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**FROM CHRISTIAN MATERNALISM TO RISK TECHNOLOGIES: PENAL POWERS AND  
WOMEN'S KNOWLEDGES IN THE GOVERNANCE OF FEMALE PRISONS**

**Kelly Hannah-Moffat**

A thesis submitted in conformity with the requirements for the Degree of Doctor Philosophy.

Centre of Criminology of University of Toronto

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# **FROM CHRISTIAN MATERNALISM TO RISK TECHNOLOGIES: PENAL POWERS AND WOMEN'S KNOWLEDGES IN THE GOVERNANCE OF FEMALE PRISONS**

Kelly Hannah-Moffat  
Degree of Doctor Philosophy  
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## **Abstract**

This thesis offers a genealogy of some current forms of penal governance, roughly based on the history of Canadian women's imprisonment. Women's imprisonment is used to understand the complexity of penal power and to show how the meaning and content of women's penal governance changes over time: it is not my aim to provide a full historical account of Canadian women's imprisonment. This study contributes to the literature on governance by showing that penal reform strategies intersect and evolve into complex patterns of governing, and that governing is always gendered. Furthermore, my analysis shows that expert, non-expert, and hybrid forms of power / knowledge all inform penal strategies.

This thesis also makes a contribution to feminist criminology and feminist theory in general by providing an alternative approach to analysing the governance of women by other women, and by the state. Avoiding universal and reductionist claims about women's oppression and about governance, I argue that relations of power are complex and fractured and that feminists and others need to explore the specificity of institutional power relations. This analysis allows for an examination of the governance of women by women (and potentially by men) through non-repressive techniques such as pastoralism or through hybrid techniques such as Christian mothering that combine disciplinary and pastoral governance. The thesis is based on a Foucauldian view of power as decentralized and heterogeneous. It highlights five strategies of reform and punishment: pastoral, maternal, disciplinary, actuarial and empowering / responsabilizing.

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## Introduction

This thesis was originally motivated by a concern with women in prison, but the final product is not about “the experiences of women prisoners” - it is about prison policies and programs, with a special focus on the role of non-state women reformers. My discussion of women’s penal reform builds on a Foucauldian analysis of power / knowledge and on the recent contributions of governmentality scholars, who offer certain theoretical tools valuable to the analysis of governing across social sites. Foucault (1977; 1979; 1980; 1983; 1990) famously contends that power is relational and productive: power is not an “unidirectional prohibitive force, but rather, a complex network of forces that is exercised in order to produce knowledges about oneself, others and the world” (Lacombe, 1991:31). Notwithstanding the many feminist critiques of Foucault’s scholarship, many feminist theorists believe that Foucault’s analyses and concepts can be used to expand our understanding of the governance of women in multiple social sites (Weedon, 1987; Smart, 1990; Sawicki, 1991; Bell, 1993). Foucauldian work is useful to feminist scholarship because it allows for a more complex and detailed understanding of the gendered nature of knowledge and of the disciplining of female bodies. His theory of power is especially useful to advancing our understanding of penality; the term “penality” is used intentionally to draw attention to the historical, social and political aspects of a complex range of institutions and practises that shape modern forms of punishment.

Analyses of power as productive rather than repressive are either absent from or marginal to feminist reviews of women’s penal reform (Freedman, 1981; Zedner, 1991b; Rafter, 1992, Adelberg and Currie, 1987; 1993; and Faith, 1993; Shaw; 1992a; 1993). Recent feminist researchers, like Estelle Freedman (1981), Lucia Zedner (1991b) and Nicole Hahn Rafter ([1985];1992) have undertaken the task of re-evaluating the history of imprisonment to include the experiences of women. Estelle Freedman (1981) examines the development and feminization of women’s prisons and the “benevolent” role of American women reformers in caring for their “fallen sisters”. Rafter (1992) offers a more critical analysis of the intersections between gender, race and class in the development of women’s prisons in the United States. Rafter questions Freedman’s

(1981) emphasis on “sisterliness” and shows how relations between reformers and prisoners are shaped by wider social processes, and how social controls are exercised on women as women. Theoretically, Rafter shows how men and men’s prisons are norms from which women and women’s prisons are viewed as deviating. She also makes an important contribution to feminist criminology by analysing the relations of power which exist between women of different classes and races: the American women’s reformatory movement, in Rafter’s view, also represents a struggle between “chaste”, white middle class reformers and women prisoners from less powerful groups. Rafter’s (1992) primary concern is with the social control function of the prison and the reformers’ use of repressive disciplinary techniques in the regulation of a particular class of women. In a similar fashion, Lucia Zedner (1991b) has examined how notions of appropriate male and female roles figure in the development of penal theory and how gender distinctions affected the entire British penal system.

The few historical Canadian analyses of women’s imprisonment (Adelberg and Currie, 1987; 1993; Cooper, 1993) have focused on the struggle to reform the infamous Prison for Women. With the exception of Carolyn Strange (1983) and Peter Oliver (1994), who examine the regime at the Andrew Mercer Reformatory at the turn-of-the-century, there are few efforts to document patterns of governing Canadian women prisoners. These historical studies of women’s prisons, however, often undertake somewhat narrow institutional histories, without systematically analysing the underlying relations of disciplinary and other powers that shape the broader field of penality. Recent Canadian scholarship on women’s imprisonment and women’s criminality are either overviews of a wide range of issues (Faith, 1993) or detailed analyses of the gender specific experiences and characteristics of women’s offending (Comack, 1996; Shaw, 1994; 1996a; Shaw and Dubois, 1995; Kendall, 1993a; 1993b). Some scholars, such as Margaret Shaw (1992a; 1993; 1996a; ) and Kathy Kendall (1994), have started to explore the implications of promoting a feminist analysis of women’s crime and feminist techniques of rehabilitation within existing prison structures.

Most of these studies rely on what Foucault calls a “juridico-discursive” model of power or governing. This model of power involves three basic assumptions: 1) power is possessed exclusively by certain groups or institutions; 2) power flows from a centralized source down to the bottom (usually the state); and 3) power is primarily repressive, involving prohibitions and sanctions

(Sawicki, 1991:20). In order to develop analyses that decentre the state as an instrument of power, Foucault conceptualised power as a relation and not a possession of certain individuals or groups. Thus, his analyses of power are not about who possesses or should possess power but instead about how relations of power give rise to and emerge from particular strategies of governing. Further, it is argued that power is productive, not simply repressive. Therefore, an examination of institutional and cultural practises involved in the production of citizens is crucial. While penal governance can be seen as a representation of juridical power and repressive forms of disciplinary power, it can also be analysed as a form of productive power producing individuals in accordance to certain normative expectations. This view of power underpins Foucauldian attempts to understand penal discipline.

Feminist analyses of women's penalty that do rely on Foucauldian concepts tend to reduce diverse features of penal governance to repressive relations of discipline. For example, Dobash, Dobash, and Gutteridge (1986) in their important history of women's imprisonment show how penal and therapeutic techniques of governing women prisoners amount to gender-specific forms of disciplinary regulation, which are overlooked by non-feminist revisionists. Their work offers a valuable critique of revisionist analyses of men's penalty (Ignatieff, 1978; Rothman, 1980; 1990; and Foucault, 1977) for failing to consider the role of patriarchal and gender-based assumptions in the development of modern prisons (Dobash and Dobash and Gutteridge, 1986:9). They trace the development of punishment and prison regimes, and discuss the role of criminological / expert knowledges in the formation of those regimes. They show how criminological knowledge reflects and incorporates wider gender-based assumptions about "women's nature":

Over time, the woman prisoner has been transformed from evil to mad and responded to accordingly, with closer and closer forms of control and confinement reaching beyond her body and into her mind and emotions (Dobash, Dobash and Gutteridge, 1986: 14).

In addition to providing a rich resource of empirical data, Dobash, Dobash and Gutteridge (1986) make an important contribution to theory by showing how medical professionals and some reformers play a disciplinary role in the normalisation of women prisoners. They combine feminist criticism with Foucauldian characterizations of disciplinary power to further our theoretical understanding of the governance of women in prison.

Adrian Howe (1994:149) argues that the contribution of Dobash, Dobash and Gutteridge (1986) is commendable but limited, because “it does not extend beyond a recognition of the especially demanding nature of disciplinary regimes within the women’s prison”. Howe (1994:149) also notes that the overwhelming impression left by the Dobash, Dobash and Gutteridge (1986) study is that of “an oppressive surveillance which renders resistance impossible within the women’s prison system in the United Kingdom”. Howe (1994) claims that social histories must “re-specify the social”; but she does little to advance feminist analysis of penalty. She is quite unclear about what is involved in “respecifying the social” except to state that there needs to be “a critical engagement between masculinist analysts of the penal realm with feminist analysts of the disciplining of women which will transform our understanding of punishment”(Howe, 1994:206). She claims that the introduction of gender into the study of women’s imprisonment has not advanced feminist theory, and that “gender-sensitive penal analysts do not seem to have realised that a consideration of gender cannot be reduced to a study of women”(Howe, 1994:158). She argues that feminist analyses of penalty must also consider the role of masculinity in the development of men’s prisons, and that feminist analyses must incorporate the insights of non-feminist critical analyses of penalty (Howe, 1994:159). While Howe (1994) makes a valid point about the atheoretical nature of many feminist histories of punishment, she clearly misses the importance of feminist contributions that document (and in some cases theorize) the experiences of women prisoners and reformers.

Howe (1994) advocates a post-modern Foucauldian approach to the study of women’s “penalty” that does not focus explicitly on the prison, but rather on wider strategies of regulating women. Howe (1994:206) states that “feminist studies of the disciplined female body have as yet untapped potential to transform our understanding of punishment in the Western world”. This is what Dobash, Dobash and Gutteridge (1986) do in their study; however, they do not make a direct connection to the postmodern feminist analyses of women’s bodies as site of disciplinary power.

Howe (1994) equates penalty with discipline by examining how women’s bodies are policed in accordance with certain normative standards of femininity and sexuality. In her review of postmodern feminist analyses of women, Howe includes a discussion of her own work on the relationship between women’s penalty and social injury. “Social injury” is used to describe the claims

of women prisoners and young women at risk of state intervention (Howe, 1994:171). She argues that women prisoners are in a position where they are at risk of state harm and therefore, they need to be empowered. Like several other studies on women prisoners, Howe's work tends to portray women in prison as victims with little or no agency. More importantly, she fails to examine the complexity of risk-based governance and how women in prison are not simply "at risk" of harm but also perceived by the state and others to be "a risk" to public safety. Further, her claims about empowerment are not examined. A feminist political strategy like empowerment is not easily used within the context of penal reform. My analysis of the governance of women in prison shows how terms such as "risk" and "empowerment" can be used to responsabilize and regulate women. While a concept such as "penal harm" can be useful in politicising some abuses of prisoners' rights it does not further our understanding of penal governance. In short, Howe's (1994) book is an instructive review of some literature; however, she fails to see how power / knowledge / body relations transcend gender and how studies of imprisonment are linked to wider processes of governing, which are not necessarily disciplinary.

I argue that prisons *are* a legitimate and useful site of inquiry and that by studying the patterns of governing which shape this aspect of penalty, we can gain a better understanding of the complexity of penal governance. Studies such as that of Dobash, Dobash and Gutteridge (1986) begin this project by focusing on disciplinary relations of power that shape the governance of women. Despite this contribution, however, their study is limited by a narrow theorisation of power. Restricting analysis of imprisonment to disciplinary power, which is also common to most non-feminist revisionist analysis of penalty, limits our understanding of the fluidity and complexity of penal governing.<sup>1</sup>

The insights of Foucault (1980; 1977) are useful, because he focuses on the relations of power and technologies of power which are dispersed throughout society rather than being located specifically in the state. Foucault (1980) warns that "we should not assume that the sovereignty of

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<sup>1</sup> Current feminist theorizations of the state and reform efforts have also (Watson, 1990; Pringle and Watson, 1992) argued in favour of an emphasis on "the specificity of mechanisms of power".

the state, the form of law or the overall unity of domination are given at the outset; rather, these are only terminal forms power takes” (Watson and Pringle, 1990:233). He also notes that

the idea that the state must, as a source or point of confluence of power, be invoked to account for all the apparatuses in which power is organised , does not seem to me very fruitful for history or one might say that its fruitfulness has been exhausted (Foucault, 1980: 188)

Foucault is useful to feminist's analyses of reform, in that he accords the state no unity, individuality, or rigorous functionality (Smart, 1990), but nevertheless provides an important focus on power. Power is exercised in a multifarious network of relations which permeate all aspects of life; it is not a possession of individuals or groups. The state should be seen as an overall effect of these relations and cannot be assumed to act coherently as the agent of particular groups (Watson, 1990; Pringle and Watson, 1992). Foucauldian analyses of power represent a substantial challenge to feminist paradigms which simply ascribe power to men or to a state operating in a functional or instrumental way to maintain women's subordination or another objective of social control.

The term “patriarchy” is not a useful analytical term because it tends to reduce our analyses of power to men’s oppression of women. It limits our ability to understand the complexity of relations of power in a given social site or to examine relations of power among women. Foucault’s understanding of power is not limited to a definition of power as simply disciplinary or repressive. For instance, he uses the concept of pastoralism to analyse more benevolent, tutelary forms of power. He claims that pastoralism is “an old power technique which originated in Christian institutions” (Foucault, 1983: 213). The Christian principle t “that certain individuals can, by their religious quality, serve others not as princes, magistrates, prophets, fortune-tellers, benefactors, educationalists, and so on, but as pastors” is central to the definition of pastoral power (Foucault, 1983:214). He argues that:

This form of power is salvation orientated ... it is individualising (as opposed to legal power); it is coextensive and continuous with life; it is linked with a production of truth - the truth of the individual himself (Foucault, 1983: 214).

In short, Foucault claims that this form of pastoral power stresses the Christian aim of salvation and corresponding obligations of individual sacrifice and concerns about the salvation of others. It is a

form of power that focuses on a personalised, pre-scientific knowledge of an individual's mind and soul. Accordingly Foucault argued that pastoral power "implies a knowledge of conscience and ability to direct it" (Foucault, 1983: 214). The concept of pastoral power, when combined with Foucault's understandings of other forms of disciplinary and juridical power, provides an interesting framework for studying women's imprisonment and the role of evangelical, maternal, and feminist reformers in women's penal reform.

The reduction of penalty to a functionalist role reveals little about the reform process, and it assumes a coherence in operations of power which has not been shown to exist. I argue that penal governance relies on multiple expressions and forms of power, and that these forms of power are both productive and repressive. The primary objective of this thesis is to show how penal power is a product of multiple and conflicting strategies of governing which rely on a diverse range of technologies and rationalities that are simultaneously conflicting and interdependent. Penal governance is not simply reducible to disciplinary power. Other forms of power such as pastoral power, maternal power, and actuarialism also contribute to the definition and governance of women and probably also of men in prison. These forms of governing are always gendered. For example, I argue that maternal power is a specific form of governing that combines pastoral and disciplinary characteristics to govern women in prison in a particular way. Similarly I argue that actuarial strategies of governing women through risk-based technologies are intricately connected to gender-specific normative and moral criteria.

Foucault and others have maintained that power / knowledge relations are linked primarily to expert-based knowledge systems. Foucault (1977) claims that deviance is controlled through strategies which emerge out of processes of identifying the deviant as such, classifying, monitoring and treating the individual. These activities are typically associated with experts. Another central objective of this thesis is to show how modern penal strategies do not rely solely on expert knowledges. I argue that women reformers, most of whom were not "experts", have played a central role in penal governing. My analysis of women's penal strategies shows how everyday systems of governance and non-expert women's knowledges are used to reform and regulate prisoners. Non-expert matrons and women reformers used their everyday knowledge of activities like mothering to

devise specific technologies of reform. Expert-based penal techniques are of course important, but they co-exist and sometimes appropriate everyday techniques of governing. The near-absence of experts, whether medical or psychiatric, in the reformation of federally sentenced women during the heyday of therapy in prisons (1950s - 1960s) is particularly significant.

In many ways, it was women reformers' knowledge claims regarding women prisoners that precipitated the development of contemporary women-centred regimes. Women reformers, however, were in some instances trained in lower-status, feminized professions, such as domestic science or social work. They often represented a hybrid of expert and every-day knowledges about women prisoners. Women like Phyllis Haslam of the Toronto Elizabeth Fry Society and Mrs. Hof, a domestic science instructor at the Prison for Women in Kingston, are good examples of this hybrid knowledge. These women were professionally trained in the female-dominated professions of social work and domestic science, respectively. These women and others used their professional knowledges and status in combination with everyday knowledges of maternalism to govern women in prison. Further, the category of "reformer" changes overtime. In the post-war period, women working in Canadian women's prison reform were both professional and non-professional women working outside the state and within state institutions.

This thesis offers a genealogy of some current forms of penal governance. I use the history of women's imprisonment to understand the complexity of penal power and to show how the meaning and content of women's penal governance changes over time. It is not my intention to provide a detailed historical account of Canadian women's imprisonment. Instead, I focus on some specific historical periods to demonstrate the dynamics of a particular form of governing. By no means are the forms of governing discussed exclusive or restricted to a given historical moment, however. One of my central arguments is that there are multiple expressions of power that co-exist in penal governing.

This thesis roughly follows the chronology Canadian women's imprisonment. The decision to emphasize particular times and places is partly intentional and partly contingent on restrictions on the accessibility of certain historical data. There are few primary documents which describe the management and operation of federal women's imprisonment, and a very limited amount of secondary

research that analyses these processes. Thus, material contained in this project fills an important gap in our knowledge of federal women's imprisonment. The archival material pertaining to federally sentenced women in the National Archives of Canada, the Kingston Penitentiary Museum, the University Women's Club of Toronto, the Canadian Association of Elizabeth Fry Societies, and local Archives of Elizabeth Fry Societies was used for primary research. Where possible, I also obtained official records and reports of Commissions and Investigations pertaining to federally sentenced women. These materials were supplemented where possible with interviews with government officials, reformers, prisoners, and retired employees of the Prison for Women and the Female Unit at Kingston Penitentiary. Notwithstanding this primary research, the data presented here only offer a partial account of the history of the Prison for Women. Many of the records documenting the management of these facilities are either missing or inaccessible.

In addition to contributing to feminism and criminology, this analysis of women's penalty also contributes to recent analyses of governmentality as they relates to the problem of crime and its management. Studies of governance that rely on Foucault's notion of government draw our attention to the variety of ways of reflecting and acting which aim to shape, guide, manage, or regulate the conduct of persons - not only other persons but also oneself - in light of certain principles or goals (Rose, 1993:287).

As noted by Rose (1993) governance is not an activity which is monopolized by the state. This characterization of governance has much analytic value because it allows for a broad based study of punishment which captures the interdependent and complex roles of state and non-state reformers in the regulation of women in prison. I re-examine the politics of Canadian women's penal reform to investigate the complex and multi-faceted relations between reformers and state officials.

The governance of women prisoners by reformers and by the state is examined through an analysis of the *political rationalities* and *governmental technologies* which culminate in particular penal reform strategies, such as a maternal strategy, a therapeutic strategy or an empowerment strategy. Nikolas Rose and Peter Miller (1992: 175-176) argue that political rationalities and governmental technologies are conceptual tools which can facilitate an understanding of the problematic of government. Political rationalities are described as

the changing discursive fields within which the exercise of power is conceptualised, the moral justifications for particular ways of exercising power by diverse authorities, notions of the appropriate forms, object, and limits of politics, and conceptions of the proper distribution of such tasks among secular, spiritual, military, and familial sector;

and governmental technologies as:

the complex mundane programs, calculations, techniques, apparatuses, documents and procedures through which authorities seek to embody and give effect governmental ambitions.

Rose and Miller (1992: 176) further indicate that an analysis of the intricate interdependencies between political rationalities and governmental technologies can facilitate an understanding of the multiple and delicate networks that connect the lives of individuals, groups, and organizations to the aspirations of authorities in advanced liberal democracies of the present. Here, my concern is with the multiple and delicate networks of reform that organize and shape the politics of women's imprisonment. These conceptual tools aid us to understand how women prisoners are governed through rationalities and technologies of reform and of punishment.

My thesis is based on a view of power as decentralized and heterogeneous. It highlights five strategies of reform and punishment: pastoral, maternal, disciplinary, actuarial and empowering / responsabilizing. *Strategies* are conceived of as a particular amalgamation of political rationalities and governmental technologies. Strategies of reform are flexible and enabling diagrams of action. At any given historical moment, there are multiple rationalities and technologies available to reformers and state agents. I use the term strategy to label a particular process of governance which incorporates a variety of possibly contradictory rationalities and mobilises several different techniques for the purpose of governing a known object in a particular way.

The strategies I discuss (e.g. maternalism, empowerment) are not necessarily unique to the specific reform initiative in which they are promoted. For example, a logic of maternalism was pervasive in social governance throughout the nineteenth century and the early twentieth century. The metaphor of motherhood was used in conjunction with diverse rationalities (religious, scientific, and penal) to justify and legitimate multiple reform projects. Maternal strategies were used by a variety

of reformers to morally reform the poor, prostitutes, and alcoholics; to develop home economics courses; and promote anti-war initiatives, suffrage, and the integration of women in the work force. In addition to legitimating and inspiring a number of non-state reform initiatives, maternal logics were also used by the state (Koven and Michel, 1993).

Chapter one focuses on early maternal and pastoral forms of power. I show how these “kinder”, “gentler” forms of governing were used by nineteenth century reformers to soften the pains of imprisonment and to normalise women prisoners. Maternal and pastoral forms of governing are examples of productive forms of power. Instead of presenting maternalism simply as an ideology as others have done, here maternal strategies are interpreted as a fragmented synthesis of several political rationalities and governmental technologies. I argue maternal logic plays a pivotal role in governance by shaping, guiding, managing, and regulating the conduct of women prisoners, reformers, and state officials. I argue that maternal power is a *strategy* of governance, to the extent that it seeks to render itself technical (cf. Rose, 1993) and be incorporated into the penal sphere. Both the state and reformers mobilise maternal images to legitimate and authorize their reform strategies.

