presented to society that they will be protected from these ‘dangerous’ or ‘reprehensible’ criminals (Bosworth 1999, 2003; Cayley 1998; Zaitzow 2003). David Cayley, in his work, *The Expanding Prison* (1998), cites three primary reasons for the use of imprisonment. First, Cayley contends, the prison provides a ‘dumping ground’ for unwanted people. Second, they subject convicts to surroundings whose severity seems to pay them back for, or “balance out,” their crimes. Lastly, they signify to the public that something has been done about the crimes committed and the ‘threat’ posed to society (Cayley 1998:3). 

The WHY Question of Prisons

Academic literature indicates that imprisonment, except on a few occasions, fails to enhance public safety (Bosworth 1999; Cayley 1998; Garland 2001; Pratt 2005). The prisons primary function is to control and segregate the ‘dangerous’ population from the remainder of society. Braithwaite states, “prisons are warehouses for outcasts; they put problem people at a distance from those who might help to reintegrate them. Imprisonment is a policy for breaking down legitimate interdependencies and for fostering participation in criminal subcultures” (1989:179). Rehabilitation can certainly occur within a prison setting, however, the most probable outcome of imprisonment is individuals who will require further imprisonment. This is because rehabilitation in prison is insufficient (Bosworth 1999, 2003; Cayley 1998; Zaitzow 2003).

Prisons have been increasingly used — on a global scale — because they provide instant, direct punishment to offenders, signify to the public that something has been done to protect society, and they are relatively easy (though expensive) to implement and
construct (Baker and Roberts 2005; Cayley 1998; Garland 2001; Pratt 2005).

Imprisonment embodies retributive attitudes (punishment, control, surveillance) and manages the supposed ‘risks’ and ‘threats’ within society. Garland argues that,

The sectors of the population effectively excluded from the world of work, welfare and family, increasingly find themselves in prison, their social and economic exclusion effectively disguised by their criminal statuses. Today’s reinvented prison as a ready-made penal solution to a new problem of social and economic exclusion (2001:131).

The prison today operates at a period of time where risk and retribution are key elements to the penal regime. This punitiveness, as argued by Cayley (1998), Garland (2001), Pratt (2005), and others is a key characteristic of the late modern, neo-liberal society.23 Such societies rely consistently upon the use of imprisonment and self-regulation/responsibilization in response to crime. This shift towards a more punitive response is the result of decreasing confidence in ‘experts’ or criminal justice officials, the failure of penal welfare solutions (e.g., Rehabilitation), and the normalization of the apparently increasing crime problem. At certain historical moments (1960s and 1970s in the U.S. and Britain) there was an increase in crime rates and this became presented as a social fact, that crime rates were on the rise, despite the fact that rates have declined prior to and subsequent to these historical moments (Baker and Roberts 2005; Cayley 1998; Garland 2001). This ideology, although argued by Garland (2001) and others, within the United States and Britain, resonates also within Canadian penal reform.

Although Canada’s federal government has tried to refrain from being engulfed by a dependency on imprisonment and punitive means, its policies and practices have turned

23 Neo-liberalism refers to a market-driven approach to economic and social policy that emphasizes a liberalized trade and relatively open markets. It seeks to maximize the role of the private sector in deciding the political and economic priorities of the government.
increasingly to control and punishment. This dependence on incarceration is particularly evident in the case of female offenders. For instance, training on women-centered programs decreased in duration, while programs aimed at security, control and supervision increased (CSC 2002a) and the rate of federally incarcerated Aboriginal women has increased 72.5 percent between 1997 and 2006 (Pollack 2009:83-84). Also, in 2008/2009, the total number of admissions of female offenders in Ontario correctional facilities was 3,492, with an additional 9,278 on remand (Ministry of Community Safety and Correctional Services 2010).

Canada’s incarceration rates, while among the highest in the Western world, are closer to those of other Western nations than those of the United States. The Correctional Service of Canada’s recent figures place Canada’s prison population as the fourth highest per capita of all European and North American countries, placing it marginally behind Britain (Moore and Hannah-Moffat 2005:85). As noted above, although Canada has not fully embraced the punitiveness documented in the United States and Britain by Cayley (1998), Garland (2001), Pratt (2005) and others, imprisonment is still consistently used.24 This is evident, for instance, in examining the discourses of female imprisonment in Canada. The Canadian government has allowed feminists, scholars and practitioners to contribute to, for instance, Creating Choices (1990), and to advocate for female offenders. However, these ‘experts’ were still confined within a certain peneological framework (i.e., the use of imprisonment). This response, although allowing for the possibility of more rehabilitative and healing opportunities, still operates within a neo-liberal, retributive approach where — incapacitation, punishment and control remain