This chapter also examines the inter-relationship of maternal and pastoral forms of power in order to further understand the productive capacity of penal power. Christian pastoral and maternal power played a key role in the governance of women prisoners and in the reform of women’s prisons in the nineteenth and twentieth centuries. The strategies and vision of Elizabeth Fry are analysed to show how maternal, pastoral and disciplinary forms of power operate to govern other women. Elizabeth Fry, a nineteenth century British reformer, is discussed because she is an internationally acclaimed pioneer in women’s prison reform, and her strategies formed the basis of the American women’s prison reform movement. In Canada, her legacy inspired the creation of national, regional and several local Elizabeth Fry Societies, organizations that now play a critical role in Canadian penal politics. In the past, those who have examined the efforts of Fry have tended to stress the benevolent and progressive attributes of her work ( Lewis, 1909; Barne, 1962; Kent, 1962; Pitman, 1969; Smillie, 1980; Dobash, Dobash, and Gutteridge, 1986; Zedner, 1991a; Stewart, 1993). While these studies have revealed the unquestionable contribution Fry made to penal reform, they do not

critically assess the wider theoretical and material implications of her work in promoting a particular vision of the governance of women prisoners. Rather than offering a revisionist history of Fry, in this analysis of maternal penal reform Elizabeth Fry is used to show how multiple forms of power coexist in the carceral realm and how our understanding of power / knowledge relations can be extended to include amateur reformers as well as scientific experts.

Chapter two discusses the importance of maternal, pastoral, and disciplinary techniques at Canada's first separate prison for women, the Andrew Mercer Reformatory. In this chapter, I argue Canadian penal politics were influenced by wider international developments in the American women's prison reform. I show how reformers' ideal vision of separate spheres led to the construction of separate institutions for women. I also show how women reformers, by virtue of their sex, were in many respects regarded as "authorized knowers" with respect to the ills of society, and in particular, deviant women.

Chapter three shows how maternal and other more repressive disciplinary logics, not to mention old fashioned sovereignty, shaped the governance of women in the Female Unit and Kingston Penitentiary, and later at the infamous Prison for Women (opened 1934). I argue that while early custodial regimes for women were in fact a low priority for penal administrators it was not because women were simply "neglected" or "too few to count". This custodial population was caught in a spiral of sometimes contradictory logics of penal reform. The chapter presents a partial picture of the circumstances surrounding the imprisonment of women at Kingston Penitentiary in nineteenth century and early twentieth century Canada. The first section of this chapter focuses on early conditions of penal discipline, the perceived importance of female matrons, and the struggle to build a separate custodial prison for women. The second half of the chapter analyses the multiple logics informing federal women's imprisonment at the newly constructed Prison for Women.

During the construction of this new prison in the late 1920s and early 1930s penal reform logics began to shift, with the rise of more scientific and psychiatric approaches to the understanding and management of crime. The remainder of this chapter shows how traditional maternal technologies of discipline were professionalised and integrated into the regime at the Prison for Women. Many have argued that expert-based knowledge systems informed the governance of women prisoners

throughout the twentieth century. This analysis shows that penal power is not always entirely, or even primarily linked to expert systems of knowledge. Even though science and professionalization challenged the authority and legitimacy of women reformers, non-expert knowledge and techniques of governing played an equally critical role in penalty.

Chapter four focuses on the role of well-intentioned women reformers in the post-World War II period, stressing four interrelated themes: the intersection of various logics and technologies of reform (social work and maternal); the governing of women prisoners by private agents; the interdependence of state and private reformers; and the politicization of the experiences and needs of women prisoners. Private agencies such as the Elizabeth Fry Society played an important role in the development and administration of programs designed to regulate women's leisure habits and life aspirations. Leaders of these local organizations, such as Phyllis Haslam, played a key role in the politicization of the social conditions linked to women's crime, and in shaping public sensibilities about female offenders. It is argued that private reformers supported both postwar dominant ideals of domesticity and femininity (challenged by the liberal equality strategies of the next generation of reformers) and early feminist analyses of women's criminality.

Chapter five focuses on the importance of "difference", and the importance of feminist "difference politics" in the governing of women's prisons. I briefly outline the feminist struggle to develop a woman-centred prison model that accounts for women prisoners' difference from male prisoners. The feminist logic of difference that emerges in the 1970s and 1980s redefined the logic of "separate spheres" promoted by earlier maternal reformers. I show how women reformers' ideas about the governance of other women changed to reflect a feminist rather than maternal logic of governance. I show that the feminist criticism of and disappointment with liberal equality strategies contributed to the resurgence of difference strategies that emphasize women's common status as women. The pivotal 1990 Report of the Task Force on Federally Sentenced Women, *Creating Choices*, is used to show how feminist reformers came to support neoliberal techniques of penal discipline, which stress "responsibilization" and the production of self-governing prisoners. Techniques such as "empowerment" and "choice" are very flexible: they are used by a new generation of reformers to advocate an alternative feminist vision of penalty, and by the state to modernize

existing disciplinary techniques.

I further argue that both liberal and neoliberal strategies of rule are limited when applied to prison settings because they take for granted liberal ideals of autonomy, protection, equality, and choice. The recent report of the Arbour Commission about the gross violations of human rights at the Prison for Women reminds us that “empowerment” can hardly be implemented in a population that never enjoyed the most basic liberal legal rights. The “woman-centred prison” is a manifestation of this paradox. Although the woman-centred model acknowledges that women suffer injustices because of their sex, it fails to see that a feminist vision of justice can unwittingly reproduce different kinds of injustices by denying the specific experience of incarceration and by viewing women as a homogeneous group. This underlying assumption creates a climate of reform that fails to recognize relations of power among women in different social sites. The governance of women by women can be as problematic as the governance of women by men, particularly when the relations among the “keepers” and the “kept” are shaped by the institutional dynamics of imprisonment.

In chapter six I further explore the co-existence of multiple strategies of governing and the gendered aspects of these strategies. This chapter looks at the impact on federally sentenced women of the general concern about risk in contemporary penalty. I argue that studies on the “risk society” have offered some valuable insights, but there are four limitations apparent in these analyses. First, it is generally assumed that actuarial techniques are devoid of a moral and / or political component. Secondly, existing theories imply that the scientific and “actuarial” quality of these technologies translates into a claim of greater efficiency and objectivity. Thirdly, there is an assumption that in most settings actuarial forms of power have displaced or replaced alternative regimes. Fourth, risk governance is usually considered as acting uniformly across a whole populations rather than differently according to gender, race and other variables. In short, the literature describing this transformation fails to recognize and acknowledge the moralistic and disciplinary capacity of actuarial techniques.

This study of Canadian women’s prison reform also contributes to the literature on governance by showing how multiple forms of governing coexist in a single institution and by showing how strategies change over time. While I argue that penal governance is changing, I am not

claiming that one form of governing displaces or even replaces another. Instead I show how penal reform strategies intersect and evolve into more complex and less easily identified patterns of governing. I show how governing is gendered, and how expert, non-expert and hybrid forms of knowledge all inform penal strategies.

Finally, my analysis of penal power and knowledge makes a contribution to feminist criminology and feminist theory in general by providing an alternative approach to analysing the governance of women by other women, men and more generally the state. By using multiple interpretations of power and governance, I try to reveal the complexity of any particular mode of governance, avoiding universal and reductionist claims about women's oppression and about governance. I argue that relations of power are complex and fractured, and that feminists and others need to explore the specificity of institutional power relations. Secondly, and equally important, this analysis allows for an examination of the governance of women by women (and potentially by men) through non-repressive techniques such as pastoralism or through hybrid techniques such as Christian mothering that combine disciplinary and pastoral governance.

## Chapter One

### **Mothering the Flock: Maternal Discipline and Pastoral Power**

Understanding the benefits and limitations of past correctional initiatives is critical to understanding the dynamics of contemporary reform initiatives and institutional change. The primary objective of this chapter is to begin theorizing the complexity of penal power and to show how disciplinary power is both repressive and productive and how it operates in conjunction with other techniques of power, in this case pastoralism. Studies of imprisonment generally outline the social control functions of the prison and show how related penal technologies operate to repress individuals through coercive and therapeutic regimes (Foucault, 1977; Ignatieff, 1978; Rothman, 1980; 1990; Cohen, 1985; Garland, 1985; 1990; Dobash, Dobash and Gutteridge, 1986; McCormick and Visano, 1992; Duff and Garland, 1994; Blomberg and Cohen, 1995; and Simmons, Cohen, Cohen, and Beitz, 1995). Drawing on Michel Foucault's influential text *Discipline and Punish*, many authors have argued that improved penal technologies increased surveillance capabilities and widened and strengthened the carceral net. These studies have made a valuable contribution to our understanding of penal governance and how it relates to similar patterns of disciplinary regulation in alternate sites.

Studies on the imprisonment of women outline the patriarchal oppression of women offenders at the hands of their male keepers throughout the eighteenth, nineteenth and twentieth centuries (Smart, 1979; Moulds, 1980; Heidensohn, 1981; 1985; Freedman, 1981; Carlen, 1983; Rafter, 1982; 1983; 1992; Dobash, Dobash, and Gutteridge, 1986; Morris, 1987; Zedner, 1991b). Concerns about male power, particularly patriarchal relations, dominate many of these studies. While some recent studies have analysed the inter-relationship between gender, class and racial oppression in the history of women's imprisonment (Sugar and Fox, 1989; Rafter, 1992; Adelberg and the Native Women's Association of Canada, 1993; Richie, 1996), penal power has been narrowly conceptualized in terms of repression and social control. For the most part, these studies emphasize the repressive patriarchal aspects of penal regulation without adequately theorizing the complexity of relations involved in the normative production of "a reformed woman". The few Canadian analyses of this subject follow a similar pattern (Berzins and Cooper, 1982; Cooper, 1987; 1993; Adelberg and Currie, 1993; Faith,

1993; Shaw, 1992a; 1992b; 1993; Axon, 1989; and Comack, 1996). Over the last few years, Canadian researchers, such as Shaw (1991a; 1991b; 1991c; 1992b; 1994), Shaw and Dubois (1995), and Kendall (1993a; 1993b; 1994), have made an enormous contribution to knowledge regarding the needs and experiences of incarcerated women. The contributions of feminist researchers are invaluable. They provide much needed descriptive accounts of the conditions of women's confinement and/or narratives of state reform initiatives. They show how women prisoners have been neglected by the state and how male models of correctional reform have adversely affected the female offender. From these studies, it can be concluded that the Canadian state has put considerably less effort and fewer resources into researching the needs of incarcerated women and into the reform of women's prisons than it has into men's prisons.

In examining the problem of patriarchal governance in women's prisons, most of these authors have suggested that the conditions surrounding women's imprisonment improved when women reformers and matrons entered the penal realm. They also noted that women who worked in these facilities received very little administrative support and that their working conditions were appalling. While most authors acknowledge that the problems associated with the incarceration of women were not resolved with the hiring of women or the construction of separate female facilities, they do suggest that the governance of women by other women was a positive development in the history of women's incarceration. What these studies do not show is how, over time, women reformers and administrators came to play a central role in the accumulation of knowledge that influenced the regulation of women. These analyses do not adequately theorize the relations of power that emerge in the governance of women by other women. In feminist research on women's corrections there is also a tendency to use narrow definitions of penal power and to understate the role played by women reformers in program development. Canadian feminist literatures on the history of women's penalty do not explore the diverse relations of power evident in women's penal reform, the role of women reformers in penal changes, or the importance of past attempts to create a women-centred penal reform strategy.<sup>1</sup> Rather than reproducing the feminist and Foucauldian claims that the knowledge used to regulate women was based on expert systems of knowledge production and dissemination,

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<sup>1</sup> One exception is Shaw (1992a; 1993) who examines the role of women's organizations in contemporary Canadian penal reform initiatives.

I argue that lay women and amateur reformers also played a key role in the production of knowledge about women in their care.

Foucault's (1977) *Discipline and Punish* is about the relationship between power and knowledge. More specifically, it is about

...conceptualizing punishment as 'a complex social function', involving not only 'repressive effects' or 'punishment aspects' of punitive mechanisms, but also a range of 'possible positive effects'; analysing punitive methods 'as techniques possessing their own specificity in a more general field of other ways of exercising power'; understanding the interconnection between punishment regimes and the 'human sciences'; and, finally, determining whether the 'entry of the soul on to the scene of penal justice, and with it the assertion in legal practise of a whole corpus of "scientific" knowledge', reflects changes in the way the body itself is invested in power relations (Howe, 1994: 89) .

Foucault (1977) observes that there is an "interconnection between punishment regimes and expert human sciences". This is an important observation; however, it overlooks links between amateur or lay knowledges, like maternalism, and penal regimes. Authors like Garland (1985), Dobash, Dobash, and Gutteridge (1986), and Sim (1990) have shown how scientific knowledge provided by psychiatry and criminology are used to create "a whole set of assessing diagnostic, prognostic, normative judgements concerning the criminal" (Foucault, 1977: 18). These theorists and many others clearly illustrate how scientific techniques and rationalities become entangled with the power to punish. Analyses such as Dobash, Dobash and Gutteridge (1986), Allen (1987a; 1987b), Chunn and Menzies (1990), Sim (1990), and Zedner (1991b) stress the disciplinary aspects of penal and therapeutic governance of women.

In this chapter I argue that spiritual and maternal rationalities play a critical role in shaping the governance of women prisoners. Maternal metaphors, coexisting with the disciplinary logic of the penitentiary, allow for the development of a form of penal discipline which naturalizes the exercise of power. Maternal power is based on an ethic of care which relies on a mother's duty and obligation to do whatever she can within her power to protect her child and ensure the production of a healthy and obedient citizen. There are few limits on the extent of this power. Mothers are as justified in punishing their children for inappropriate behaviour as they are for rewarding them for compliance,

as long as neither occurs in excess. The disciplinary actions of a mother are generally understood as being in the best interests of her child. In the context of women's prisons, disciplinary aspects of maternal strategies are concealed. I suggest that while maternal strategies in some cases seem less invasive and regulatory than other forms of penal power, they are an exercise of power. Positive maternal techniques, like "teaching child rearing or home-making skills", "keeping in touch", "being cared for", and "helping with discharge plans", are used to normalize deviants and reinforce desirable behaviours without overt displays of force. Each of these strategies encourages women to partake in events designed to ensure they conform to certain normative standards of behaviour.

Maternal power played a key role in the governance of women prisoners and in the reform of women's prisons in the nineteenth and twentieth centuries. The ideal of motherhood and maternal reformers, such as Elizabeth Fry, played critical roles in shaping women's penalty in the nineteenth and twentieth centuries. I argue that the protean character of maternal power has created diverse and, at times, contradictory situations. This chapter shows how women prisoners are governed through maternal reform strategies, in combination with pastoral and disciplinary modes of governing. Elizabeth Fry, a nineteenth-century British reformer, is discussed because she is an internationally acclaimed pioneer in women's prison reform, and her strategies formed the basis of the American women's prison reform movement. In Canada, her legacy inspired the creation of national, regional and several local Elizabeth Fry Societies, organizations that now play a critical role in Canadian penal politics. In the past, those who have examined the efforts of Fry have tended to stress the benevolent and progressive attributes of her work (Lewis, 1909; Barne, 1962; Kent, 1962; Pitman, 1969; Smillie, 1980; Dobash, Dobash, and Gutteridge, 1986; Zedner, 1991b; Stewart, 1993). While these studies have revealed in detail the unquestionable contribution Fry made to penal reform, they do not critically assess the wider theoretical and material implications of her work in promoting a particular vision of the governance of women prisoners. Rather than offering a revisionist history of Fry, in this analysis of maternal penal reform Elizabeth Fry is used to show how multiple forms of power coexist in the carceral realm and how our understanding of power/knowledge relations can be extended to include amateur reformers as well as scientific experts.

## 1. Rethinking Maternalism: Maternal Rationalities and Strategies

*The invocation of maternalism by so many different social actors compels us to re-evaluate its ambiguous meanings and uses" (Koven and Michel, 1993: 4).*

*A mother may be a model of order, yet, as among half a dozen children, no two may be of the same character, she modifies and changes her treatment accordingly and all love her alike, for they know she loves them all best.*<sup>2</sup>

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 mother. Maternalism implies women have natural abilities and capacities which are specific to their biological sex. Some of these qualities include nurturing, caring, selflessness, restraint and household management. However, beyond claiming to promote the role of mothering and the "qualities of a mother," maternalism appears to have little specific content. Rather than discussing "maternalism" in general, it is more instructive to discuss the specific dynamics of maternal ideologies or logics and strategies. Maternalism operates "in relation to other discourses about citizenship, class relations, gender difference, and national identity, to name a few - and in reaction to a wide variety of concrete social and political practises" (Koven, 1993: 125). Maternal images and narratives are compelling and flexible rationalities which can be easily linked to several technologies or techniques of governing.

Maternalism does not refer to a specific movement, but rather to the mobilization of a particular image of motherhood in combination with other rationalities. In his discussion of women's voluntary action on child welfare in nineteenth-century Britain, Seth Koven notes that women reformers often chose "to invoke maternalism in making specific claims about why they as individuals, and women as a sex were specifically qualified to shape welfare policy and provide care for working class children" (Koven, 1993: 125). While reform strategies which invoke maternalism are similar in content and approach, they are constituted in historically and culturally specific ways to accommodate a variety of agendas.<sup>3</sup> Different maternal strategies draw on several political

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<sup>2</sup> Excerpt from a letter dated Dec. 10, 1865, written by Sarah Peter and reproduced in the Prison Association of New York - PANY(1867).

<sup>3</sup> For an excellent example of how maternalism can be incorporated into a variety of reform programs see the collection of essays in Koven and Michel (1993).

rationalities to define and legitimate reform initiatives and institutional technologies. These rationalities include: the cult of true womanhood; Victorian morality; domesticity; separate spheres; religious ideals; and feminism. For example, the suffrage movement<sup>4</sup> used maternal as well as feminist rights-based arguments to help them secure the vote for women; the Women's Christian Temperance Movement used maternal, moral and evangelical strategies to promote prohibition; educational reformers used maternal ideals, domesticity and separate spheres ideology to promote domestic science training; and prison reformers have used all of these images at one time or another to rationalize the treatment of women prisoners.

Motherhood is a volatile political image which is “capable of stirring women to support repressive campaigns under some circumstances as well as progressive causes under others” (Strange, 1990: 222-23). My conceptualization of “maternal logics” and “maternalism” differs from previous uses of the term. The phrases “maternal feminism” or “social feminism” appear in a variety of historical discussions about the women's movement and, more generally, the history of women's activities. Maternal feminism or social feminism are terms often used to describe the activities of women prison reformers at the turn of the century (Oliver, 1994; Rafter, 1992; Freedman, 1981). The use of these terms, specifically in penological literature, is problematic. By collapsing “maternalism” and “feminism” into one descriptive phrase we lose sight of the differences and conflicts between the feminist and the maternal ideologies and strategies that have shaped women's reform initiatives.<sup>5</sup> The power, flexibility and contradictory aspects of these distinct rationalities are obscured. Incompatibilities and sites of resistance which emerge through the interaction of these rationalities need to be recognized. Separating the term “maternal feminism” into two distinct terms, “maternalism” and “feminism”, allows for the identification of the distinctness of each reform strategy. It also allows for multiple interpretations of maternalism. It is widely recognized that there is more than one type of feminism; however, the multiple meanings of maternal logics and politics are not so

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<sup>4</sup> Freedman (1979: 521) notes that supporters of suffrage often argued that women needed the vote to perform their traditional tasks, to protect themselves as mothers, and to assert their moral force on society.

<sup>5</sup> See Strange (1990). Her article offers some excellent examples of how feminists and maternalists mobilized maternal images in their protests, while having fundamental political differences.

widely understood.

In many instances, maternal reform strategies were inconsistent with feminist objectives. Many maternal reformers and their organizations, such as the Salvation Army and the Elizabeth Fry Society, would not have identified themselves as feminist or with feminists. With respect to prison reform, at different historical junctures maternalists united with feminists to advocate and lobby for the recruitment and employment of female matrons, police officers, parole officers, and social workers and for women-only institutions. Similarly, the professionalization of women's voluntarism in areas such as social work can be linked to both feminist and maternal initiatives. 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, early reformers rarely became women's rights activists. Early American and Canadian prison reformers accepted traditional institutions of crime control: "they wanted to improve penal treatment of women, and to do so they eventually became keepers in their own prisons" (Freedman, 1981: 2). However, reformers with a feminist rationality were more likely to challenge and question the authority of criminal justice institutions.

## **2. Christian Mothering as a Social Reform Technique**

The mobilization of a maternal image or narrative varies according to local politics and objectives. In spite of the popularity of the ideal of motherhood in nineteenth- and twentieth- century reform, this status of womanhood was not always quite as celebrated.<sup>6</sup> Eighteenth-century paradigms of womanhood stressed the relationships between women, God and man as a Christian, wife and

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<sup>6</sup> For a more detailed discussion of the rise of a maternal ideal see Bloch (1993). She notes that in the seventeenth and early eighteenth century, in America and Britain, "motherhood was singularly unidealized, usually disregarded as a subject, and even at times denigrated" (Bloch, 1993: 101). She argues that, prior to the nineteenth century, literature did not emphasize motherhood; instead, it tended to reflect dual images of women as "help-meets" and "ornamental refinement". The "help-meet" ideal downplayed the sexual differences between men and woman and stressed the utility of good housewives. As good wives, women were portrayed "as pious, frugal, and hardworking" and they were valued for the "help they could be to men in furthering both spiritual and worldly concerns" (Bloch, 1993: 102). The more upper-class ideal of "ornamental refinement", however, "concentrated on feminine graces and dwelt on the charms of female social companionship and in polite company" (Bloch, 1993: 103).

social companion (Bloch, 1993). Between 1785 and 1815 authors and ministers began to place more emphasis on the moral and spiritual power of mothers. During this time of change “women eventually came to be seen as society’s primary child rearers and motherhood often came to be viewed as a powerful vehicle women used to wield broad social influence” (Bloch, 1993: 115). This valorization of motherhood elevated the public and political status of women.

Maternal imagery captured the variety of “ideologies and discourses that exalted women's capacity to mother and applied to society as a whole the values they attached to that role: care, nurturing, and morality” (Koven and Michel, 1993: 4). Women were increasingly portrayed as more virtuous than men and, in turn, more suited to the task of conserving society’s morals. In keeping with these perceptions, women in many Western societies organized in the name of social purity and moral reform, and mobilized available technologies and images to promote their mission. Maternal strategies stressed the ideal of the virtuous, pious and understanding “moral woman”, as well as the importance of reaffirming family values in the domestic sphere. Throughout the nineteenth century, the image of motherhood and the activity of public mothering gained prominence. Women were expected to be housekeepers of the state who restored and preserved the moral values of a society, which were perceived as being threatened by the ills of industrialization and social change.

By the late 1830s the notion of an “ideal” or “true” woman was closely linked to her maternal and domestic capacities in the family and the home. In turn, family stability was central to middle-class morality, according to which it served as a sanctuary for the preservation of traditional moral and religious values (Zedner, 1991b: 12). The ethic of motherhood was used to symbolize women's moral vision, charity and nurturing. Maternal virtues operated on two levels in social reform: they promoted the ideal of domesticity while simultaneously legitimating women's public relationship to politics and the state, to the community, the workplace, and the marketplace (cf. Koven and Michel, 1993: 6; Koven, 1993: 98). Throughout the nineteenth and early twentieth centuries, maternal reformers in Britain and the United States used the image of the mother and an ideology of separate spheres to gain entry into certain institutions and to legitimate their presence in these predominately male bureaucracies.

The state often encouraged benevolent activists to use voluntary networks on the local level to develop and execute programs on behalf of women and children because such programs often

promised to curtail public expenditures and to secure or reproduce the dominant social order (Koven, 1993: 99-98). Women were often welcomed in reform movements for their “womanly qualities of nurturing, selflessness, and skill in household management” (Kealey, 1979: 6). Even though their participation in these movements raised some concerns about the proper role of women and the possibility of women reformers neglecting their own familial responsibilities, many still believed that only the intervention of women could “salvage the wreckage of society” (Kealey, 1979: 8). Consistent with this philosophy and the politicization of women, a number of new professions emerged in the late nineteenth and early twentieth centuries which utilized women's “special skills”.

One strategy women used to gain credibility for their reform efforts was to construct themselves as experts on particular issues. The strategies of maternal reformers clearly linked the place of women in the home to their work in the wider “public sphere”. Reformers argued that women were imbued with “special abilities and capacities” which enabled them to accomplish social and individual reform. Maternal activists also insisted on their responsibility to establish order and well being, not just for their families, but for the country (Prentice et al., 1988: 169). Ironically, most maternal reformers promoted the belief that a woman's first priority was her family and that women's involvement in reform should revolve around family-oriented issues. The expertise of these women, many of whom were evangelical reformers, was not challenged until the rise of scientific and professional social work displaced feminine virtue.

Maternal rationalities figured prominently in the public discourse on women's expertise in the nineteenth century. Women used several rationalities and strategies to legitimate their reform strategies and, more generally, their involvement in the public sphere. Benevolent philanthropy quickly became an accepted role for a “disparate group of middle-class women who had created a mission for themselves which relied on their unique capabilities as women and especially as mothers” (Kealey, 1979: 2). Throughout the nineteenth century, women's interests extended beyond the domestic sphere to include social, economic and political activities which were previously reserved for men. The upper middle-class voluntary associations which emerged during the nineteenth century in England, the United States and Canada played an important role in linking the private female world of household and family to the public male-dominated world of politics (cf. Koven, 1993: 94). Maternal reform was closely linked to social welfare and, more generally, to the rise of the welfare

state (Koven and Michel, 1993), and women played an important role in these developments. Women reformers envisioned the development of state policies and institutions predicated on the qualities of motherhood and in which women played active roles as volunteers, electors, policy makers, bureaucrats, and workers within and outside the home (Koven and Michel, 1993: 3). Philanthropy and women's volunteer labour figured prominently in the development of the welfare state.

Reformers' interpretations of the qualities and responsibilities of a "public" mother, however, were neither uniform nor homogenous. At different historical junctures and under certain circumstances, understandings and definitions of motherhood varied considerably. Social reformers' strategies relied on multiple, selective interpretations of motherhood for particular purposes. Many reformers combined images of motherhood with wider religious motifs (or symbols). For example, evangelical perspectives of motherhood stressed the religiosity and moral superiority of women in the Victorian period. Evangelical images of motherhood epitomized Christian virtues, feminine graces, purity, and domestic skills (Bloch, 1993: 119). The symbolic religious significance of "Mary" was prominent in Victorian constructions of a virtuous and moral maternal ideal. Religious images of women and motherhood reinforced the ideology of sexual purity and the notion of separate spheres. The evangelical ideal of motherhood "broke with tradition by attributing to women a strong moral authority and granting them an important field of expertise" (Bloch, 1993: 120). This image was especially relevant to evangelical-based reform campaigns, charity and philanthropy because it entitled women to a considerable amount of autonomy in the public sphere. Maternal and religious metaphors were flexible enough to enable reformers to construct dual images of women. In some instances, religious images of women also directly contradicted and undermined the maternal ideal. For example, nuns (one typical portrayal of the ideal Christian woman) challenged the conventional domestic and familial image of woman embraced in maternal reform narratives. The purity and chastity of the nun was given an elevated status, and even though they did not exemplify motherhood, nuns were able to use the maternal image to their advantage. Religious orders of women were able to effectively mobilize a maternal imagery to legitimate their own programmes for fallen women and delinquent girls.<sup>7</sup>

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<sup>7</sup> For a more detailed analysis of the role of nuns in penal discipline see Maurutto (Phd Thesis in progress) "Philanthropic Governance: The Roman Catholic Church and Local State, 1920-1960"

### 3. Elizabeth Fry, Evangelical Maternalism and Women's Penalty

*When Elizabeth Fry, in 1815, rapped at the prison doors in England, she not only summoned the turnkey, but sounded a call to all women in other lands to enter upon a most Christ-like mission" (Susan Barney, 1891: 359; cited in Freedman, 1981: 22).*

The "Christ-like mission" of Elizabeth Fry shows how an amateur reformer used maternalism, Enlightenment principles, and her Quaker (evangelical) beliefs to gain access to prisons and to promote the employment and voluntary reform efforts of other women.<sup>8</sup> The pioneering activities and ideas of Elizabeth Fry<sup>9</sup> (nee Gurney) are 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. Fry was the first advocate of prison reform to recognize and argue that the needs of women prisoners were different from those of men prisoners. In many ways, Fry typifies the image of the evangelical mother who devoted her life to the moral reform of fallen and depraved women. She also demonstrates the interconnectedness of disciplinary and pastoral techniques of governing. Maternal images (domesticity, motherhood, parental discipline, caring and nurturing) and pastoral strategies of spiritual redemption and guidance were essential to the attempts by Elizabeth Fry and her Ladies' Committee to domesticate female convicts and, more generally, the prison.

The Quakers were the main proponents of moral and spiritual reform for prisoners. Quaker colleagues, like Joseph Fry, Samuel Gurney, Thomas Hancock, and Samuel Hoare joined together to form the *Society for the Improvement of Prison Discipline* to promote their ideal prison: solitude, prayer and reflection under the spiritual guidance of a chaplain (Forsythe, 1987; cited in Zedner,

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(York University, Sociology).

<sup>8</sup> The efforts of Elizabeth Fry were somewhat specific to the large prisons in urban settings. The extent to which her ideas were adopted by women reformers and prison administrators in smaller local jails or in larger penitentiaries is unclear.

<sup>9</sup> For a more comprehensive discussion of the life and activities of Elizabeth Fry consult the following biographies: Fry and Cresswell (1848); Lewis (1909); Barne (1962); Kent (1962); Pitman (1969); and Smillie (1980).

1991b: 103). Fry was a Quaker who, acting on her beliefs, sought to provide spiritual and moral guidance to women prisoners and to “humanize” female prisons. The Quaker faith included a deep sense of social responsibility (Young and Ashton, 1956: 36). Their approach to social reform and social work was premised on the firm belief that all men were equal in the eyes of God. They adhered to a strong individualism that advocated that “everyone should prove his equality with others by hard work, thrift, upright living and honesty” (Young and Ashton, 1956: 38). Even if individuals were living in impoverished conditions they were expected to do everything within their power to become self-sufficient and support their family before appealing to others for charity. They maintained that the indigent should not be given charity until self-help had failed. However, unlike some of the other philanthropic organizations, the Quakers recognized that people's misfortune and mistakes were often determined by a bad environment and not simply wilful sinfulness (Young and Ashton, 1956: 41). Quaker reformers believed that social problems were the result of a bad social environment. Consequently, much of their energy and charity was devoted to the prevention of poverty, crime and social failure.<sup>10</sup>

Fry's ideas and philanthropy were based on the precepts of the Society of Friends<sup>11</sup> (Dobash, Dobash and Gutteridge, 1986: 41). Given the Society members' own experiences with the pains of imprisonment and knowledge of prisoners, the Society of Friends maintained that prison reform was not just a matter of middle-class concern for Quakers, but part of a history of a shared sense of oppression (Dobash, Dobash, and Gutteridge, 1986: 41). As a prison reformer in the early nineteenth century, Fry was concerned about several inter-related problems: the apparent increase in crime; the origin of crime; the inadequacies of prison buildings; the barbaric treatment of prisoners, who were still often flogged, chained or punished by periods of solitary confinement in dark, underground cells; the under-organized system of transportation to Australia; and capital punishment, which she opposed in principle (Kent, 1962: 34).

Fry was an active member of the Society, and she was officially accepted as a full minister

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<sup>10</sup> Prison reform was a small part of their pioneering social work and reform initiatives. Other activities which Fry and other Quakers were involved in included asylum reform, education reform, care of deprived children, and care of the handicapped.

<sup>11</sup> The activities of the Society of Friends in the United States are described in Cromwell (1986).

in 1811. Quakerism was the only religion accepting the leadership of women in ministerial capacities. From that time onward, she responded to Quakerism through her devotion to social reform, or *concerns* as they were called for Quaker women (Kent, 1962: 32). Initially, Fry addressed her concerns from the safe confines of her home and within the small circle of the Society of Friends. However, in 1812 Fry decided to make “a sacrifice of natural feeling, to leave the comforts of [her] own home, and [her] beloved husband and children” (Kent, 1962: 32) to take a religious tour of Quaker meetings. Fry questioned her decision to leave her home, even though she felt a compelling need to actively pursue her concerns. She experienced a great deal of tension in trying simultaneously to fulfil the demands of her roles as a mother and spiritual leader. She validated her decision by stating that her actions were sanctioned by the authority of God (Kent, 1962: 32). Fry is often described as sacrificing her own family’s needs for her public “concerns”.

Fry’s commitment to penal reform was religiously inspired and motivated. First and foremost, by example of her own conduct she endeavoured to establish a Christian presence in the prison. The successful integration of a Christian ethic was contingent upon the development of a moral and religious reform program designed by and administered by Christian women like herself. Her spirituality complemented her maternal image. This combination gave her credibility in the community and with male bureaucrats, but it also “created a curiously unstable matrix of mutually reinforcing yet contradictory values” (Koven and Michel, 1993: 10). Women were expected to cultivate their womanhood and provide moral guidance in the home, as well as promote Christian values in their communities through charity and voluntarism. In Fry’s situation her charitable work conflicted with her domestic duties on a number of occasions. Interestingly, Fry’s devotion to penal reform and her absence from her home and family brought her condemnation for being a neglectful mother (Fry and Cresswell, 1848; Dobash, Dobash, and Gutteridge, 1986). These criticisms and other personal misfortunes resulted in Fry’s loss of credibility and influence in the penal community. Freedman (1981: 2), reflecting on the experiences of early American women prison reformers, notes that during this period “reformers clung to a definition of woman’s separate nature that limited their own power and often stifled the inmates they sought to aid”. Elizabeth Fry was no exception.

### **3a. Wretched Women and Loving Ladies**

On her spiritual journey Fry had intended to visit the Newgate prison to do what she could for the prisoners there and to begin her advocacy for “a saner penal system”. Fry's benevolent and philanthropic work with women prisoners began after being told about the appalling conditions of the women's unit at Newgate by a visiting American Quaker, Stephen Grellet, who was staying with the Fry family. In describing his visit to Newgate, Grellet noted:

[I] was astonished beyond description at the mass of woe and misery I beheld. I found many very sick, lying on the bare floor or on some old straw, having very scanty covering over them, though it was quite cold. There were several children born in prison among them, almost naked.... When I first entered, the foulness in the air was almost insupportable, and everything that is base and depraved was so strongly depicted on the faces of the women, who stood crowded before me with looks of effrontery, boldness, and wantonness of expression that for a while my soul was greatly dismayed (Grellet, 1860: 224; cited in Young and Ashton, 1956: 155).

Fry's initial reaction was to collect bedding, clothing and food for the women and deliver it to the prison. Her initial visit in February of 1813 to Newgate Prison, with a larger group of American Quakers, left her “shocked and sickened ... by the blaspheming, fighting, dram-drinking, half-naked women” (Dobash, Dobash, Gutteridge, 1986: 42), and by the conditions of the prison more generally.

Lewis (1909: 43–44) describes early nineteenth-century prisons as being in a deplorable state. Regarding the specific conditions in the women's unit in Newgate, Fry wrote:

Dirt and disease abound, and even where the building contained wards and yards, the women were imperfectly separated from the men, whilst idleness, gambling, drinking and swearing, were habitual amongst them. These evils were magnified by the crowded state of the prisons (Fry and Cresswell, 1848: 254).

Fry was appalled by the filth, overcrowding, inadequate conditions, the women's “ferocious manners”, and the lack of classification and religious training (Lewis, 1909). Like other reformers, Fry initially perceived<sup>12</sup> women prisoners as of “... the lowest and worst description, the very scum of both the city and the country, filthy in their persons, disgusting in their habits, obscene in their conversations

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<sup>12</sup> Zedner's (1991a) article offers a useful account of how women prisoners in England are constructed by reformers and others at different historical moments.

and ignorant, to the greatest degree, not only of religious truth, but of the most familiar duty of and business of common life” (Dobash, Dobash and Gutteridge, 1986: 43). Fry noted that “she felt as if she were going into a den of wild beasts” and recollected “shuddering when the door closed upon her”, when she was locked in with “a herd of novel and desperate companions” (Fry and Cresswell, 1848: 256). The situation in the women's unit was described as “hell on earth” and the women prisoners were regarded as “wretched savages”. The spiritual, primitive, moralistic and unhygienic images of the prisoners and their living conditions is symbolized in a wider logic of reform. While Fry subscribed to the Quaker belief that no-one was without a “spirit” and beyond redemption, she seemed to have had some difficulties reconciling her beliefs with her initial impressions and experiences at Newgate. Fry's and the Ladies' increased contact with women prisoners led Fry to believe that women's criminality was a sin and that a prison term was like an illness that they would and could eventually recover from (Barne, 1962: 172).

The sinfulness of the women prisoners was believed to be quite powerful and contagious, and there was some concern about the contamination of would-be reformers. Reformers' responses to female crime were deeply embedded in a complex value system, “at the heart of which was the highly artificial construct of ideal womanhood” (Zedner, 1991a: 320). Paradoxical images of women were highlighted in Victorian constructions of femininity. On one hand, women like Fry were portrayed as “virginal”, honest, sober, and as uplifting moral influences; on the other hand are constructions of criminal or fallen women as threatening, deceptive, avaricious and dangerously susceptible to corruption. Fry's writing depicts a dichotomous image of womanhood informed by Evangelicalism and maternalism. On one hand, there is the depraved, dirty, misguided, and neglectful criminal mother and on the other the refined, moral, spiritual, caring Ladies.

Clear distinctions were drawn between different classes of women. The book *Reformatory Prison Discipline*, written by Mary Carpenter (1872), a mid-nineteenth century British reformer, clearly articulates this dichotomy. In her descriptions of female convicts, she noted that criminal women and women “belonging to the higher sphere” differ in many respects. Criminal women are described as less intelligent, irrational and unable to control their passions, thus prone to “extreme excitability, violent and even frantic outbursts of passion, a duplicity and disregard of the truth hardly conceivable in better classes of society” (Carpenter, 1872 [1967]: 68). Female offenders were often

judged against nineteenth-century middle-class standards of morality encapsulated in the cult of true womanhood, whose hallmarks were piety, purity, domesticity, and submissiveness (Smith, 1990: 69-70). Having failed in all four categories, the female offender was seen as particularly loathsome and dangerous and, having come from greater heights by virtue of being born a woman, the female criminal fell to a greater depth and was perceived as deserving greater punishment (Smith, 1990: 70). Carpenter suggested that:

The very susceptibility and tenderness of woman's nature render her more completely diseased in her whole nature when this is perverted by evil; and when a woman has thrown aside the virtuous restraints of society and is enlisted on to the side of evil, she is far more dangerous to society than the other sex (1864b, 1:31-2; cited in Zedner, 1991a: 321).

And:

The expense which a bad woman is to the public, who come forth from a lengthened confinement in a Government gaol unreformed, is far greater than any possible cost which might have been incurred reforming her; the evil she has done within the prison to those around her is very great, and extends the poisonous influence to a widely extending circle, when the women she has corrupted go out into the world; on her own discharge she emerges from her seclusion only to plunge into greater excesses than before, and to perpetuate and intensify the pollution of the moral atmosphere from which she had been temporarily withdrawn (Carpenter, 1872 [1967]: 70-1).

The female criminal was, for many, a “moral menace”. The only way to reform her was to breach the gap between the feminine ideal and female immorality with an elaborate code of prescribed female behaviour. Reformers such as Carpenter and Elizabeth Fry came to believe that every effort, regardless of expense, should be undertaken to redeem the female convict. For if she was not reformed (according to the moral criteria of reformers), she would be an ever-present moral risk and continue to corrupt innocence.

Beyond religiously based concerns with moral contagion, the initial fear and disgust expressed towards the fallen woman can be linked to the dominant Victorian sexual ideology of separate spheres, wherein white middle-class men and women inhabited sexually different social spaces with distinct values and manners. The ideology of sexual purity was eventually used by reformers to

legitimate the moral governance of women. This logic functioned to preserve distinctions between women and men and among women. The stigma of the tainted woman was used to control and regulate the sexuality and morality of women and men. Uncontrolled sexuality was often equated with chaos and social and moral contamination. The religiously inspired portrait of the fallen woman and the accompanying social stigma were powerful regulatory devices for all women. As Freedman (1981: 20) notes, “the line that separated the pure woman from the fallen woman demarcated privilege on one side and degradation on the other”. By not crossing that line, pure women could retain their virtue and privileges, often at the expense of their alienated and fallen counterparts. Women were expected to be pure in order to enforce male continence and to uphold and protect the morality of society. When combined with images of motherhood and domesticity, the ideal of a virtuous, unblemished woman gave women reformers immense social and political power.

Middle-class reformers benefitted from dichotomous constructions of women who were simultaneously portrayed as “risky” moral menaces and as maternal saviours. Unlike the criminal woman or the bad mother, early women reformers were attributed an exalted status. The image of the reformer paralleled the virginal religious icon, Mother Mary, who was portrayed as the “divine, guide, purifier, inspirer of man” (Basch, 1974: 6; cited in Zedner, 1991b: 11). They maintained that, if given a chance to bring their feminine influence to bear, they could redeem the fallen woman and make her into a “true woman” (Freedman, 1981). Religious upper-middle class ladies’ domestic and moral prowess made them appropriate and likely candidates for social reform work. Even though many reformers were spinsters, widows, or unmarried women, their reputable, untarnished character and status gave them legitimacy.

### **3b. The governing of “women” by “women”**

Maternal reformers like Fry believed that maternal guidance was an appropriate and necessary technique of women’s penal reform. For Fry, the success of a maternal disciplinary strategy was contingent upon the employment and involvement of a proper female role model. The tutelary power of matrons, reformers and Ladies’ committees was critical to subsequent international developments in women’s penalty.

It was increasingly accepted that imprisoned women had to be treated differently from men.

For Elizabeth Fry, Newgate “offered an extreme example of how badly the dominant masculine upper class could design and administer a prison” (Kent, 1962: 33). She argued that the supervision of female convicts by men was fraught with the potential for physical and sexual abuse, corruption, and neglect. However, her reason for separation extended beyond her fear of sexual relations among the male guards and women prisoners. She recognized that women had different reasons for committing crime, and unique responsibilities such as child rearing. Fry noted that the needs of women and their offspring were clearly different for those of male convicts and that they could be best interpreted by other women - female staff and the Ladies' Committee (Stewart, 1993: 60). Furthermore, Fry argued that the constructive rehabilitation of women relied on the presence of other women, who would perform the tasks of mother, friend, spiritual guide, and role model. One of Fry's most contentious proposals was that entirely separate prisons for women be constructed, which included “no men at all except a chaplain and a medical attendant” (Barne, 1962: 141). She further noted that male turnkeys should never be permitted to enter the women's unit: “when a prison is properly managed it is unnecessary, because, by firm and gentle management, the most refractory can be managed by their own sex” (Pitman, 1969: 164). While Fry was not able to secure funding and approval for the construction of separate prisons for women, she was able to fund the employment of women matrons.