24 Incarceration in the USA has reached 2.1 million and 1 in 75 men are imprisoned (Pratt 2005:269).

The Canadian penal system has attempted to incorporate rehabilitative mechanisms. This is notable in the construction and application of programmes and treatment policies aimed at enhancing offenders’ choices and creating a healing environment. However, as Moore and Hannah-Moffat contend: “The Canadian criminal justice system operates under the liberal veil of the free subject who makes his or her own choices” (2005:86). Abuses of human rights are notable in all Canadian penal institutions (Hayman 2006; Moore and Hannah-Moffat 2005). Moore and Hannah-Moffat (2005) chronicled human right abuses emerging from the newly advocated penal systems in Ontario. Their report indicates that prisoners have been denied adequate winter clothing and access to telephone and programmes (Moore and Hannah-Moffat 2005:95). The federal system, more specifically federal female prisons, are not exempt from such inhumane treatment. This is evident throughout the case studies presented within my research. There have been a number of incidents and occasions where the Correctional Service of Canada and its staff have employed inhumane, security-driven responses rather than ‘balancing’ such initiatives or adhering to the principles of empowerment. Examples include the death of Denise Fayant, ‘major’ disturbances at Nova Institution, attacks, escapes and assaults at Joliette Institution and the Okimaw Ohci Healing Lodge and the death of Ashley Smith. As this thesis has documented, the harshly condemned women’s branch of the federal system has been the subject of a number of Commissions of Inquiry, particularly noteworthy is Arbour’s commission which offered a series of recommendations on the entire system of federal punishment, finding a ‘culture of lawlessness’ which pervaded
the entire system. The office of the Correctional Investigator found that correctional staff and the entire penal system have transgressed the boundaries of acceptable humane treatment of prisoners in the death of Denise Fayant and the death of Ashley Smith.

The use of segregation within the federal female prison was criticized by both *Creating Choices* and Arbour. The Task Force on Administrative Segregation was created as a result of Arbour’s (1996) observations that the use of segregation in Canadian prisons was unlawful and inhumane (Hayman 2006; Moore and Hannah-Moffat 2005). Nearly a decade later, the Correctional Investigator’s Report (2008) reveals similar findings. In the Ashley Smith case, segregation was the primary (and only) method employed as a response to her behaviour. Alternative methods were not used because they were deemed less effective in controlling and monitoring her behaviour (Sapers 2008). Segregation as a punitive tool is enhanced by the fact that those held in segregation (as with Ashley Smith) are consistently denied the basic rights afforded to prisoners housed in the general population and this is part of the neo-liberal logic — to punish and control (Hannah-Moffat 2001; Moore and Hannah-Moffat 2005).

CSC policies which dictate that prisoners must heal themselves while in prisons, that security and surveillance are the solutions of choice, and that prisoners will suffer if they fail to participate in programs collides with attempts to fashion a prison environment that empowers and heals. How can the rule of law and rights of prisoners be obtained in an environment which is first and foremost committed to the ideals of punishment and control? It is evident through the case studies that the institution of imprisonment is itself problematic and the commitment of the Correctional Service of Canada is to the ideals of retribution, control and surveillance. This philosophy of punishment and control has
created a scenario, as discussed throughout this research, where the Correctional Service of Canada has consistently failed to deliver the humane, empowering prison environment advocated by Creating Choices and Arbour. Their inability to provide this environment appears to be due, in large part, to a commitment to its own ideal and logic (e.g., punishment and control) rather than to ideals of empowerment and reform proposed within both reports.

Where Do We Go From Here?

There has been much debate amongst scholars, academics and practitioners as to the ‘solution’ to the current state of imprisonment. What has been argued by these academics and scholars is that rather than resorting consistently to imprisonment, alternative options should be considered and implemented. These alternatives include non-custodial sentences and alternatives such as: probation, counselling and treatment programs, and community-service or community-based programmes (relative to the crime committed) (Cayley 1998; Porporino 2010; Vanstone 2010). Many alternatives require the mobilization of a community, that is, participation between the government, members of the community, and various social institutions/organizations. Family group conferences, sentencing-circles, victim-offender mediation, non-custodial court sentences — all depend, in one way or another, on using social ties and civil habits to respond to crime. Only useful expressions of community can limit the formal justice system’s continual dependence on prisons as a form of punishment (Bosworth 2003; Cayley 1998).

There are certainly many potential problems that can arise from these alternatives, which add to the complexity of the problem. Garland, for instance, argues that these alternative discourses are problematic because rehabilitative practices are “increasingly

Offenders can only be ‘treated’ to the extent that such treatment is effective in protecting the public, reducing risk, and being more cost-effective. Garland argues that, “Rehabilitation no longer asserts to be the principal purpose of the whole system, or, for instance, in traditional welfare agencies such as probation” (2001:176). Probation, one of the alternative methods to imprisonment proposed in the literature is also problematic. Probation has moved, according to Garland, far away from its initial purpose, which was to ‘assist and advise’ deserving offenders, and developed priorities that reflect the new penological philosophy of maximizing public protection. This is increasingly done by adopting new forms of close monitoring, including, tagging, tracking, and drug testing (Garland 2001).