Fry firmly believed that morally upstanding and conscientious women like herself could improve the living conditions in women's prisons and instill good habits of order, discipline and thrift in prisoners. She began her public rebellion against the filth, cruelty, and immorality she witnessed at Newgate, and later in several other prisons, by organizing a small group of Ladies to respond with compassion to the needs of the convicts (Barne, 1962: 39). Fry believed that in order to reform the prison, the bodily well-being of prisoners, “plenty of ventilation, plenty of sunshine, scrupulous cleanliness, association, as far as possible, with those of sound mind and high principle” were necessary (Lewis, 1909: 166). Determined to improve the conditions in the prison, Fry sought the permission of penal officials to design an alternative approach to the management and reform of women prisoners. The cornerstone of her alternative vision was the Ladies' Committee and the eventual employment of matrons. Virtuous ladies and matrons (governed by the Ladies) were expected to be role models for the prisoners and women more generally. Fry believed that the appointment of the proper women as matrons was critical to ensuring the proper administration of

the prison. The matron was expected to live on the premises of the institution and abide by a strict code of ethical and moral conduct. The practice of having women matrons live on the prison grounds was incorporated into some early American and Canadian penal regimes and, in some cases, it continued until the mid-twentieth century.

This strategy, which envisioned the joining together of women in practical social work, was initially thwarted by the prejudicial attitudes of male bureaucrats (Smith, 1962: 105). Some of the public officials complained that: “the ladies were over-enthusiastic and tactless, and that they interfered as amateurs in spheres which should have been left to those with professional expertise” (1962: 105). The unconventional approach of the Ladies’ Committee was criticized by some observers for being too easily persuaded by the “facade of religious devotion into believing that prisoners were reformed” (Smith, 1962: 105). In spite of these criticisms, Fry, with the aid of other Quakers who were wives and mothers like herself, religiously visited the prison with food and clothing for the destitute women and children. Fry steadfastly maintained that all women had the capacity for redemption and that Ladies *were* particularly suited for visiting prisoners and the kinds of work she advocated, such as ordering the prison and prisoner.

Fry believed that women had a particular responsibility and duty which required them to do this type of benevolent work. In her book of *Observations* on the subject, she wrote “no person will deny the importance attached to the character of and conduct of women with their domestic and social relations ... but it is a dangerous error to suppose that the duties of a female end there” (Barne, 1962: 135). She also noted: “may the attention of *women* be more and more directed to these labours of love; and may the time quickly arrive, when there shall not exist, in this realm, a single public institution [where women] ... shall not enjoy the *efficacious superintendence* of the pious and benevolent of their own sex” (Fry, 1827: 8; cited in Freedman, 1981: 23). According to Fry, women had an innate capacity for nurturing and disciplining that could and should be taken advantage of in penal institutions. This depiction of maternal power shows how pastoral and positive disciplinary techniques combine in the logics informing the governance of women prisoners. Similarly, the techniques described below document how pastoral and maternal techniques are combined to create a new vision of penal discipline.

The group of volunteers that Fry managed to put together to aid her in her efforts at the

prison, called themselves *The Ladies' Association for the Improvement of Female Prisoners in Newgate* (later shortened to Ladies' Committee Newgate).<sup>13</sup> The objective of this Association was to:

provide for the clothing, the instruction, and the employment of women; to introduce them to knowledge of the Holy Scriptures, and to form in them, as much as possible, those habits of order, sobriety, and industry, which may render them docile and peaceable whilst in prison, and respectable when they leave it (Fry and Cresswell, 1848: 262).

Co-operation between the Ladies' Committee and the prison authorities was central to Fry's philosophy. Fry believed that a Ladies' Committee could effectively and efficiently administer and perform practical social work and penal reform (Stewart, 1993: 5). In keeping with this objective, she organized weekly visits to Newgate Prison for the Ladies' Committee, and urged women to organize their efforts, rather than acting on an individual basis.

The value of having women of significant social standing on the Ladies' Committee was not underestimated. Fry believed that "women of status had the time to devote to charity work, the means to financially support the endeavour of their committees, and the influence to command respect from parliamentarians, prison officers, and prisoners alike" (Kent, 1962: 74). These characteristics were important because, at first, most reforms, like the hiring of a matron to supervise the women, were initiated and financed by Fry and her Ladies' Committee (Simile, 1980: 24; cited in Stewart, 1993: 5). Reform efforts that were not funded by the Ladies' Committee were often supported through the sale and distribution of books and pamphlets written by philanthropic Ladies. After some struggles, the "Ladies" were elevated to positions of authority in the prison, and they rose to the challenge of reforming and instilling good habits of order, cleanliness and godliness in the prisoners. While the women on the Ladies' Committee, and later the matrons, were expected to be virtuous and moral, Fry also demanded that these women have strong religious convictions and commitments. Most of the women who worked in the prison and volunteered their time had a strong Christian background. The emphasis on spirituality can be linked to Fry's emphasis on redemption of the

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<sup>13</sup> The Association for the Improvement of the Female Prisoners in Newgate was initially started by the wife of a clergyman and eleven members of the Society of Friends. For additional information on the association see Fry and Cresswell (1848).

prisoners who were often conceptualized as sinners.

Many of Fry's strategies were adopted by foreign prison administrations. Based on Fry's philosophy, American prison reformers advocated the development of separate institutions for women and succeeded in opening several reformatories for women in the mid- to late-nineteenth century. The use of prison matrons became a commonplace practise in most Western penal institutions, when the number of female convicts permitted. By 1867, some prison associations had established a set of criteria for the hiring of a matron. For example, the Prison Association of New York's (PANY) report on prisons in the United States and Canada noted that, while in many respects the qualifications for female officers were the same as those of male officers<sup>14</sup>, it was especially important that female officers be:

distinguished for modesty and demeanour, and the exercise of domestic virtues, and that they possess that intimate knowledge of household employment, which will enable them to teach the ignorant and neglected female prisoner how to economize her means, so as to guard her from the temptations caused by waste and extravagance (PANY, 1867: 125).

In addition to providing an interesting description of the required qualifications of the matron, this passage illustrates a shift in thinking about the risk presented to the woman prisoner, and the responsibility of the matron and the prison administration, more generally, to protect her from the risks of "temptation and extravagance". By the mid-nineteenth century, sensibilities and mentalities governing the administration of women prisoners had shifted from regarding these women as a moral menace to society to portraying them as *at risk* if not properly guided and encouraged.

Although the hiring and selection of matrons was an important duty (according to Fry and her Ladies' Committee), there was little agreement about who was responsible for the hiring and supervision of the matron. Initially, Fry and the Ladies' Committee argued that they should hire and

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<sup>14</sup> Like matrons, male keepers were morally regulated. The qualifications for male officers, as stipulated in the Prison Association of New York's 1867 report, indicated that male officers had to be men who were: honest; sober; mild-tempered; quiet-mannered; "pure in their conversations"; decisive; energetic; humane; benevolent; sincere; discrete; efficient; impartial; vigilant; religious; moral; distinguished in habits of industry, order, and cleanliness; and knowledgeable of human nature in its various aspects and relations (PANY, 1867: 120-22). A detailed rationale for each of these qualifications can be located in PANY (1867: 120-121).

supervise the matrons. Many penal administrators and prison wardens (male) disagreed. They believed that they were capable of supervising the matron and her employees. In many instances, matrons were the wives of wardens in charge of large male facilities where the women prisoners were detained. This disagreement over supervision of prisoners and matrons was one of the earliest challenges to the authority of the Ladies in the penal realm. In response, Fry argued that it was important for female officers to be supervised, where possible, by Ladies of “principle and respectability”. She believed that this type of monitoring was crucial to the maintenance of an orderly institution and proper morals and habits (Pitman, 1969: 165). Fry's lobby for an all-female staff was partially supported by penal officials and policy makers. The Newgate governor eventually agreed to pay half the matron's salary. And further, the 1823 Act endorsed the principle that women, where possible, should be governed by women (Smith, 1962: 106). Fry's ideal notion of women governing women was endorsed by the government and implemented in most large prisons. Nonetheless, these matrons were routinely managed by male penal administrators, not by Ladies' Committees as suggested by Fry.

Even though the non-expert skills and ideas of women like Fry and her followers made a significant contribution to the development and administration of women's and children's institutions, they were eventually disempowered and alienated from their own creations by state bureaucracies. Research by Koven (1993: 100) indicates that, in the later half of the nineteenth century, British women reformers were being alienated from policy making. In exchange for state support and funding, they were expected to relinquish their authority over their own organizational and institutional initiatives.

While the powers and involvement of British ladies in criminal justice reform were being limited by the state, American women reformers were being encouraged and recruited to participate in social reform. Women reformers and their organizations in the United States and Canada embarked on moral and spiritual reform projects similar to those of Elizabeth Fry and her Ladies' Committees. However, their interest in the female criminal was sporadic and inconsistent. Maternally based prison reform campaigns and maternal reformers relied heavily on spiritual images of the “moral mother” to regulate women prisoners. One of the main objectives of early penal reformers was to turn the dirty, disorganized and chaotic prison into a clean, disciplined and orderly establishment. Reformers also relied on a related image of women reformers as social housekeepers. As

housekeepers, they had an important and legitimate role to play in cleaning up social institutions such as the prison.

### **3c. Maternal Discipline: Making Moral Mothers and Industrious Citizens**

The main components of Fry's reform program included: moral and religious instruction of women prisoners; the governing of women by women; the employment of women prisoners; and the classification of prisoners. Throughout her career, Fry, a mother of nine, relied on the ideologies of motherhood and the innate responsibilities and characteristics of women to legitimate her reform activities and to solicit financial and volunteer support. Initially, Fry's reform efforts were directed towards prisoners' children. She used her involvement with these children to justify her presence in the institution and to gain credibility among the mothers and the authorities. Maternal images also legitimated the participation of the "ladies" in "cleaning up" the prison regime. The more general concept of maternal penal governance marked an important shift in relations of power/knowledge in women's prisons. This section examines some of the dynamics of the emergent "benevolent" regime of maternal discipline.

Against the advice of the male gaolers, Fry first entered the Newgate gaol alone, and as soon as she entered the unit, she was surrounded by a mob of women. Fry dealt with her anxieties about the women by focusing on their children<sup>15</sup> and their obligations and responsibilities as mothers. One of her first gestures inside the women's prison was to pick up one of the prisoner's children and begin asking the mother about the child. She stated:

Friends, many of you are mothers. I too am a mother. I am distressed for your children. Is there not some thing we can do for these innocent ones? Do you want them to grow up to be real prisoners themselves? Are they to learn to be thieves and worse? (Whitney, 1937: 152;

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<sup>15</sup> Fry's initial focus on children parallels her earlier work with impoverished children in her community. Before beginning prison reform Fry was engaged in other social and moral reform efforts with the poor. One of her early achievements was the development of a girls' school in a poor neighbourhood. With the help of a cleric and the some of the ladies in the area, the school provided instruction for 70 girls. In addition to education, the school was regularly visited by the poor. A depot was filled with clothing, drugs, and soup. "Madame Fry", as she was known, attempted to persuade poor people to be more thrifty.

cited in Young and Ashton, 1956: 155)

Figure 1 graphically depicts Fry's "motherly love" and her gestures towards the prisoners' children. On one hand, the prisoners and their children portrayed in this drawing are dirty, impoverished, callous and suspicious of Fry, and on the other, they are surprised, and somewhat humbled by the gestures of Fry towards the children. The children were a means through which Fry communicated to the mothers their responsibilities for keeping the children clean and disciplined. She preached to them about the risks presented to impressionable children by the depravity of the prison environment. She encouraged the women to organize a school and some productive activities for their children. Fry introduced the Quaker principle of "self-help" in her initial contact with the women. At the end of her visit, she left the prisoners with the task of creating a school and choosing a governess for the school. That night, when she left the gaol, the officials remarked on the calm and quiet in the woman's unit, the "cuffing" and disciplining of children and the increased demands for soap. The women had used the soap and whatever water they could find to clean their children and to make them more presentable for Fry's next visit.

Fry's emphasis on the children's discipline also served as a means for disciplining their mothers and the prisoners more generally. A separate school for women prisoners was developed shortly after the children's school. The prisoners supported the school partly because they wanted to improve themselves through education, but also to break the tedium and monotony of the prison routine. However, Young and Ashton (1956: 156) indicate that the development of the school for women was more difficult than the children's school. The authorities were not interested in supporting the education of women prisoners. To execute her plans for the women's school, Fry called into being the "Ladies' Association for the Improvement of the Female Prisoners at Newgate". This committee was composed of 10 women, "who pledged themselves to go daily to Newgate, and to provide materials for reading, writing and handiwork" (Young and Ashton, 1956: 156). Eventually, a paid matron was appointed by the Ladies' Committee to supervise the prisoners' work and education.

The prisoners were disciplined through the training they received and the expectation that they would become "good mothers". Women were taught to read scriptures through their involvement with the school, and they were trained in domestic duties. Implicit in the idea of motherhood, and maternalism more generally, was a notion of discipline; a good mother was expected to control and

discipline her children and exercise self-discipline. The prison school became a disciplinary and regulatory technique through which spiritual, maternal and feminine ideals were promoted. Maternal ideals of discipline were promoted on two levels. First, women prisoners were expected to adhere to certain normative ideals of motherhood to properly train and discipline their own children. By teaching women how to govern their children, the women themselves were being governed by Fry, matrons, and the Ladies' Committee. The second instance of maternal discipline occurred in the relations between prisoners and their female keepers. Women working in the prison used their maternal status to influence the behaviour of prisoners, who were often infantilised and deemed in need of maternal guidance. In both of these instances a naturalized relation of power between mothers and children was used in conjunction with traditional penal techniques to govern prisoners and staff.

The importance of the school persisted even after Fry stopped working in the prison. In 1872, the moral and disciplinary importance of “school instruction” was reaffirmed by several superintendents and wardens as a preferable technology of reform. One superintendent noted that:

I find that the effect of school instruction has been, in most instances, to awaken, as it were, the minds of the prisoners, and improve their natural comprehension, to make them more docile, more easily brought to see the value of cleanliness and order, and to inspire them with considerable feeling of self respect; many of them seem by education to have become better able to understand the folly and wickedness of their previous lives and experience strong feelings of repentance (Carpenter, 1872 [1967]: 74).

School instruction became an integral component of the reformation of the female convict. This instruction went beyond the teaching of academic skills to prepare women for their re-entry into the domestic sphere.

Fry, like those who followed her tradition, was quite concerned about the criminal mother. In many ways, women offenders were double deviants in that they violated the criminal law and they deviated from the standard norms of motherhood. Figure 2, from a biography on the life of Elizabeth Fry, illustrates this image of a bad mother. In the drawing, the mother holding a naked, open mouthed baby is shown drinking from an infant's bottle, apparently placing her own needs before that of her child's needs. Criminal women repudiated the revered qualities of femininity, and “in doing so they offended not only against the law, but against their ascribed social and moral roles” (Zedner, 1991a:

320). The Ladies who entered the prison school on a daily basis believed that “some of the existing evils could be remedied by proper regulations; but in the commencement of the undertaking, the reformation of the women, sunk as they were in every species of depravity, was scarcely thought of, much less anticipated” (Fry and Cresswell, 1848: 257-58).

Reformers' strategies often attempted to appeal to the maternal instincts of the prisoners, in the hope that they would improve their own situations for the sake of their children. Women's responsibilities as mothers were at the forefront of the reformers' attempts to have the women govern themselves in an appropriate manner. In keeping with the image of the criminal mother presented in Fry's accounts, Carpenter (1872 [1967]), several years later, recounted similar concerns and attempts to appeal to the maternal nature of the prisoner. She noted:

... we had been taken to a large room appropriated to nursing mothers with their infants! The room was full, and the spectacle awful! The faces of those mothers can never be forgotten, for they exhibited every species of hideous vice and degradation. And these were to give the first impressions to the young immortal beings who were unhappily their children, and who were imbibing from them the tainted streams of life (Carpenter, 1872 [1967]: 82).

Not only were the reformers of this time concerned about the effect the criminal mother would have on her child, but they were also concerned about the influence of the “other wicked mothers” whose “looks and voices were bad and fiendlike”. As mothers, women criminals were “identified as a biological source of crime and degeneration” (Zedner, 1991a: 308). Corruption in mothers was commonly believed to be a major source of juvenile delinquency (Carpenter, 1858; 1864; cited in Zedner, 1991a: 327). Increasingly, mothers and, in particular, working mothers were being held accountable for miscreant children.

Some of the later developments in England included the development of separate quarters for the convicts' children. The children were governed by “respectable women” who cared for them on a daily basis on the institutions premises. If the mothers exhibited good behaviour during the week, they would be permitted to visit their children. The disciplinary intention of this practise was quite evident. Reformer Mary Carpenter (1872 [1967]: 83) noted that this privilege “produced an excellent effect on the mothers” and that it encouraged these women, perhaps for the first time, “to think of their solemn responsibilities as mothers”. The notion of rescuing or reclaiming these women was

initially perceived as next to impossible and, at first, few “respectable” women would involve themselves with women they believed to be beyond reform.

The work and writing of Mary Carpenter<sup>16</sup> captures the role of maternalism in youth justice reform, as well as in the post-Fry era of British women's penal reform. While her early concerns were with the reform of young male delinquents, Carpenter was also concerned about young women. From 1854 to 1860, she devoted herself to the operation of a girls' reformatory at Red Lodge, which was financially supported by her friend Lady Byron (Koven, 1993: 98-99). Carpenter advocated a familial and maternal approach to retraining juveniles. Like many reformers of her time, she reinforced and endorsed an ideology of separate spheres. She maintained that female delinquents had unique problems and needs which required different treatment from that received by male delinquents. She noted that fewer girls than boys were brought before the courts and she suggested that these young women were more difficult and harder to manage than young men. Carpenter believed that the lenient informal methods of sanctioning had failed and that these young women were committed because their “home lives had been utterly degraded” (Young and Ashton, 1956: 172). Carpenter argued that these girls “needed to be prepared for domestic service, not for emigration, or factory work, [and they] should be brought under restraint and control, be reformed by steady discipline, and educated by understanding teachers in a kindly home-like environment” (Young and Ashton, 1956: 172). Like Elizabeth Fry, Mary Carpenter emphasized the necessity of skilled supervision, and she insisted that Ladies capable of understanding the intentions of the managers be employed to re-train these girls.

### **3d. Pastoral Techniques of Governing**

Religious ideas<sup>17</sup> and agendas were central, not peripheral, to the context and content of

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<sup>16</sup> For more detailed information about the life and activities of Mary Carpenter see Koven (1993) and Young and Ashton (1956).

<sup>17</sup> Several histories of punishment have illustrated the significance of religious rituals in the administration of punishment. For more detailed accounts of some of these rituals and the relationship between religion and penalty in different cultures and time periods see: McGowen (1986;

debates about punishment which preceded the large-scale use of incarceration as a reformatory sanction (McGowen, 1986; 1987; 1988; Spierenberg, 1984). As Kerr notes:

The synonymous use of the concepts of crime and sin on one hand and good citizenship and morality on the other was an unchallenged assumption among Upper Canadians that largely explains this identification of reformation with religious conversion. This identification was in turn further compacted by the penitentiary promoters' view of the secular role of the church in Upper Canadian society. The church was widely recognized as the guardian of moral order and stability of the society and the corollary of this view was that the church would have an important role to play in the treatment of those who threatened to upset this moral order and stability (Kerr, 1979; cited in James, 1990: 40).

Many early forms of punishment contained a sacred quality. Notions of mercy, pardoning and sympathy, and the ritual of confession which occurred before the administration of corporal punishments are some examples of this role (Strange, 1996). Convicted offenders were often expected to seek penitence or divine mercy from clergy at the door of the church during execution processions. The notion of penitence was also essential to early penal regimes, given that the penitentiary was expected to reach the soul of the criminal and not simply to punish the body of the offender. The concept that the prison should be a place of segregation, isolation, discipline and systematic punishment alleviated by precise 'injections of hope' by a chaplain emerged with the founding of the modern prison inspired by individuals like Jeremy Bentham, John Howard and Elizabeth Fry (James, 1990: 4).<sup>18</sup> In keeping with this tradition, early prison administrators emphasized the merits of moral and religious instruction and education.<sup>19</sup> Once built, prisons, penitentiaries and reformatories alike relied heavily on religious technologies of reform. Wardens ensured moral and religious reformation through techniques such as reading prayers and Bible

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1987; 1988) and Spierenburg (1984).

<sup>19</sup> For a discussion of the activities of some of these early reformers see Ignatieff (1978).

<sup>20</sup> The Auburn penitentiary system predicated on the principles of solitary confinement, hard labour, and religious instruction formed the basis of the first Canadian Penitentiary. For additional information see: Baehre (1977); Beattie (1977); Ekstedt and Griffiths, (1988); James (1990); and Smandych (1991).

chapters and teaching illiterate prisoners to read or spell with scriptures and religious readings (Baehre, 1977: 198). Most prisons employed a chaplain to govern religious training. Early chaplains believed the penitentiary had a much 'nobler aim' and 'higher destiny' than simply punishing the offender; they had an obligation and duty to 'save' the convict (James, 1990: 29). Most secular prison authorities accepted and actively supported this role. The convergence of religious and secular goals, quite predictably, enabled the increased involvement of non-state agents in the project of 'saving' convicts. Religiously based organizations such as the YMCA, Sisters of the Good Shepherd, Quakers, and the Salvation Army played an integral role in the development and execution of a reformatory and restorative penalty.

Fry's attention to the spiritual needs of women prisoners is important because it shows how multiple expressions of power co-exist in penal settings. Fry's activities in the prison illustrate what Foucault (1981) called pastoral power. Foucault argues that pastoralism is a technique "orientated towards individuals and intended to rule them in a continuous and permanent way" (1981: 227). Unlike centralized forms of state or political power, pastorship is an individualized power. Foucault (1981: 235) indicates that pastoral power concerns the lives of individuals and that the metaphorical role of the "shepherd" is to "ensure, sustain, and improve the lives of each and everyone". Foucault claims that the metaphorical "shepherd" has an obligation or responsibility to his flock. He is responsible for the salvation of the flock and that this salvation occurs through the expression of "kindly and individualized" forms of power. The actions of the shepherd are generally geared to the best interests of the flock - he feeds them, watches over them when they sleep and ensures their safety. He is expected to have an intimate understanding of and tend to the needs of each member of the flock. In turn, the shepherding relationship implies a significant level of knowledge, and hence power over the lives of individuals. Foucault argues that the "shepherd-God-like relation" with the flock allows for the gathering, guiding and leadership of dispersed individuals.

The techniques of Christian pastorship (examination, confession, guidance, and obedience) used by the shepherd in the execution of his duties have a wider purpose, that of self-examination (Foucault, 1981: 239). Pastoralism requires a high level of devotion from the shepherd who sacrifices his own needs for the flock. While the shepherd is not legally compelled to satisfy these needs and guide the flock, for his own benefit or salvation, the shepherd regards his voluntary work as a virtue.

By tending to the physical and spiritual needs and desires of women prisoners, Fry was able to govern women through clearly benevolent, but invasive forms of power. Fry's kindness (providing, clothing, bedding, food, and later tending to spiritual maternal, and vocational needs) allowed her to gain an intimate knowledge of her flock. She made a number of personal sacrifices to further her own salvation and to ensure the salvation of criminal women. Her power was the outcome of a benevolent relation, not coercion.

The accomplishments of Fry had quite an impact. Fry and her Ladies' Committee's efforts were described as resulting in a transformation: "... no more an assemblage of abandoned and shameless creatures, half naked and half drunk, rather demanding than requesting charity, but something more like an industrious manufactory or well regulated family" (Barne, 1962: 136). Her requests and proposals for prison reform were beginning to draw attention. Some prison officials eventually "empowered the Ladies to punish the refractory by a short period of confinement" (Barne, 1962: 136). Here, the empowerment of the reformers pertained specifically to the extension of punitive powers exercised over women who were not amenable to their reform project. Consistent with Foucauldian interpretations of pastoral power, Fry fulfilled a shepherding role for a lost and neglected "herd" of women. Historical images and narratives that attempt to capture the magnitude of Fry's contribution to women's penalty often construct her as a saviour (Figure 3). Angelic portraits of Fry are quite common, as are portraits of her leading women in prayer or teaching them specific skills, such as mothering or quilting (Figure 4 and 5).

The strategies of governing promoted by Fry were not always compatible with wider penal and state objectives. Like Foucault's Shepherd, Fry fought several levels of bureaucracy to promote women prisoners' interests. Fry was concerned about the physical, mental and moral health of women prisoners, as well as their spiritual reformation. On several occasions, Fry actively challenged the negligence of the state officials and penal administrators. The employment of women prisoners was one of the issues on which Fry took a public stand. She argued that the state had a fiscal and moral obligation to feed, clothe and employ all prisoners. The feeding and the provision of clothes to prisoners was not problematic, as long as it complied with the "principle of less eligibility". The principle of less eligibility suggests that the prisoner not be treated any better than the least fortunate law-abiding citizen of the state. The employment of prisoners, however, was a more contentious issue

because it tested the limits of both this principle and wider public sensibilities. There were concerns about allowing prisoners to earn money from their “state-sponsored employment” when other less fortunate law-abiding citizens were not permitted the same opportunities. Further, and perhaps more importantly, there were several fears and objections about the competition of prison labour with private enterprises in the “free” market.<sup>20</sup> Conventional penal theorists like Jeremy Bentham were advocating the use of hard labour in reforming convicts. The idea of employing imprisoned women and allowing them to profit from their labour was, at the very least, radical.

Fry, however, remained convinced that the benefits to society from the employment of criminals far outweighed the inconvenience experienced by the labouring class from the small amount of work done in the prison (Fry, 1827: 49; cited in Smith, 1962: 104). The employment of the women would capitalize on their skills, provide training, and avoid idleness. Figure 4 shows prisoners working on a quilt, one of the potential products of women prisoners' labour. The prisoners would be allowed to keep a portion of their earnings and the rest would allow the prisons, and the state more generally, to provide for the material needs of the women. Fry suggested that one possible efficient use of the labour of women prisoners might be to make clothing and other amenities required by the army and navy (Barne, 1962: 142). The suggestion implied that Fry and others believed that the labour of women prisoners could be mobilized by the state for its own benefit. While she acknowledged the potential exploitation of prisoners' labour, she also maintained that a minimal payment activity was better than nothing, and that this practise could help promote women's self-sufficiency upon release.

Fry's views on prison labour were far in advance of her time and many were suspicious of her motives (Smith, 1962: 104). Fry, however, steadfastly maintained that “punishment was not for revenge, but to lessen crime and reform the criminal” (Barne, 1962: 150). The prison experience had to have some productive and instructive components in order for reform to occur. By framing her strategy in this way, Fry was able to selectively incorporate an increasingly popular sensibility about punishment - that prisons needed to move beyond punishment and actively promote reformatory enterprises. The regulation of women prisoners through their labour became increasingly popular as

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<sup>20</sup> For more information on convict labour, the employment of prisoners in early Canadian prisons and penitentiaries, and the debates informing these practises see: Baehre (1994); Berkovits (1994).

regimes for women matured. The regulation of women's labour was often likened to their expected role in the domestic sphere. Employment of released prisoners as domestic servants was popular and preferable because it ensured the continued supervision of women while simultaneously reintegrating her into a socially accepted status.

### **3e. The Legacy of Elizabeth Fry's Ideas**

Fry's original evangelical maternal strategy of reform was based on role modelling, motherly love and spiritual/moral guidance. When spiritual pastoralism and the strategy of benevolent maternal guidance failed to produce the results she anticipated, particularly with more seasoned convicts, Fry altered her strategy to reflect a more authoritarian but nonetheless maternal approach. Like a mother dealing with a disobedient child, she later (1830s) advocated more invasive and punitive technologies of reform. Like Bentham, Fry advocated the creation of prisons whose architecture would allow for constant and continuous surveillance of women prisoner by matrons, and for regimes of strict discipline, hard labour and religious training (Dobash, Dobash, and Gutteridge, 1986: 223). Given the reformers' beliefs in the unprecedented benefits of isolation, steady habits, organization and routine, prison architecture<sup>21</sup> was a central concern (Rothman, 1990: 83). The Panopticon<sup>22</sup> envisioned by Bentham provided what seemed to be the ideal solution. For Fry, this type of surveillance meant that women could be monitored on an ongoing basis by matrons who could rely on this disciplinary technique to elicit compliance.

Two tangible results of Fry's activism were the development of separate institutions for women and the hiring of female matrons. Fry's ideal of a separate institution for women was not realized in her lifetime. Given that separate prisons were not immediately achievable, she argued for

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<sup>22</sup> The moral regulation of prisoners was intimately linked to architecture and, as a result, the location and manner of conducting everyday tasks of sleeping, eating, working, and praying were of central concern to reformers. The issue of prison architecture is analysed and described in detail in Evans (1982).

<sup>23</sup> An interesting and informative theoretical discussion of the disciplinary power of Panopticon technology can be located in Foucault (1977: 195-228).

the classification<sup>23</sup> of women prisoners. Early notions of classification were based on the belief that criminality was contagious and that criminal habits could be transferred through association. Thus the separation of experienced and inexperienced offenders was essential, as was the identification of reformable versus non-reformable women. The concern about identifying women resistant to reform did not arise until several years after Fry had been working with prisoners. Initially Fry, like many novice reformers, believed that with proper training and supervision all women were reformable.

Several of the early Canadian women reformers also reinforced the importance of separating prisoners on the basis of reformability, age, mental health, substance abuse and physical health (in particular, isolating those prisoners who were infected with a venereal disease). Likewise, when the reformatory for women were initially conceived and constructed by American reformers and bureaucrats like Langmuir, there were idealized expectations about the healing and reformative capacity of these new regimes. It was believed that “all” women could be reformed by a properly guided and ordered prison in which women prisoners were governed by virtuous women. Fry endorsed certain aspects of the penitentiary model. Nevertheless, she continued to object to reformers’ ignorance of the particular experiences of women convicts. During the last few years of her life, Fry was deeply concerned about the same controversial problem<sup>24</sup> as many other nineteenth-century reformers: whether prisoners should be kept in solitary confinement or allowed to live and work in association with others (Smith, 1962: 107). The solitary model supported by many Quakers presented a fundamental challenge to the personalized, evangelical model of maternal reform advocated by Fry. The deprivation and solitude that characterized new prisons and, in particular, John Howard's idea or “remedy” of solitary confinement, which, at the time, was taken for granted

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<sup>23</sup> A pioneering aspect of Fry's philosophy was her notion of classification which, in many ways, foreshadowed the penal strategy advocated by Walter Crofton in Ireland several decades later. Fry encouraged the separation of convicts by age, gender, offence, and reformability. Once classified, she felt that it would be easier to reform convicts. Her reform program included occupational, educational, and religious training (Fry and Cresswell, 1848; Zedner, 1991b; Dobash, Dobash and Gutteridge, 1986).

<sup>25</sup> For a summary of the debates between proponents of the Auburn and Pennsylvania models and the subject of solitary confinement see Rothman (1980), chapter four.

by most prison reformers' models, disturbed Fry (Lewis, 1909: 163; Barne, 1962: 171; Pitman, 1969: 169-173). Fry argued that such a measure was problematic because it did “not prepare women for returning to social and domestic life” (Barne, 1962: 171-2; Pitman, 1969: 164). She argued that too much silence was against the nature of humans and that the gloomy seclusion and solitude experienced under these new regimes put prisoners at the mercy of their jailors. Since Fry's evangelical and maternal logic was in conflict with those of the secular penitentiary pioneers, it is difficult to determine the extent to which her ideas of maternal discipline were incorporated into custodial regimes. However, her ideas and technologies planted the seeds that eventually grew into an international women's prison reform movement. This movement evolved out of American women reformers' criticisms of the penitentiary's failure to meet the needs of women prisoners.

Towards the end of her career, she travelled to promote the development of an after-care society for discharged prisoners. She believed that once women were released from prison they needed continued support and monitoring. One of the primary duties of after-care societies was to provide prisoners with “suitable posts” (Young and Ashton, 1956: 158). Fry was one of the first advocates of after-care services for women. Her pioneering efforts spread fairly rapidly to other parts of England and throughout the world. She made several visits to other countries to share information and experiences about the prisons and prisoners she had encountered. As prison reform increased in importance in many countries, the notion of a Ladies' Committee attracted much attention for all types of women, and Fry began to receive letters asking for advice and opinions from all over the world (Barne 1962: 171). The moral organization of women prisoners attempted by Fry inspired a philanthropic movement that spread throughout the world. The inspiration she provided and the practices she advocated eventually filtered into other areas of criminal justice reform. The rationalities and technologies employed by Fry were reproduced by a new generation of women reformers.

#### **4. Conclusions:**

This chapter introduced a theme to be further elaborated in subsequent chapters; that is, in the governing of women prisoners by women reformers, volunteers, or matrons, there exist certain structural relations of power which are not mitigated by gender sameness. Although they are of the same sex, relations of power continue to exist between reformers, matrons and prisoners. In short,

an analysis of these “women-centred” strategies shows that the governance of women by women fails to rectify some of the problems typically associated with the regulation of women by men. Reformers, administrators and politicians from the nineteenth century to the 1990s have tried to create a woman-centred regime designed to reform women prisoners using softer and gentler technologies of reform. Current and past attempts to create a new regime for women are often juxtaposed to the quasi-military, anonymous, and strictly uniform regime imposed upon men.<sup>25</sup> Implicit in the advocacy and analysis of these models is the suggestion that the negative attributes of penal discipline are tempered by the influence of women. There are few critical accounts of the relations that emerge as a result of the governance of women by other women. The power relations among women are either overlooked or naturalized (as in the relationship between a mother and daughter or between an older and younger sister). All but a few accounts of women’s governance of prisoners overlook the imbalance of power inherent in the relation between prisoner guard or keeper and kept. Failure to acknowledge these relations of power creates a false impression of the attributes of women-centred penal regimes. I argue that, although women guards, administrators and reformers have made a significant contribution to women’s penalty and have played a major role in improving some conditions, their involvement in this realm has led to the production of new relations of power/knowledge. This quandary is further assessed in the next chapter.

Maternal reform strategies are part of a much larger and more complex web of rationalities and technologies governing the punishment of offenders. In addition to being influenced by Victorian morality, religiosity, and feminine ideals, maternal penal strategies were also, in part, informed by conventional penal ideologies. When maternal strategies are combined with penal techniques, such as imprisonment, a unique form of maternal discipline emerges. The pioneering efforts of Elizabeth Fry in the late eighteenth and early nineteenth centuries provide a good example of how evangelical maternalism is integrated with penal discipline. Maternal logics were used both to construct the prison and its depravity as a risk to the women and their children, and to suggest that “un-reformed women” represented a moral risk to society. The prison was conceived of as an appropriate

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<sup>26</sup> Although this description typifies several claims about men’s penal regimes, there is some evidence to suggest that the imposition of penal discipline on men was less organized and harsh than presented in many histories of imprisonment (Forsythe, 1993).

institutional location for women's reform. Fry and her Ladies' Committee used a maternal logic to legitimate their authority as experts on the woman prisoner and to re-construct the woman offender as reformable.

The positive images of maternal love and guidance and authoritative images of mothers as disciplinarians are ambiguously linked to women's penalty. Benevolent lessons in motherhood and pastoral strategies of governing played a critical role in the moral regulation of women and in solidifying a role for women in penal governance. The maternal governing of women by women does not equalize relations of power in penal settings; instead, it naturalizes relations of power.



Figure 1. Elizabeth Fry with prisoners in Newgate.  
Source: Kitty Barne (1962). Illustration by Ruth Gervis.



Figure 2. Mother drinking from an infant's bottle.  
Source: Barne (1962). Illustration by Ruth Gervis



Figure 3. Elizabeth Fry entering Newgate.  
Source: From the painting by Henrietta Ward, 1832-1924, in Kent (1962).



Figure 4. Elizabeth Fry teaching women how to quilt.  
Source: Barne (1962). Illustration by Ruth Gervis



Figure 5. Elizabeth Fry reading to the prisoners in Newgate, 1823.  
Source: From an engraving after Jerry Barrett, in Kent (1962).

## Chapter Two

### Mother Knows Best: the Development of Separate Institutions for Women

*“The sentimental cult of domestic virtues is the cheapest method at society's disposal of keeping women quiet without seriously considering their grievances or improving their position” (Myrda and Klien, 1993).*

Feminist theorists are sensitive to the ways in which social controls are exercised on women *as women* to encourage conformity to prescribed gender roles. The literature on the regulation of women through paternal logics is fairly well established. What is less developed, however, are analyses of how maternal logics are used by *women* to regulate women and shape institutional agendas. This chapter is an analysis of maternal discipline in women's penal reform projects. It will show how the metaphor of motherhood and, in particular, the image of mothers' responsibility for correcting their errant daughters was adopted by state and non-state maternal reformers in the late-nineteenth and early twentieth centuries. The evolution of certain institutional and prison reform trends in Canadian and American women's imprisonment is analysed along with the development of maternal reform strategies aimed at reforming rather than punishing the offender.

A pervasive faith in the ability of punishment to change the offender and restore social order has persisted since the Enlightenment. Criminologists / sociologists who study the dynamics of penalty and social change have reviewed in detail the successes and failures of past initiatives. Most have concluded that despite the stated benevolent and humanitarian intentions of penal reformers and administrators, punishment has been a manifestation of disciplinary power that ultimately served to regulate individuals through various technologies of social control (Ignatieff, 1978; Rothman, 1980; 1990). By and large, these studies tend to disregard developments in women's corrections.

Most revisionist studies of functional and instrumental aspects of penalty, although instructive, offer little insight into how penal logics operate and how they affect and are affected by wider logics of reform. David Garland's analysis of modern punishment offers an alternative method of understanding some recent changes in penalty and can aid in an analysis of women's imprisonment. Garland's (1990) project - to understand theoretical developments in the sociology

of punishment - makes a significant contribution to this field of inquiry. He notes that penal policy is “a rich and flexible tradition which has always contained within itself a number of competing themes and elements, principles and counter-principles ... its key terms have been developing and fluid rather than fixed, producing a series of descriptions - *moral reform, training, treatment, correction, rehabilitation, deterrence, incapacitation* - for what it is penal sanctions do” (Garland, 1990: 7: *emphasis added*). He asserts that these “competing and flexible themes” have played a critical role in the establishment and legitimation of technical apparatuses designed to punish and control deviants while simultaneously furthering the social engineering of a “good” society. For example, Garland (1990: 6) suggests that:

In normal circumstances the administrators and employees of a penal system understand and justify their own actions within the established ideological framework - a working ideology. This official ideology is a set of categories, signs, and symbols through which punishment represents itself to itself and others. Usually this ideology provides a highly developed rhetorical resource which can be used to give names, justifications, and a measure of coherence to a vast jumble of things that are done in the name of penal policy. Not the least of its uses is to supply the means to explain (or explain away) failures and to indicate the strategies which will, it is hoped, prevent their reoccurrence.

Garland’s argument can be expanded to understand and theorize developments in women’s penalty. For example, maternalism, one prominent working ideology of modern punishment, was employed by both reformers and administrators to challenge the failures of the penitentiary (custodial) model and to justify the creation of separate institutions for women prisoners. The operation of these institutions relied on a maternal logic that was combined with other ideologies informing penal administrations, such as labour, religious, moral and domestic training.

A maternal logic, as an example of Garland’s working ideology, provides a “coherence to a vast jumble of things” that are done to and for women prisoners by well-intentioned reformers and administrators. In addition to legitimating the things done to improve the conditions of women’s imprisonment, maternal logic can be used to understand some of the failures to change certain repressive elements of custodial regimes and some overtly punitive technologies used when women failed to conform to maternal notions of reformability. Maternalism is a versatile concept, one easily

linked to a wide variety of disciplinary practices.

The image of motherhood that underpins maternal logic is difficult to contest. Maternal ideals are flexible enough to be combined with a wide variety of penal techniques that also rely on a versatile range of ideologies. Implicit in the concept of motherhood is an almost universally accepted productive or positive discipline, as described in chapter 2. Certain forms of maternalism have been, to varying degrees, accepted or rejected by institutions at different historical moments. The first section of this chapter places historical developments in Canadian women's imprisonment in a wider correctional context. It examines the impact on Canada of the maternally based American women's prison reform movement, which sought better care for female convicts in custodial institutions. The reformers' maternal critique of custodial institutions, their redefinition of the "female criminal" and their promotion of separate prisons show integration of, rather than antagonism between, nineteenth-century maternal reformism and penal discipline. In the second section, the flexible and eclectic nature of maternal justice is shown through an analysis of the early history of the Andrew Mercer Reformatory (Canada's first separate prison for women).

## **1. The Creation of Separate Institutions for Women Prisoners**

*When thee builds a prison, thee had better build it with the thought ever in thy mind that thee and thy children may occupy the cells* (Elizabeth Fry, 1780-1845).

### **1a. Impact of the American Women's Prison Reform Movement in Canada**

Penal theorists and reformers had a profound influence on nineteenth-century penal policy. However, as Zedner notes (1991b: 130), "the most coherent sources of penal policy for women lay mainly outside government policy making circles and arose from publicized but largely voluntary efforts". Secular and evangelical penal philosophies were combined with maternal logics to devise a separate strategy of maternal reform for women prisoners. Hence penal reformers and administrators used maternal logics to forge improbable coalitions that led to women governing female prisoners under the authority of maternal benevolence (cf. Koven and Michel, 1993).

By the late 1840s, female prisoners were usually supervised by women officials in makeshift women's wings of mixed prisons. The conditions of these units prompted changes that fundamentally

altered the face of women's penalty. Throughout the nineteenth and early twentieth centuries, American maternalists spearheaded 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 simply women's prisons; it fundamentally changed the governance of women more generally.<sup>1</sup> In the sphere of penalty, it led to the hiring of many women matrons, an accomplishment that had several unanticipated consequences. Underpinning these strategies was a reformative maternal logic incorporating some elements of evangelical maternalism, but largely reliant on moral definitions of criminality and on secular interpretations of women's natural expertise as mothers.

In order to institute a woman-centred program of governance, maternal reformers had to accomplish three related tasks: reconstruct the tarnished image of women convicts; stress the importance of proper maternal guidance; and advocate the construction of separate prisons for women. These objectives were partially based on a critique of failed custodial models. The creation of Ontario's Andrew Mercer Reformatory for Women in 1874 illustrates the mobilization of a maternal logic and the subsequent emergence of a women-centred form of governing, envisioned and administered by women.

### **1b. Custodial Catastrophes and Maternal Interventions**

The American women's reform movement began in 1840, when several individuals and small groups of women, concentrated in New York, Massachusetts and Indiana, took up the cause of women prisoners as their special mission (Freedman, 1981: 22). It peaked between 1870 and 1920 with the building of several reformatories for women (Rafter, 1992; Freedman, 1981; 1996). As Freedman (1981) notes, this movement evolved from a critique of state responses to women's deviance and from the perceived inability of the state to sufficiently care for "fallen sisters". While insisting that the state had a moral obligation and duty to appropriately care for and reform female convicts, women reformers attempted to accomplish this task themselves through their own good will

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<sup>1</sup> For some examples of how a maternal logic and more general ethic of care affected institutions for men, women, and children see Koven and Michel (1993).

and charity. Women reformers' call for state accountability with respect to the care of female convicts and for an endorsement of their own strategies significantly altered women's penalty. The involvement of many American women in this reform movement occurred only after certain state bureaucrats appealed to the evangelical maternal duty of women to come to the aid of their estranged kin. For example, Freedman (1981) reports that in 1819 the male managers of the New York Society for the Prevention of Pauperism were appalled at the condition of the women's quarters at Bellevue Penitentiary and disturbed by women's lack of interest in helping their less fortunate sisters. The managers declared:

Why this melancholy spectacle of female wretchedness has claimed no more attention, and excited no more sympathy, in a city like ours, where scenes of exalted benevolence and acts of religious devotion are continually displayed, we cannot say (Freedman, 1981: 7).