Although, some alternative solutions embody punitive ideals, other possibilities such as probation or altering an inmate’s social conditions, are less likely to reinforce social divisions, and more realistic about the limits of the state. Meyer and O’Malley contend that ‘balance’ is the sign under which successive governments can sustain rehabilitation and order and implement these possibilities. They contend that this is evidence that the Correctional Service is moving in this direction: in 2000-2001, the CSC, spent $85.7 million on providing correctional programmes to federal offenders. This, they argue, indicates that punishment is balanced with rehabilitation (Meyer and O’Malley 2005:214). In comparison, Moore and Hannah-Moffat (2005) argue that although rehabilitative mechanisms are in place in the Canadian penal regime, they are still highly punitive. Moore and Hannah-Moffat (2005) contend, instead that attempts at ‘balancing’ the prison system through counselling and treatment programmes operates in a punitive
way and produce punitive solutions. The Correctional Service of Canada’s commitment to a ‘balanced’ prison system does not exist in practice (Moore and Hannah-Moffat 2005).

Based on the evidence provided throughout this research, it is evident that the Canadian penal regime, focusing specifically on federal female prisons, operates primarily to punish and control its offenders. I would argue that my research supports the claims made by Moore and Hannah-Moffat (2005). This is because the prison has increasingly become used as a method of segregation and control (arguably to a lesser extent than in the United States). Its policies and programmes are punitive rather than rehabilitative. The Correctional Service of Canada has relied consistently upon security and surveillance to manage and respond to female offenders. This is apparent throughout each of the case studies. The Correctional Service of Canada has constructed higher fences, installed video security, restricted access of prisoners to various programmes within each of the prisons, and has implemented the use of segregation, taser, pepper spray, and monitoring. These initiatives, employed as a response to incidents and disturbances within the prisons, produce immediate punishment of prisoners. And they signify to the worried publics that effective measures have been implemented to safeguard society. What could be done to resolve these issues would be to remove the use of segregation in prisons, provide new training to staff that is ‘hands-on’ (i.e., provides direct experience with scenarios of high crisis or scenarios of daily disruption/disturbances), implement an external system that examines the daily practices of correctional staff and management, and provide for ongoing programs to restore
correctional law and its policies (i.e., refresher programs conducted frequently on correctional law and programs).

Conclusion

Through examining the experiences of female inmates through case studies within prisons for women, this study has shed light onto the more problematic issues within the Correctional Service of Canada (i.e., inability to balance security with the needs of inmates, failure to adhere to principles within Creating Choices and Arbour, violations to the rule of law and human rights abuses), and the institution of imprisonment itself (hostile, unsafe, and an unsympathetic environment). The findings from this research suggest that greater emphasis must be placed on the experiences of female prisoners and the conditions within prisons. Measures must be taken in order to minimize the harmful practices that are currently in place and to prevent further destructive practices from manifesting. Such insight suggests the need for continual oversight, redress and attention from academics, scholars, practitioners, the media and the public in order to bring about effective change and improve the experiences and living conditions of female prisoners.

Academic literature, commissions and inquiries are informative and effective (to a certain extent) in understanding the experiences of female prisoners and the conditions of prisons for women. However, these reports/inquiries tend to be read by individuals who explicitly seek them out. The general public — uninterested, unconcerned or unaware of these issues — lack understanding and knowledge of prison conditions. A suggestion to improve this situation would be to incorporate segments of these (inquires and reports on the history and experiences of female inmates) into the education system (e.g., required as part of history courses in elementary school, or incorporated within law courses in high
school). Secondly, these types of documents, inquiries and reports also lack appeal. By this I mean the documentation (language, content and length) is unappealing, unclear, and un-relatable to many individuals. This could be resolved through, for instance, creating documentaries on the experiences of female offenders, or through public interviews with released female offenders explaining their experiences. Public awareness could create pressure on CSC to effect meaningful change. These are only some of the solutions that could potentially resolve the lack of knowledge, research and awareness on the experiences of female offenders.

Further research is needed to examine the prevalence of inhumane and discriminatory practices in order to determine the appropriate measures that can be implemented to improve the current situation. This research can be attained through conducting interviews with female offenders or with individuals responsible for the operation of programs within the system. Several law schools offer programs aimed at assisting offenders with complaints, legal appeals to their sentences and other legal issues. These types of programs and strategies increase awareness and understanding within the penal system, and they also attempt to enrich prisoners’ experiences within prisons. Strategies and programs such as these have the potential to improve the lack of research and knowledge on female offenders and their experiences. They also have the potential to improve the conditions and experiences of offenders within prisons.
References