The belief that women "messengers" had a role to play in cleaning up this atrocious mess prompted a small but significant reform initiative. The initial activities of these women were similar to those of Elizabeth Fry: reformers visited the women in custody, advocated improved conditions and eventually developed associations to help women prisoners reintegrate into their communities. In an effort to improve conditions in American women's prisons, women reformers donated their time and money (which was used to hire matrons and acquire basic amenities, such as soap and food). The advocacy and persistence of these women led to the hiring of a few matrons and female staff (when deemed necessary by administrators), the development of women's prison associations, and eventually, the construction of separate institutions. The first separate custodial institution for women was the Mount Pleasant Female Prison at Ossington, which opened in New York State in 1835. According to Rafter (1992: 16), the founding of this institution was a milestone in women's corrections because it was the first women's prison in the United States that was deliberately established, in contrast to other women's units of that period, which were haphazardly developed as appendages to men's prisons. Mount Pleasant Prison was governed by two innovative women, Eliza Farnham and Georgiana Bruce, who experimented with reformatory techniques. These foreshadowed the "great reformatory movement" just ahead (Rafter, 1992: 16-17).

Prior to the development of a semi-organized reform movement, a few dedicated American reformers worked, often in isolation, within the system and with administrators to improve the

conditions of the women held in mostly men's prisons. It was the interest of charitable women, such as Dorothea Dix, Abigail Hopper Gibbons, Mary Wister and Sarah Doremus that inspired changes in penal practice and policy and encouraged a new generation of reformers who were eventually successful in designing specific programs for the normalization of women prisoners. When early American reformers encountered resistance to their ideas about specialized institutions for female criminals they established private institutions (Pollock-Byrne, 1990:42). Before the emergence of separate prison facilities and institutional programs for women, these reformers opened homes and designed private reformatory programs for prostitutes, pregnant women, wayward girls and orphans.<sup>2</sup> These early manifestations of maternal concern foreshadowed a strong current of reform which eventually swept most women out of men's prisons and into institutions run entirely for and by women (Rafter, 1992:16; Freedman, 1981).

The maternal reform agenda was facilitated by growing international skepticism about the ability of existing measures of punishment to effect meaningful change in criminals (Beattie, 1977; Rothman, 1980; 1990). Reform efforts were stimulated by the appalling conditions of women's incarceration and by concerns about the state's irresponsible and negligent management of women under its care. However, the benevolent efforts of maternal reformers in custodial facilities were not able to make significant changes in a system that was inconsistent with wider maternal ambitions. Maternalists firmly maintained that the custodial model of punishment exhibited by the penitentiary was a masculine model: "derived from men's prisons, it adopted their characteristics - retributive purpose, high security architecture, a male dominated authority structure, programs that stressed earnings, and harsh discipline" (Rafter, 1992: 21). Given the reformers' and matrons' inability to reform women prisoners under custodial regimes, the emphasis of the reform movement eventually shifted to stress the inadequacy and masculine characteristics of these regimes. This new approach led to the construction of an alternative woman-centred reformatory.

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<sup>2</sup> In Canada, a similar phenomenon occurred with the development of several rescue homes and homes for fallen women or pregnant women. The Salvation Army and other Christian organizations played an active role in the development and operation of these homes.

### **1c. The Importance of Maternal Guidance**

Profound changes in the administration of women's penal regimes occurred when reformers identified the source of the problem: women were being held in institutions designed for men and administered by men (Rafter, 1992:16). Once the locus of the problem was identified, the obvious solution was to attempt to develop an institutional framework that specialized in the unique needs and experiences of women in conflict with the law, and, more generally, women who breached the boundaries of social norms. In an effort to feminize justice for women, maternal reformers embarked on a campaign of institution building that emphasized the attributes of a loving, moral mother. The architectural ideal for the reformatory differed from the penitentiary. Reformatories for women were to be based on a cottage plan rather than a congregate model. This artificial "home" was an embodiment of domestic and maternal ideals. This female ethos created a distinct disciplinary rationality which promoted a combination of the matriarchal role of a mother (or older sister) in a traditional, white, middle-class familial setting.

Throughout the late-nineteenth century, many penal administrators and male bureaucrats began to share with women reformers the notion of separate and specialized institutions for the correction and normalization of criminal women. By the late 1800s, several states (as well as certain parts of Britain and Canada) began to construct reformatories for the rehabilitation of female convicts.<sup>3</sup> This emphasis on the separation of female convicts was consistent with the emerging philosophies of new penologists who underscored the importance of classifying inmates by age, sex and offence history. These projects are part of a much wider shift in penality and social expectations about the role of punishment and the obligation of the state - a shift characterized as "welfare penality" (Garland, 1985) or "socialized justice" (Chunn, 1992). While these institutions continued to segregate and incapacitate, the purpose of punishment under the reformatory model was to rehabilitate the inmate. For women, "rehabilitation" had specific meanings. Rafter (1992: 159) argues that the reformatory regime served two important reformative purposes: to train women to accept a standard of propriety that dictated chastity before marriage and fidelity afterwards; and to instruct

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<sup>3</sup> For a comparison of the Mercer and other reform-oriented men's prisons see: Oliver (1994) and Donald Wetherell (1979).

women in home making, a competency they would use upon release as either a dutiful wife and mother or as a domestic servant in someone else's home. The primary objective of women's reformatories was to address the needs of the female convict and regulate her through feminized techniques of benevolent social control. These included: familial discipline; sympathy of other women; maternal and spiritual guidance; and domestic training.

This regime was based on faith in women's innate capacities to reform. The expectation was that a mother's love and power could become a model for regulating, correcting and normalizing deviant women. This women-centred strategy of governance advocated by state and non-state reformers relied heavily on normative and corrective technologies that are analogous to forms of maternal discipline most often associated with middle-class nuclear families. These techniques embody normative assumptions about gender, class, race and sexuality. The reformatory model exemplified several of the themes expressed decades earlier by Elizabeth Fry: religious and moral regulation of women, the employment of an all-female staff; vocational training - particularly in domestic services; and the classification and separation of different types of offenders. While the concept of offender reform was not new to the reformatory, the notion of an institutionalized maternal logic was a unique innovation.

Hiring virtuous female role models was deemed essential to the effective operation of a women-centred maternal strategy. The employment of women was predicated on the belief that the female prisoner by nature required special treatment that could only be provided by other women. Reformers argued that women's natural capacities and moral force qualified them for employment in women's prisons. Many well-intentioned reformers moved beyond philanthropic advocacy to secure employment and status in the new reformatories.

Female administrators, influenced by maternal ideals and new secular technologies of reform, complemented the diminished, but nonetheless crucial, role of evangelical maternalists who continued to strive for the salvation of fallen women. Some men supported the view that women were innately qualified to work in and administer women's prisons; however, many were unwilling to grant women authority over these new institutions (Freedman, 1981: 61). Matrons and reformers in the second half of the nineteenth century were qualitatively different from their early counterparts (Rafter, 1992). The newer matrons were more carefully selected and trained than their predecessors. Ironically, the

new matron<sup>4</sup> was expected to exhibit characteristics of a middle-class homemaker and inspire prisoners to become respectable, in spite of her own role outside of the home. From mid-century onwards, the hiring of matrons appears to have been more closely regulated and scrutinized. Lists of qualifications and criteria for selection of appropriate matrons emerge in Prison Association records and reports.<sup>5</sup> While it was preferable to have virtuous women working in prisons, it was difficult to attract them to this stigmatized and low-paying position.

#### **1d. Creating a ‘Reformable Subject’**

Central to the maternal penal strategy was the existence of a dutiful and daughterly subject who would be amenable to, or at least tolerant of, this new penal environment. The public image of convicts as first redeemable and later treatable was critical to the legitimacy of reformers. Accordingly, new conceptions of the female criminal, women’s expertise, and the reformatory model evolved together (Rafter, 1992). Drawing on their experiences of working with female prisoners and their children, leaders of the movement began by challenging existing impressions of criminal women as wretched, depraved and unreformable savages. They challenged the “archetype of the Dark Lady, a woman of uncommon strength, seductive power, and evil inclination” and instead promoted a “new concept of the female offender as childlike, wayward and redeemable, a fallen woman that [sic] was more sinned against than a sinner herself” (Rafter, 1992: 49). Enthusiastic reformers suggested that the female criminal was a “fragile vessel”, neglected and ill-advised in her choices, a woman who

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<sup>4</sup> The hiring of matrons in women’s prisons paralleled and was influenced by wider struggles to integrate women into the work force. One movement that was particularly relevant in Canada as well as the United States was the “police matrons movement”. This was spearheaded by a variety of reform organizations (i.e. Prison Association of New York; hereafter *PANY*, Women’s Christian Temperance Union; hereafter *WCTU* and the National Council of Women of Canada; hereafter *NCWC*). This struggle was premised on the belief that women had a legitimate and a valuable role to play in the regulation and policing of women, specifically their criminal counterparts.

<sup>5</sup> One example of such a list can be located in the *Prison Association of New York’s* report written by E.C. Wines and Theodore W. Dwight *Report on the Prisons and Reformatories of Canada and the United States*. Some elements of this report’s discussion of the selection of institutional staff, including matrons, are discussed in Chapter Two. During the 1840s middle-class women in New York City formed a women’s branch of the reformist *Prison Association of New York*.

could be redeemed with the proper instruction and guidance. Reformers steadfastly maintained that women would remain criminal unless they received a new form of maternal treatment, one which provided “healthier surroundings” within and after prison and allowed for a “metamorphosis from depravity to true womanhood” (Freedman, 1981: 53). They challenged the stigma associated with criminal women, substituting an indictment of society and, particularly, of men for causing the fall of such convicts (Hawkes, 1994: 4). For example, in 1844 Margaret Fuller, a prominent maternalist, argued that women prisoners were victims who needed help to overcome the circumstances that led them to crime:

Born of unfortunate marriages, inheriting dangerous inclinations, neglected in childhood, with bad habits and associates, as certainly must be the case of some of you, how terrible will be the struggle when you leave this shelter (Chevigny, 1976; cited in Freedman, 1981: 30).

In addition to this construction of the female criminal as a victim of her circumstances, Fuller and others questioned the predominant belief that these women were hopelessly fallen. Fuller noted:

... how many there are in whom the feelings of innocent childhood are not dead, who need only good influences and steady aid to raise them from the pit of infamy into which they have fallen (Fuller, 1845; cited in Freedman, 1981: 30-31).

These comments illustrate one of several attempts by maternalists to create and promote an image of criminal women as reformable and to place their crimes in a broader social/economic context. Following closely the principles of reform advocated by Elizabeth Fry in Britain, Fuller advocated appropriate systems of classification, maternal instruction, and proper sanitation (Freedman, 1981: 31). The efforts of reformers were to a large extent successful in that they were able to offer a competing image of the woman offender and to improve the conditions of confinement for some women. While the image of the “Dark Lady” still existed, reform narratives now offered a counter-image which, although not congruent with the archetype of a “Fair Lady”, did offer a new image of the female criminal as “*potentially* chaste, domestic and girlish” (Rafter, 1992: 49). The image of the female criminal was pivotal to the self-image of the reformers because if she was not a “victimized sister” but rather “an autonomous, deliberately sexual being” then “the *raison d’être* of social feminists - their concept of womanliness and with it, the justification for their work - was built on air” (Rafter, 1992: 51). This construction of a reformable and socially tolerable female criminal became

an essential strategy of reform.

This new image played a vital role in the ability of maternalists to secure the support of the state and civil society for their initiatives. Reform narratives simultaneously reflected maternal logics of separate spheres - both penal and civic - and a feminist concern for the protection of women from exploitation and victimization by men. The premise of reformers' feminist concerns was sexual difference, not equality. While these reformers did exhibit the kinds of feminist sensibilities which post World War II maternal feminists would demonstrate, in their analyses of the social causes of women's crime they did not necessarily seek to expand women's rights; rather, they sought the institutionalization of presumed innate sexual differences. Their reforms led to the subsequent development of sex-stereotyped programs and techniques of reform which late feminist advocates and researchers criticised. Concerns about women's treatment in state institutions, such as prisons, also inspired the development of independent women's prison reform associations.<sup>6</sup>

While many institutions began with ideal expectations of reforming all women who came through their doors, these regimes were quickly modified to reflect the material reality that all women were not suitable for or willing to participate in reformatory regimes. This realization prompted the development of a complex classification schema which used clearly defined selection criteria to screen admissions and hand pick the "most appropriate" candidates.<sup>7</sup> Reformers and administrators attempted to recruit young, white women who were, by and large, first offenders convicted of relatively minor offenses. As a result, women portrayed as "unreformable" were given less attention. This led to the development of a bifurcated system of corrections: over time, a residual category of female convicts classified by reformers as beyond hope became a necessary evil. Rather than admitting the failure of maternal strategies with some convicts, reformers could escape criticism by defining certain "experienced" women as unwilling and unable to reform. Thus, limitations and barriers to reform were blamed on the individual, not on maternal strategies. In the United States, there was a

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<sup>6</sup> For a more comprehensive discussion of the development of women's prison reform associations and the motivations of their founders see: Freedman (1981), Rafter (1992), and Stewart, (1993).

<sup>7</sup> This technology is an expansion of the early classification systems proposed by Elizabeth Fry and, later, Mary Carpenter. For a more detailed discussion of the selection criteria advocated by reformers and early prison administrators see: Freedman (1981), Zedner (1991b), Rafter (1992).

clear bifurcation in the women's prison system, based in part on the belief that "some" women were reformable, whereas others were not. In Canada, this bifurcation was not always so clear, but it is visible in the separation of provincial reformatories from the federal Prison for Women in Kingston.

## **2. The Andrew Mercer Reformatory and the Reformatory Ideal**

The American women's prison reform movement and its logic of separate spheres had a profound impact on the interpretation and management of women's crime in other Western countries, but 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<sup>8</sup> and were designed to deal with a specific type of offender - "the reformable woman". American efforts to construct women's prisons were stimulated and supported by an organized and powerful women's reformatory movement which existed long before Canadian women were actively engaged in penal reform. In Canada, however, the reform movement was less organized and more fragmented. Several concerned individuals visited women in gaols, prisons and penitentiaries, and offered released prisoners financial and emotional support, but it is difficult to establish if these efforts were co-ordinated, and if they affected specific state policies.<sup>9</sup>

In Canada, separate reformatories for women were not developed through feminist lobbying

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<sup>8</sup> Pollock-Bryne (1990:44) indicates that the American women's reformatory movement was linked to four wider developments: the perceived increase in female criminality; women's Civil War experience; the development of a charities and prison reform movement; and the emergence of an "embryonic feminist analysis" of women's place in American society. Pollock-Bryne (1990: 44) suggests that the perceived increase in female crime was linked to an increase in prostitution and abortions during the American Civil War. After the Civil War, women reformers began to demand greater autonomy and authority over the public institutions that housed women prisoners (Freedman, 1981: 22). This suggests that many citizens and antebellum reformers may have believed that the moral fibre of the American state was at risk and that a closer regulation of women's sexual and moral conduct was necessary.

<sup>9</sup> Records on Canadian women's prison reform initiatives at the turn of the century are sparse and incomplete. Information obtained from research on this issue is discussed in greater detail at a later point. However, some of the earliest visitors to female units were Salvation Army officers and representatives of Prisoners' Aid Associations.

but were a state-generated project. State reformers influenced by American penality,<sup>10</sup> such as J. W. Langmuir (Ontario Prison Inspector), encouraged the state to adopt a maternal penal reform strategy predicated on the belief that virtuous women could uplift their fallen sisters. Langmuir was disturbed by the lack of classification<sup>11</sup> and idleness of inmates in local jails and, based on evidence of American experts, he concluded that women were “able to exercise great power and influence, in practical ways towards reclaiming the criminal and fallen of their sex” (Oliver, 1994: 524). Based on this belief, Langmuir advocated the construction of a distinct and potentially less expensive women’s reformatory, wherein women could receive “the great moral benefits of the separate principle” (Strange, 1983: 10). Central to these assertions was a new image of the female criminal as impressionable and daughterly, and a continued faith in the classification of offenders and moral reform strategies. Langmuir mobilized these images to convince a sympathetic government of the advantages of a facility that could reform female convicts.

In 1874, the Mercer opened its doors under the supervision of Mrs. O’Reilly. Langmuir’s successful use of a maternal logic to secure support for the construction of the Mercer illustrates the flexibility of maternal rationalities. The Mercer<sup>12</sup> 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 woman-centred strategy. While Christianity remained central to the new reformatory regime, pivotal was the belief that strict prison discipline could be tempered by and combined with maternal guidance in a home-like atmosphere. The distinctly feminine disciplinary methods resulted

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<sup>10</sup> Both Strange (1983) and Oliver (1994) provide evidence which confirms the cross-fertilization of ideas about women’s punishment and its administration between Canada and various American states. Similarly, various Canadian historians and reports, such as the *Report on the Prisons and Reformatories of the United States and Canada* (1867) and the *Proceedings of the Canadian Penal Congress* (1949) illustrate that American reformers and penal administrators regularly visited Canada and shared their views on prison management with their Canadian counterparts.

<sup>11</sup> The conditions that made the adequate classification of offenders in Ontario jails difficult are documented in Wetherell (1979).

<sup>12</sup> For a more detailed history of the Andrew Mercer Reformatory for Women in Ontario, see: Strange (1983), Oliver (1994), Ruemper (1994), and Berkovits (1995). These accounts focus on the reformatory as an institution, not on the wider social and political processes around it.

in the creation of an environment that was distinct from comparable men's facilities. Institutional rhetoric stressed a language of domesticity and informality, as Berkovits (1995: 3-4) notes:

The building itself was not referred to as a prison, but as a "house", the all female corps of guards were called "attendants", and the prisoners themselves, "residents". Superintendent O'Sullivan often quite overtly referred to the prisoners as her "daughters" and herself as their "mother". Staff members were referred to by first name (Mr. John, or Miss Margaret, for example), and were collectively described as "the family". O'Sullivan's own relatives mixed freely with the inmates, and they were well known to each other.

This informality and familial atmosphere can be contrasted to the environment in custodial institutions, which tended to be more formal. The integration of maternal metaphors and images led to the reconstruction of penal settings. Maternally-based prisons were no longer simply places of confinement. They were now expected to fulfil their legal obligations in a home-like atmosphere.

In many respects, the construction of the prison as a home ignored material and legal realities that reflected the ultimately repressive aspects of a court-imposed custodial sentence. Unlike the supposedly "private" aspects of a home, in the Mercer women's behaviour was constantly monitored and mobility severely limited. Most of the women sent to the Mercer were unwilling participants. As such, they were not always receptive to maternal reform strategies. This is a point to which I return in chapter 6.

## **2a. Maternally Based Programs of Prisoner Reform**

Specialized programming for women prisoners was one innovation of the Mercer regime. Part of the Mercer's public appeal lay in its claim to reform fallen women through a strict gender-specific regime of hard labour, moral and religious training, and after-care. Norms of domesticity and the ideal of true womanhood were central to the Mercer's programming strategy; however, administrators also relied on the same technologies promoted in early penitentiaries. Programs combined basic education, religious, moral and domestic training. They also taught obedience, servility and the importance of knowing one's place in society (Ruemper, 1994: 372). Examples of these programs include: the Clean Speech Society (a modified swearer's anonymous); hard labour to instill discipline; and vocational training to prepare women for careers in domestic service.

Industrial training played a significant role in offender reform. According to Oliver (1994: 540-41), Inspector Langmuir “habitually referred to the Mercer as an Industrial Reformatory”. Similarly, Superintendent O’Reilly regarded the work program as central to the institutional maternal regime. Her acceptance of conventional Protestant wisdom about the relationship between idleness and crime is illustrated in the following passage:

...of all wretched women the idle are the most wretched. We try to impress upon them the importance of labour, and we look upon this as one of the great means of their reformation (Ontario Prison Inspector, Annual Reports, 1881; cited in Oliver, 1994: 541).

This commitment to labour was extended to sentencing practices through Langmuir’s efforts to convince Premier Mowat to educate sentencing authorities about the importance of industrial training at the Mercer and the need for sentences long enough to ensure an appropriate training regime (Oliver, 1994: 541). While the training received by women was gender specific (laundering, sewing, knitting, and domestic service), the ideal of productive labour was a central element of most Canadian penitentiary and reformatory regimes. The Mercer’s emphasis on labour was not unique. While Langmuir and O’Reilly were campaigning for industrial training in the 1880s, concerns were repeatedly raised about the absence of productive training for women inmates who had been incarcerated at Kingston Penitentiary since its opening in 1835. These concerns about idleness and productive training for women prisoners continued to be voiced throughout the late nineteenth and into the twentieth century.

The normative regulation of women prisoners continued after they had been released from the Mercer. For instance, the scheme for parole was designed to reinforce the importance of proper womanly conduct which, when exhibited, allowed prisoners to earn marks toward the rebate of their sentences (Strange, 1983). Mercer officials arranged employment for women on release and, on some occasions, members of Superintendent O’Sullivan’s own family hired prisoners as domestics to satisfy their parole. This seemingly well-intentioned practice served to regulate women’s compliance with parole regulations and it ensured continued surveillance of female prisoners after release. The regulation of women through the parole process began with ensuring that female prisoners were “appropriately employed upon release”. Most women were employed as domestic servants. Factory jobs and other types of employment in the city were dismissed as inappropriate because of the

temptations of city life. This practice was consistent with early beliefs about the cause of women's crime being rooted in their exposure to negative influences and, in particular, the absence of "good" maternal and domestic influences.

Community strategies of surveillance and regulation formed an integral component of the philosophies of newly emerging after-care services that aided the state in fulfilling this obligation. Over the course of the twentieth century, well-intentioned women became involved in the policing and normalization of ex-convicts by hiring them as domestic servants and befriending them upon release.<sup>13</sup> Once the Mercer opened, a growing mass of Canadian reformers found another outlet for their talents. Consistent with the objectives of evangelical maternal logic, reformers from the Upper Canadian Bible Society sent female prisoners bibles, while The Tract Society, the YMCA and the Committee of the Hospital for Sick Children supplied religious literature (Ruemper, 1994: 361). Representatives from local churches, the Prisoners' Aid Society, the Salvation Army and the Women's Christian Temperance Union visited the women and provided a variety of religious services, such as preaching, bible reading, praying and counselling. Organizations such as the Salvation Army and the Prisoners' Aid Society also aided the women's reintegration into the community by providing them with monetary, spiritual and emotional support.<sup>14</sup>

While these organizations had benevolent intentions, they also provided an important regulatory function consistent with the wider maternal logic informing the Mercer. Reformers ensured that once individuals were released from the Mercer they continued to conform to the ideals of domesticity and "true womanhood" taught at the reformatory. Their primary objective was to ensure that these women did not retreat to their old habits. For example, reformers often met women at the door of the prison on the morning of their discharge to ensure they had appropriate clothing, lodgings and employment (generally as a domestic servant). If a woman was not prepared for release, she

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<sup>13</sup> Specific examples of the activities of women associated with the Ottawa Elizabeth Fry Society; hereafter *OEFS*, can be located in Stewart (1993).

<sup>14</sup> Both the Salvation Army and Prisoners' Aid Association operated homes for released women. For additional details on the activities of some of these reformers see: Wetherell (1979), Ruemper (1994), and Hannah-Moffat and Valverde (1996). Reformers such as the Prisoners' Aid Association (PAA) and the Salvation Army were involved in similar activities in men's facilities.

could choose to go to a home of refuge, such as a Magdalene Asylum, a Salvation Army Prison Gate Home or a Rescue Home. These homes were often extensions of institutional regimes.

The women released from the Mercer were encouraged to keep in touch and reassured that they would always be welcome “home”. Letter writing was a common way of continuing the regulation of women after their release. While Oliver (1994) and Berkovits (1995) suggest that the correspondence between Superintendent and ex-prisoners is a testament to the maternal success of the Mercer, Strange (1983) shows that maternalism has marked regulatory effects. O’Sullivan’s diligent correspondence with some inmates revealed certain details of their private lives that she may not have otherwise known. By gaining the confidence of inmates, O’Sullivan was able to use her maternal position to offer advice and encourage future moral behaviour. For example, in one letter a former inmate writes about missing her “mentor” and feeling lonely. She also writes about her financial difficulties and requests job references. In response, O’Sullivan reassured the woman, telling her that she “will find good friends in Montreal” and updating her with news about her family, weddings and staff members. O’Sullivan ends by noting: “I sincerely trust that you are keeping your good resolutions and no taste of liquor passes your lips” (Cited in Berkovits, 1995: 11). In another letter, an inmate wrote to Superintendent O’Sullivan to apologize for breaking her parole conditions by taking an unauthorized vacation. O’Sullivan took this opportunity to write a letter to the inmate in an attempt to persuade her to return to the prison with the following promise:

My little cottage up North is nearly finished and I shall be sorry indeed if you are not here to go up again with me to Lafontaine .... I shall expect to hear from you shortly - don’t think that I am angry with you; I am grieved and sorry that you did as you have. But I want you to begin once more and be the *good little girl we all liked so well here* (*Emphasis added*; Cited in Berkovits, 1995: 12).

These letters show how benevolent techniques were used to manage women prisoners in accordance with certain normative standards. While Berkovits (1995: 11) notes that “throughout these letters there was not one trace of bitterness or blame on either side”, what he fails to acknowledge is how seemingly benevolent maternal techniques can be used as forms of positive discipline (cf. Foucault, 1977).

Maternally-minded reformers joined forces with official prison staff to continue to govern

women even when there was no legal authority for the reformatory to regulate their behaviour (Wetherell, 1979). Images of a mother raising her child to observe the proper manners and habits of bourgeois society dominate the narratives of the Mercer. The propensity of the staff to check up on and maintain contact with released inmates extends this metaphor by suggesting that children require constant supervision, support and guidance - even throughout their adult lives. While the task of "post-adolescent mothering" was taken over and bureaucratized through the development of formal release mechanisms, the hiring of social workers and the development of state-sponsored after-care services, initiatives similar to those of the Mercer staff, illustrate an extension of the state's obligation to not only punish but rehabilitate prisoners through the use of the techniques of maternal governance.

## **2b. "Daughterly Subjects"**

Consistent with the Mercer's familial emphasis, the reformatory selected matrons by stressing the importance of combining the roles of "loving but demanding mothers who forgave past errors but insisted on obedience"; to complement this role, penal administrators preferred to deal with "daughterly subjects" (Strange, 1983: 20). As mentioned earlier, although reformers often optimistically professed that all women could benefit from maternal guidance, Mercer officials preferred women classified as "reformable". Neither Langmuir nor Mercer officials deviated from this preference and they assumed that sentencing authorities would send only the "most suitable persons for reformatory discipline and treatment" (Strange, 1983). A "suitable" Mercer candidate was a young first offender who had not yet been corrupted by the evils of incarcerations and seduced by a criminal lifestyle - a woman who epitomized the naïveté and deference of an immature child, and conformed with the ideals of middle-class reformers, such as the Women's Christian Temperance Union. There was a preference for young, single, white females who were Protestant, Canadian-born, literate, and temperate and who had some experience in domestic and personal service (Ruemper, 1994: 371). However, the women incarcerated at the Mercer did not conform to these ideals.

Brothel keepers, prostitutes, unwed mothers with illegitimate children and women infected with venereal diseases were regularly incarcerated at the Mercer. Oliver (1994: 542-3) notes that in the early years of the Mercer, while over half of the prisoners were classified under the occupational

category “domestic” (which included homemakers, maids, cooks, laundresses, and servants), over a quarter of the remaining population was classified as “prostitutes”. Although there appears to have been a sharp decline in the number of prostitutes and an increase in the number of domestics who were sent to the Mercer between 1891 and 1900, Oliver (1994: 543) suggests these shifts were more likely a symptom of policing strategies and classification procedures, rather than a radical shift in inmate characteristics. Whether the changes in classification were made by institutional officials or by police, the changed definition of women’s occupations is instructive for two reasons. First, the occupational ascriptions demonstrate the inconsistency between “ideal” and “real” subjects of maternal reform campaigns. In practice, Mercer officials were obligated to accept all prisoners sent to the Mercer by sentencing authorities (Oliver, 1994: 537). Second, the stigmatization of women by labelling them as prostitutes is inconsistent with a benevolent maternal desire to redeem basically innocent women. The over-representation of women prisoners in the category “domestic”, however, provided a convenient rationale for domestic training programs and wider maternal reform strategies.

The antithesis of the maternal ideal is the unco-operative and recalcitrant woman. Some accounts of the Mercer’s regime suggest serious difficulties in managing certain prisoners through maternal strategies. Both Berkovits (1995) and Strange (1983) describe several incidents where maternal strategies failed to break the spirit of certain prisoners. Whilst Berkovits’ (1995) analysis of women prisoners’ resistance and maternal strategies is limited, he does offer some interesting examples of the tensions that existed between prison officials and their charges. For example, he indicates that institutional officials observed the following behaviours: inmates quarrelling among themselves in nurseries, fighting, throwing dishes, stealing tools to make weapons, tearing their clothing, breaking furniture, assaulting staff members, swearing and uttering threats (Berkovits, 1995: 5). In addition to this behaviour there were also some serious incidents between staff and inmates, as well as group protests. Some staff members were singled out for their punitive techniques and subjected to physical attacks. On one occasion, a laundry attendant, M. Mick, was attacked with a pair of scissors (Berkovits, 1995: 5). Other incidents of prisoner resistance included: assaults; riots; escapes; smoking illicit cigarettes; pilfering; smuggling contraband in and out of the institution; using the telephone without permission; altering their appearance (perming their hair); and making a general mockery of the rules of silence by passing notes and singing or speaking loudly in the cell block.

These examples show how some of the women at the Mercer defied conventional stereotypes of the “reformable woman” or “daughterly subject”.

Attempts were made to classify and segregate these women from the rest of the population so that criminally experienced women, such as a brothel keepers, could not corrupt apparently naive women. In addition to attempts to improve classification, these women’s actions often led to some form of institutional discipline. These “unreformable” women tended to be subjected to punitive techniques designed to physically compel submission (such as cold baths or a “good spanking”) or to be segregated and confined in “punishment rooms”, wherein they received few benefits of the “loving home” to which they were confined.<sup>15</sup> The following description notes some of the techniques used by Mercer officials to regulate and discipline women deemed “difficult to manage”:

One prisoner, being punished in the dungeon, was forced by the Surgeon to eat discarded bread that she claimed was not thrown out of her cell by her, as he claimed, but carried through her cell grates by rats. The Surgeon decreed that she was not to receive fresh bread until all of the previous bread had been eaten (Berkovits, 1995: 7).

Along with segregation facilities and long periods of confinement on a diet of bread and water, Mercer officials also used more invasive physical techniques of restraint and corporal punishment, such as whipping and the use of hand cuffs. For example, when one inmate serving an indefinite sentence went on a hunger strike after being placed in segregation for threatening to kill Attendant Mick, Superintendent O’Sullivan, on the advice of the surgeon, advocated the use of a “cold bath” to encourage her to behave.<sup>16</sup> When entire cell blocks disobeyed institutional rules and regulations, forms of mass punishment, such as deprivation of lighting and prolonged periods of being locked in a cell, were used to encourage conformity. However, some of the more severe corporal punishments used in the “maternal regime” at the Mercer to deal with recalcitrant inmates were formally discouraged by penitentiary officials. The rules and regulations of penitentiary discipline in the late

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<sup>15</sup> For a more complete discussion of the disciplinary regime at the Mercer, techniques of punishment, and concerns about the inculcation of unreformable women see: Strange (1983).

<sup>16</sup> The surgeon, Dr. John S. King, supervised and advocated the use of this technique during the reign of Superintendent O’Reilly and Superintendent O’Sullivan. This particular incident is cited in Berkovits (1995: 7).

1800s formally discouraged corporal punishments and segregation on a diet of bread and water beyond six consecutive meals and segregation beyond six nights.

The Mercer's male surgeon, Dr. King, played an important paternal role in disciplining inmates and the superintendent often deferred to Dr. King in disciplinary matters. His "diagnosis" often resulted in cures that were not easily distinguishable from typical means of punishing inmates. Berkovits (1995: 9) notes that some of Dr. King's techniques bordered on cruelty and were consistent with the beliefs of the surgeon at the "more strict" Central Prison for men. A technique such as the use of a "cold bath", which required "plunging a refractory inmate into a cold bath then briefly strangling her under water until she submitted" to the wishes of prison officials (Strange, 1983: 53), was a medically sanctioned treatment. The "cold water treatment", a similar procedure, was described by Superintendent O'Sullivan as:

... shutting a woman in an empty cell properly equipped for the purpose and giving her what is known as the cold water treatment, which consists of, as I have explained before to you, turning the hose not directly upon the woman but upon the walls of her cell; Dr King states that this has usually been found effective, and one three minute application is sufficient (Cited in Berkovits, 1995: 8).

From his advocacy of these disciplinary techniques, Dr. King was described by prisoners as a "son of a bitch" and an "old fool", partially for his excessive clinical examinations for "malingering" and "self abuse" (Berkovits, 1995: 9). On some occasions, prisoners withheld medical information and refused to speak to the doctor about their concerns (Berkovits, 1995).

Although these descriptions of penal discipline appear inconsistent with the image of a loving mother, they do conform to a particular image of familial relations of power in which the father figure plays the role of disciplinarian. Descriptions of such disciplinary methods make evident the use of non-maternal methods of prisoner management, as well as deference to scientific technologies of reform, which became increasingly popular at the turn of the century. New scientific methods of discipline, such as hypnosis, and older techniques such as the cold bath and segregation (legitimated with a medical logic), were also combined with more maternal forms of discipline, such as eliciting promises to behave and minor suspensions of privileges.

The use of physical discipline shows how maternal strategies can be easily integrated with

and used to legitimate more overtly repressive forms of penal discipline. Repeated altercations with unreformable women created serious problems of order and, as a result, these women were more frequently punished than “lovingly mothered”. However, despite the propensity of some of the Mercer’s administrators to use punitive techniques, Oliver (1994: 558) claims that Superintendent O’Reilly’s approach tended to be kind and humane, and she appreciated the limited value of strict punishments, which she believed undermined the prospect of winning the inmates’ co-operation. Alternatively, Strange (1983: 39) indicates that Superintendent O’Sullivan, who succeeded O’Reilly, often complained about the unsuitability of certain inmates for reform. The presence of women who resisted O’Sullivan’s motherly approach to reform, in an environment that did not allow for adequate classification, meant that she found herself exerting “more energy in punishing than reforming the unfortunates sent to the prison” (Strange, 1983: 39).

Persistent defiance by an incorrigible few led to requests for alternative arrangements for recalcitrant women.<sup>17</sup> Under some circumstances, women who presented persistent management problems were transferred to the Female Unit in Kingston Penitentiary (Berkovits, 1995: 6). Some early failed attempts to reform women subjected to this new regime were blamed in part on sentencing officials who sent inappropriate women to the Mercer and on the women themselves, who were labelled incorrigible, stubborn and, thus, unreformable. According to Ruemper (1994: 362), between 1899-1917 there was a large number of women confined at the Mercer on drunk and disorderly charges who were considered by the institution to be unreformable. There were also some specific concerns about brothel keepers, who prison officials believed attempted to undermine their efforts by luring inexperienced women into a life of prostitution.

There is little evidence to support the contention that perception of a woman’s potential for reform informed the placement of women in reformatories, prisons or the federal penitentiary. While the woman’s history was likely considered at the time of sentencing, the decision about whether or not a woman went to a reformatory instead of the penitentiary was usually governed by the length

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<sup>17</sup> Difficulties associated with the management of “incorrigible women” were not specific to the Mercer. Several histories of women’s reformatories have documented comparable problems and the use of punitive measures in the interest of maintaining order. For additional examples see: Freedman (1981), Zedner (1991b), and Rafter (1992).

of her sentence, not necessarily her character, albeit the two were related. After Confederation (1867), if a woman received a custodial sentence of less than two years she usually went to a prison or reformatory. If her sentence was greater than two years, she was sent to one of the federal institutions that accepted female inmates. In general, the institution where a woman served her sentence was governed by her proximity to that institution at the time of sentencing. Women do not appear to have been uniformly classified and sent to the “most appropriate institution”. Prior to the opening of the Mercer, there seems to have been little thought given to the character of the offender and her potential for reform. While the degree of judicial concern about a woman’s reformability is unclear, officials at the Mercer were becoming increasingly concerned with the reformability of their clientele (Strange, 1983).

Although the limitations of the maternal logic were profound, maternal penal reformers continued to support the use of domestic metaphors and the creation of separate institutions for female prisoners. Admittedly, the role and status of certain women was threatened by the perceived limitation of regimes predicated on the innate abilities of women; however, links between maternal logic and modern scientific logic created new opportunities. The integration of maternal and scientific ideals resulted in a new type of maternalism that advocated new rehabilitation programs administered by professionally “trained” women. Even though the key contradiction of the Mercer and other reformatories lay in the impossibility of turning a prison into a home, the metaphor of motherhood and the ideal of “a home” were resurrected by future generations of penal reformers. The absence of “good mothering” continued to be perceived as a cause of crime, and a maternally tempered prison environment continued to play an important role in re-socializing and normalizing women. The instruction and training of inmates advocated by reformers from the early twentieth century on emphasized sociological, psychological and medical interventions that retained many elements of the separate sphere ideology. The relationship between maternal logic and a scientific logic of rehabilitation and professional expertise are examined in detail in the next chapter.

### **3. Conclusions: Maternal Success or Failure?**

With respect to the issue of whether or not this specific maternal project was an administrative success, feminist historians and Oliver (1994) make competing claims. They all agree that the Mercer

provided an alternative to the neglectful treatment received by women in prisons and custodial regimes, but differ in their evaluations of the regime's "administrative" success. Strange (1983) notes that after a concentrated attempt to institute a regime of kind discipline, it became evident that maternalistic efforts could not fulfil the lofty and unrealistic goal of reform. The common opinion among feminist historians is that these icons of motherly discipline, despite the best intentions of maternal reformers, were undermined by the material reality of imprisonment. For example, Freedman (1981: 105-6) argues that "power triumphed over sisterhood not because they were single sex institutions, but because they were prisons". The concrete womb that emerged was quite unlike that anticipated by benevolent and well-intentioned reformers. Freedman (1981; 1996), Strange (1983) and Rafter (1992), to varying degrees, show an important struggle between different groups of women (reformers, administrators, matrons and inmates) within a social, political and economic context wider than that of the prison. They use a feminist historical analysis to illustrate the perpetuation of not only punitive and coercive disciplinary power, but also the reproduction of certain configurations of power among and between class, race and gender.

Rafter (1992) notes that the reformatory model was in certain ways harsher and "less just" than previous custodial models that did not recognize gender, precisely because of the double standard it invoked. She argues that the reformatory model was fundamentally unjust because it ignored liberal notions of penalty, which stressed the importance of the proportionality principle - a principle that was cherished by many of the founding "fathers" of the penitentiary model (e.g., Bentham). According to this principle, the punishment should fit the crime. Rafter (1992: 41) and Strange (1983) both argue that reformatory officials in general and specifically women's reformatory officials and maternalists who advocated the use of indeterminate and indefinite sentences did not adhere to a principle of proportionality. Rafter notes that

those who lobbied for reformatories maintained that it was quite proper to ignore the rule of proportionality because their aim was not to punish but to treat - to retrain and reform, processes that required time. But in light of the concept of proportionality the up-to-three (or however many) years was a high price to pay for minor offenses (Rafter, 1992: 41).

Furthermore, Rafter (1992) argues that the punishment of men was qualitatively different from that of women because it was based on behavioural standards that were not necessarily

comparable to standards imposed upon men in reformatories and upon both men and women in custodial regimes.<sup>18</sup> For Rafter, the harshness of the reformatory lay in its tendency towards “partial justice”, in that it sought to remould the prisoner instead of punishing by denying certain fundamental liberal principles of justice.

Oliver (1994: 520), on the other hand, is critical of what he claims is an attempt by feminist historians to interpret the history of the Mercer, and women’s reformatories more generally, as a page in the history of women, thus emphasizing gender whilst neglecting correctional history. His argument disregards the influence of gender on the history of corrections. This is a problematic assumption given the relevance of masculine and feminine stereotypes to the composition of a variety of correctional regimes informed by a diverse array of rationalities at different historical junctures. However, Oliver (1994) argues that it is not surprising to find that the maternal feminist regime embodied cultural and class limitations as identified by feminist historians. Relying on Rothman (1990), he also indicates that it is not unusual for this regime to have reproduced the power relations of a penal institution, which inevitably undermined the progressive ideals of the reformers. Yet, he seems to ignore Rothman’s (1990) observations in his subsequent analysis of the Mercer. Oliver (1994) claims that it is difficult to measure the success of this program using contemporary feminist criteria, and that, instead of a feminist critique, the Mercer should be evaluated from the perspective of the success or failure of a women’s prison in Ontario between 1880-1900. As such, he argues that the distinctly feminine regime of the Mercer and the maternalistic qualities of its superintendent, which created an environment where “the front door was always open”, made this institution unique when compared to men’s facilities, such as the Central Prison in Ontario and Kingston Penitentiary. Likewise, he notes “men were sent to the Central Prison for punishment and women to the Mercer for, as O’Reilly explained it, discipline in the context of kindness, friendship and support” (Oliver, 1994: 550). Oliver does not adequately address the less benevolent and more regulatory aspects of this maternal strategy of “punishment”, which in effect resulted in a more extensive and prolonged

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<sup>18</sup> This statement is not meant to suggest that the experiences of men in reformatories were not harsh and that they were not expected to conform to certain stereotypes of masculinity. However, the scope of this discussion does not permit for an adequate analysis of the masculine components of men’s regimes.

period of state and non-state supervision. The evidence provided by Berkovits (1995) seems to contradict Oliver's (1994) claim about the benevolence of Mercer officials with respect to certain inmates. Nonetheless, Oliver (1994: 566) notes that, with regard to the administration, the Mercer was a success and that the more problematic issue was the failure of male bureaucrats to appreciate the wider social significance of the Mercer's accomplishments.

It is perhaps this very unwillingness to appreciate the maternal contribution of the Mercer to women's penalty, and penalty more generally, that led to a renewed apathy in women's corrections during the first half of the twentieth century. Oliver relies heavily, and selectively, on institutional reports, and on the superintendent's and inspector's annual accounts of prison activities to evaluate the administrative success of the Mercer. He argues that because "O'Reilly was able to run the facility without resort to frequent punishments or other harsh disciplinary tools" and because she was able to avoid "scandals, riots, charges of brutality or other incidents characteristic of punitive prisons everywhere" the Mercer was "an exceptional administrative success" (Oliver, 1994: 550-51).

Not only does Oliver compare the regimes in men's facilities to those at the Mercer, but he also compares accounts of the regime at the Mercer to reports of the Female Unit in Kingston Penitentiary. From this comparison he notes, "the contrast between the ambience of the Mercer and the unruly, often violent behaviour which Kingston Penitentiary officials complained had characterized the female behaviour in that institution in the 1840s and early 1850s is striking" (Oliver, 1994: 551). In making this claim, Oliver overlooks three important points. First, given the tradition out of which the maternal regime at the Mercer emerged and the grandiose expectations placed on a newly appointed female prison governess in an era when few women worked in prisons, it is reasonable, if not probable, to expect that this institution had a vested interest in presenting the regime in a positive light. If Mercer officials had revealed a litany of failures or construed the women in their charge as unreformable, they would have deliberately undermined their own maternal philosophy. In other words, they had a strong incentive to present themselves as a progressive alternative to more punitive forms of punishment.

Second, Oliver's (1994) comparison of the Mercer regime to accounts of "unruly women" at Kingston Penitentiary overlooks a wider political context, as well as accounts of the Female Unit during a comparable time period. In the wider political context, it is important to consider that, unlike

the Mercer, Kingston Penitentiary was not designed with female prisoners' reform in mind. There is a long history of accounts by officials at Kingston Penitentiary, noting that female convicts were an inconvenience. In general, officials at Kingston did not want female convicts in their prison and, for the most part, they did not have a legitimate and meaningful strategy for the management of women whom they basically neglected. Furthermore, it is not surprising that the apathy, neglect and abuse experienced by female convicts created a response that was regarded by administrators as "unruly". Once Kingston Penitentiary hired a matron and gave her the authority and resources to run the Female Unit, reports of female prisoners' activities were less sensational.

Third, Oliver's (1994) account of the Mercer's "success" assumes that discipline that occurs within a "context of kindness, friendship, and support" is less invasive and repressive than discipline in a more punitive setting. This assumption overlooks a vast literature on the regulatory and repressive aspects of therapeutic and benevolent regimes (Dobash, Dobash and Gutteridge, 1986; Garland, 1985; Rose, 1989). Most importantly, Oliver (1994) disregards evidence of riots, escapes, extreme punitive measures and assaults on staff, which are revealed in institutional records (Berkovits, 1995; Strange 1983). While these incidents may have been less frequent and less severe than those that occurred in other institutions, they are clearly antithetical to the image of a "happy home".

The Mercer is an important page in both the history of Canadian imprisonment and in the genealogy of maternal logics. If this experience is placed in a "wider correctional context", it becomes apparent that the problems encountered in attempts to institute a maternal regime in many ways epitomize 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". Rather than a "split personality", it is perhaps more appropriate to think about the multiple personalities of women's penalty. Prisons, penitentiaries and reformatories have adopted fundamentally contradictory objectives: to punish and to reform. At different historical junctures these contradictions are evident in political and administrative reform discourse. The perceived failures of the silent system, the rehabilitative model, or the maternal strategy all contained common elements. They demonstrate that whilst new technologies often emerge promising to offer something new, better and more humane, they are ultimately compromised by the existing

institutional culture. Oliver (1994) seems to dismiss this context. Whilst the Mercer may very well have differed from other institutions of the same time period by virtue of its feminine ethos, it is problematic, as Rothman (1990) suggests, to assume that this regime was an inevitable and sure step in the progress of humanity. Perhaps what is most interesting about these projects is how they contributed to a particular history of the governance of women by women under a rubric of motherhood which legitimated a variety of techniques. The Mercer was a historically specific attempt by women to govern women prisoners as women by women, and opinions remain divided on whether or not the maternal ideal of a caring but strict home was accomplished.

### **Chapter Three**

## **Punishing, Mothering Or Treating: State Discipline, Women's Knowledges and the Prison for Women**

The last two chapters have argued that international women's prison reform and the administration of women's prisons exhibit multiple logics. I have shown how pastoral and disciplinary forms of governance are central to the reform strategies mobilized by Elizabeth Fry, American women prison reformers and the state officials who envisioned and administered the Andrew Mercer Reformatory. I have also argued that the disciplinary governance of women prisoners has both coercive and productive capacities, and that the process of governing is gendered. In claiming that this process is gendered, I argue that maternal logics are central to the governance of women and that these logics reinforce certain normative standards. Maternal logics have a flexible and eclectic quality which allow them to be fused with different penal logics under different certain circumstances. Prior to the emergence of liberal equality strategies of governance in the late 1960s, maternal forms of discipline tended to dominate women's penalty. However, this maternal logic was more apparent in early American and British reform campaigns and in the administration of the Mercer than in the Female Unit at Kingston Penitentiary (1834-1934). While traces of a maternal logic can be found in this regime, the governance of women in this facility was considerably less maternal than at the Mercer.

This chapter shows how maternal and other logics affect the governance of women in the Female Unit and Kingston Penitentiary and later at the infamous Prison for Women, opened in 1934. Many have suggested that the dominant theme in the history of the federal female offender is "the juxtaposition of paternalism and neglect" (Cooper, 1993: 46). I disagree with this characterization and argue that while early custodial regimes for women were in fact a low priority for penal administrators this was not because women were "insignificant" and "too few to count". From the point of view of governance, small numbers are not insignificant if those small populations become the objects of novel forms of governance.

The first section of this chapter focuses on early conditions of penal discipline, the perceived importance of female matrons, and the struggle to build a separate federal prison for women. The

second part of the chapter analyses the multiple logics informing imprisonment and rehabilitation practices at the new Prison for Women, from its beginning in 1934 through to the 1950s.

In the period covered by this chapter (1920 - 1950, roughly), the logic of rehabilitation has considerable political purchase. Like current terms such as 'maternalism', 'risk' and 'empowerment', rehabilitation was sufficiently vague to be thought compatible with and facilitated by a diverse range of programs and interventions. And, like 'maternalism', 'risk', and 'empowerment', rehabilitation was always gendered, with existing gender ideologies being deployed to give specific content to vocational and leisure-time programs for women prisoners.

Rehabilitation is commonly associated with scientific, and particularly psychiatric, perspectives. Most criminologists assume that rehabilitation programs are designed and delivered by trained professionals such as psychiatrists and psychologists. Foucauldian studies of women's penalty (Dobash, Dobash and Gutteridge, 1986; Sim 1990) tend to assume that rehabilitation programs are always run by male experts. Sim (1990: 129), for instance, states:

Criminal women have been a central concern for prison managers and medical, and psychiatric professionals since the emergence of the modern prison system at the end of the eighteenth century. They have been studied, probed and tested not only because of their supposed uniqueness but also because of the threat they posed to the social order of stable family relationships. As with male prisoners, regulation, discipline and normalization were key weapons in the prison's struggle with imprisoned women ... And at the centre of this iron therapy stood the figure of a medical man.

It is also argued that expert knowledge such as psychiatry and related techniques of therapeutic governance replaced everyday knowledges and non-expert techniques of Christian and maternal governance. Given these claims, one would expect to see more evidence of scientific expertise at the Prison for Women in the form of therapeutic programs and psychiatric reports. Several histories of this prison and commissions of inquiry have shown the opposite (Cooper, 1993; Shaw, 1991a; Task Force on Federally Sentenced Women, 1990; Axon, 1989; Berzins and Cooper, 1982; Clarke, 1977; Royal Commission on the Status of Women, 1970; Ouimet, 1969; Fauteaux, 1956; Archambault, 1938; Nickle, 1921). I argue that the absence of such scientific programming is not simply "an

absence”: it tells us something important about the largely unexplored role of non-expert knowledges and technologies in the governance of women prisoners.

Disciplinary governance is not solely expert driven. Valverde (1996) has shown that there are everyday forms of ethical governance, like the regulation of an individual’s habits, that are not the same as expert-based disciplinary governance and that persist into the present day. Contrary to studies such as Dobash, Dobash, and Gutteridge (1986) and Sim (1990), I argue that the disciplinary governance at the Prison for Women and the Female Unit of Kingston Penitentiary (and possibly in some men’s prisons and juvenile facilities) is also to some extent based on everyday knowledge. I show how the logic of “rehabilitation” used at the Prison for Women includes *both* scientific and non-expert, everyday knowledges of women’s experiences and needs. Chapter four continues this theme and shows how women reformers used a combination of expert and non-expert, everyday knowledges to normalize and regulate the female offender through their own “feminized” view of “rehabilitation”.

### **1. Warehousing Women: The Female Unit at Kingston Penitentiary**

The experiences of women prisoners in penitentiaries and prisons vary considerably, depending on where the institution is located and on the spatial, fiscal and human resources at the disposal of the administrators. In nineteenth century, women were theoretically subject to the same treatment as men. Like men, women were expected to conform to a strict regime of silence, religious training and hard labour. Once incarcerated, women performed hard labour which for women prisoners could mean anything from washing, scrubbing, and sewing to picking oakum (Backhouse, 1991: 230). Gosselin (1982: 72) indicates that in the Provincial Penitentiary in 1846, “men and women worked together during scheduled periods of labour, their work being to break rocks - to be used for the construction of a church”. Many officials believed that they were simply warehousing women who were beyond reform and difficult to manage.

The care received by the majority of the female population was inferior to that given to their male counterparts. Women prisoners were subject to abusive treatment and deplorable living conditions. Even if they were not subject to physical discipline, they were often sexually exploited by jailors and male convicts. Discrepancies in the treatment of women convicts are likely indicative

of different administrations, and most studies agree that women convicts often experienced unduly harsh conditions. In most cases, women convicts were dependent on the goodwill of the jailor, other prisoners, visitors or outside charities. The management of women in many of these new penitentiaries and existing prisons in Canada and the United States epitomized the neglect and disorder witnessed by early American and British reformers.

Prison regulations rarely distinguished between the treatment of male and female offenders. Stewart's (1993) accounts of Oakalla prison<sup>1</sup> in British Columbia as "rat-infested and draughty" reflect similar conditions evident well into the mid-twentieth century. The conditions in early American custodial institutions<sup>2</sup> prompted the Auburn prison Chaplin to note: "to be a male convict in this prison would be quite tolerable; but to be a female convict, for any protracted period would be a fate worse than death" (Freedman, 1981: 16). The fact that women were more commonly held in local jails or prisons, as opposed to the penitentiary system, which appears to have been reserved for the most incorrigible and dangerous prisoners, was of little consolation to the women held in these prisons where living conditions were equally appalling. Repeat offenders and women who committed particularly serious crimes were sent to the Kingston Penitentiary (Oliver, 1994: 521).

To most early penitentiary administrators, the gender of the inmates was incidental and at best acknowledged as inconvenient. John Macaulay, president of the *Canadian Penitentiary Board of Inspectors* notes that the sentencing of women to the penitentiary interfered with the administration of discipline and caused some inconvenience for administrators. He notes:

...though their labour as seamstresses can always be turned to good account, they cannot be effectually subjected to the peculiar discipline of the prison until a separate place of confinement suggested for them by the plans and the report of the recent Commissioner shall

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<sup>1</sup> For more information on the conditions at Oakalla prison see: Stewart (1993).

<sup>2</sup> For a more detailed discussion of the treatment of women in American penitentiaries see Rafter (1992); for a more detailed discussion of the experiences of women prisoners in British penitentiaries see Dobash, Dobash, and Gutteridge (1986), and Zedner (1991b).

have been prepared for their reception.<sup>3</sup>

The status of women in Canadian penitentiaries as “inconvenient” created the conditions for serious forms of abuse and administrative apathy. Several commissions and annual reports documented a lengthy trail of intolerable, overcrowded and unsanitary conditions in the female unit at the Provincial Penitentiary. For example:

The sleeping cells were frightfully over-run with bugs, especially in the spring of 1846; the women used to sweep them out with a broom. It was so very bad, that on one occasion it was suggested to the warden to let the women sleep in the day room and [the matron] would sit up all night with them, and be responsible for them; the warden would not consent. The women suffered very much, their bodies were blistered with the bugs; and they often tore themselves with scratching (Brown Commission, 1849: 16).

Criticisms of the penitentiary include the abuse of inmates (in particular the flogging of women and young children), and the extensive use of corporal punishment for relatively minor offenses, such as refusing to wear shoes, swearing, insulting the staff, and general incorrigibility (Brown Commission, 1849). Even after the public condemnation of this report, women continued to be punished for offences, such as “making a disturbance”, “abusive language”, calling a guard an “old fagot”, “disobedience”, “threatening another convict”, and “talking in the work room.” The typical punishment received for these offenses was 3-4 days in a dark empty cell with no light. If a prisoner's behaviour did not warrant a dark cell, she was locked in a solitary confinement cell which had some light and meagre furnishings. While segregated women were placed on a bread and water diet, on a rare occasion, food was prohibited.<sup>4</sup>

Women prisoners were reportedly punished more frequently, but less severely than men (Oliver, 1994). Acknowledging some gender differences, the punishment rules and regulations for the penitentiary in the late nineteenth century reflect some discrepancies in the treatment for male and

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<sup>3</sup> Upper Canada, Journals of the House of Assembly, App.10, 1836-37: 4; cited in Beattie (1977: 106).

<sup>4</sup> *Female Convicts Punishment Book, 1850-1856, Penitentiary Museum Archives* (hereafter, *PMA*).

female convicts. Men appear to have been subject to more severe and longer terms of punishment in the prison than female convicts. For example, the published rules and regulations for Kingston Penitentiary in the 1890s contain a separate set of instructions and options for male and female prisoners. The most significant difference between the two sets of rules were that dietary punishments of bread and water could not exceed twenty-one meals for men, and six meals for women; confinement in a cell with a “hard bed, with or without a blanket” could not exceed one month and for women it was six nights; and while both men and women were potentially subject to solitary confinement and “forfeiture of remission of sentence”, only men could officially receive the punishments of “flogging with a leather paddle” and “the application of water from a hose in the presence of a warden”.<sup>5</sup>

In practice, the normative and corrective techniques of penitentiary discipline (rules of silence, continuous surveillance, hard labour and religious instruction) were rarely realized with female populations. Although this claim about the ineffectiveness of penitentiary discipline of women is not meant to suggest that these technologies of discipline were consistently and effectively applied to men.

### **1a. An “insignificant” population?**

Explanations for the administrative apathy that historically has surrounded the treatment of women in penitentiaries have tended to stress the small size of the female population and their relative insignificance. I argue that, while on a larger national scale the population of women prisoners tended to be smaller than the men’s population, on an institutional level, the number of women incarcerated at Kingston Penitentiary throughout the nineteenth and early twentieth centuries was not insignificant.

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<sup>5</sup> Untitled inventory of acceptable punishments for violations of prison rules, (no.73, volume 134). *National archives of Canada*; hereafter *National archives*. There is also evidence of international consultations between wardens with respect to the appropriate methods of punishments for incorrigible prisoners.

even if it was still significantly smaller than the number of men (see table 1).<sup>6</sup>

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<sup>6</sup> Records on the number of men and women received at Kingston Penitentiary are not available for the following years: 1854, 1917, 1918, 1920, 1921, and 1932. Calculations in Table 1 are based on the average number of men and women received in the years for which there were data. Due to changes in the annual reporting dates for each fiscal year, there are some overlaps in reporting periods. Statistics published in the “Annual Reports” reflect developments during the respective fiscal year, with the exception of the period between 1852 and 1877, which covers the calendar year. Therefore, it is difficult to determine the actual populations of various institutions during the calendar year. The numbers presented in this table represent the numbers of men and women received, which were reported for each fiscal year. These numbers were originally collected and compiled in a different format by Dave St. Onge of the *Penitentiary Museum Archives* - Kingston, Ontario (hereafter *PM*).

**TABLE 1. Average and highest number of male and female prisoners received (per year) at Kingston Penitentiary (1835-1934)**

		YEARS									
		1835-1844	1845-1854*	1855-1864	1865-1874	1875-1884	1885-1894	1895-1904	1905-1914	1915-1924*	1925-1934*
WOMEN	Average	7.2	9.5*	23.5	15.4	9.1	9.5	6.3	5.6	17.2*	15.5*
	Highest	11	14	34	24	14	21	12	16	21	21
	Total	72	95*	235	154	91	95	63	56	103*	124*
MEN	Average	83.4	107.1*	220.7	200.8	205.4	159.8	160.8	176.5	292*	355*
	Highest	142	150*	274	277	345	207	221	239	390*	477*
	Total	834	964*	2207	2008	2054	1598	1608	1765	1752*	2838*
TOTAL		906	1059	2442	2162	2145	1693	1671	1821	1855*	2962*

\* denotes missing data

Although most female offenders were housed in the Female Unit of the Kingston facility, a few inmates from the maritime provinces were shuffled back and forth between the existing unit in eastern Canada (Dorchester) and the Kingston Penitentiary, whichever was most politically convenient. In 1923, the Dorchester unit was finally closed and the remaining three inmates and its staff were transferred to Kingston Penitentiary, pending the building of a new women's prison.<sup>7</sup> Saint John and Halifax penitentiaries usually held a few female convicts; consequently, when Dorchester Penitentiary was built to replace these two institutions in 1880, a small female ward was built in its west wing. This unit was used to house women prisoners until 1885, when women prisoners were transferred from Dorchester to Kingston Penitentiary. Shortly after this transfer, administrators argued that the women prisoners should be returned to Dorchester because of the inadequacy of Kingston's 60-year old "wretched" and "makeshift" cells and due to the absence of productive labour

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<sup>7</sup> *Penitentiary Museum archives* - Kingston, Ontario.

in the Female Unit.<sup>8</sup> From 1894 until 1917, female prisoners were retained at Dorchester, where the female population rose to a peak of 17 women in the fiscal year 1908-1909.<sup>9</sup>

The highest number of women prisoners received at the penitentiary in one year was 34 in both 1858 and 1863. The comparatively small population of women prisoners in a given institution meant that these women were thought to be unworthy of scarce resources. Despite the small numbers, however, women prisoners were overcrowded, and their conditions were by no means forgotten. In the early 1900s, penitentiary administrators repeatedly reported overcrowding problems in the Female Unit.<sup>10</sup> Comments made by the warden and matron of Kingston Penitentiary in 1868 indicate that they had concerns about adequate accommodations for female prisoners that were not addressed.<sup>11</sup> Although the initial architectural plans for Kingston Penitentiary (1835) included a separate prison and yard for women prisoners, these plans were not realized until 1912. The first separate prisons for women were not available in Quebec and in Ontario until 1874. In the meantime, however, women prisoners at Kingston were housed in less than adequate conditions, but by no means entirely ignored. Women prisoners were not “invisible” to male administrators and the hiring of matrons is an indication of their significance.

### **1b. Moral Matrons: Governing by Example**

Shortly after the penitentiary opened warden Henry Smith expressed a need to hire a female matron to govern the women prisoners. In 1836, he noted:

As it was found impossible to employ the female convicts with any advantage to the institution under the direction of the keepers, a matron was by order of the Board engaged in the month of October last, under whose care their labours have been beneficially applied

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<sup>8</sup> *Annual Report of the Inspector of Penitentiaries*, 1893-1894.

<sup>9</sup> *PM*.

<sup>10</sup> *PM*.

<sup>11</sup> Canada. *Annual Report of the Directors of Penitentiaries*, 1868: 22.

in making and mending the bedding and clothing for prisoners.<sup>12</sup>

Hiring matrons to govern the female population meant that women prisoners were subject to more surveillance than was previously the case. Matrons were responsible for the moral reform of women prisoners and the development of disciplinary programmes. As the size of the female population expanded, prison administrations began reluctantly to employ additional matrons and nurses for the specific task of caring for women prisoners. In addition to hiring matrons, in 1844 “nursing” and “hospital” staff were added to the roster of paid employees. Mrs. Elmherst (1835-1840) appears to have been the first matron employed in Kingston Penitentiary,<sup>13</sup> but the first recorded matron’s report did not appear until 1852.<sup>14</sup> Elizabeth Smith was hired in 1844 to work in the hospital and Ellen McGarvey was hired in 1845 as a nurse. Henceforth, nurses were regularly employed.<sup>15</sup>

These occupations were not rewarding, and few women aspired to become matrons or prison nurses. The women who chose this type of employment were often impoverished and desperate, with limited legitimate options for survival. Matrons tended to receive lower rates of pay and have less authority than male guards in similar positions (Oliver, 1994: 521). They were rarely provided with the necessary resources to reform female convicts efficiently and effectively.

Matrons ultimately played a critical role in the normalization of convicts and in the creation and maintenance of penal discipline. Although Kingston matrons were not hired for the specific

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<sup>12</sup> Warden Henry Smith to the Inspectors of the Provincial Penitentiary, *Annual Report* 1836: 4. *PM*.

<sup>13</sup> She was succeeded by several other matrons and deputy matrons including: Mrs. Parsons (1840-1845); Mrs. P. Martin (assistant, 1844); Catherine Coulter (1845-1847); Mary Pollard (1847-1849); Eliza Chase (assistant, 1847); Mrs. Julia Cox (1849-1856); Mrs. Martha Walker (1856-1865); Mrs. Belinda Plees (deputy, then matron, 1864-1870); Mrs. Mary Leahy (deputy, then matron, 1861-1871); Mary Bostridge (deputy matron, 1870); Margaret O’Loane (assistant deputy matron, 1880); Rose Anne Fuhey (1886-1920); M.G. Draper (1920-21); E.A. Robinson (1921, transferred to Prison for Women). The information about these women and their careers was originally compiled from prison records by Dave St. Onge at the *Penitentiary Museum archives (PM)*.

<sup>14</sup> This report was submitted by Mrs. Julia Cox. *PM*.

<sup>15</sup> *PM*.

purpose of creating a maternal program of discipline (as was the case at the Mercer), the presence of women penal officials altered the custodial environment. Even though matrons were hired to alleviate managerial difficulties associated with an integrated prison population (such as physical and sexual abuse, communication, and inadequate classification and programming), prison administrators began to expect these women to play an important role in offender reformation. The maternal significance of their role is reinforced by the comments of the Protestant Prison Chaplain in 1852. He noted:

The Female Superintendent should bear a relative position to the Warden himself, since much must necessarily depend on her, in which, even that superior Officer cannot, with propriety, be consulted. The Female Superintendent, according to my opinion, should, both in moral and social deportment, and in religious and secular education, be raised to such eminence, as that the unhappy convict may look up to her as an example; and command obedience by moral influence, rather than physical force.<sup>16</sup>

Over time selection criteria for matrons emerged; however, at first the job was given to anyone willing both to live in the prison and to perform the task of supervising female convicts. A few years later, the importance of hiring a “religious” matron to instruct Catholic female convicts in their prayers and catechism was reinforced by the Roman Catholic Chaplain.<sup>17</sup>

In the mid-1850s, Martha Walker, an English widow, became a matron at Kingston Penitentiary. Martha Walker appears to have been paid and treated better than her predecessors. According to Oliver (1994: 521), Matron Walker had a great deal of authority and autonomy. She was responsible for the management of the Female Unit and, in this capacity, she designed an education program and a set of rules to address the specific needs of the female population (Oliver, 1994). The employment of Matron Walker had a profound impact on the public conceptualization of female convicts. They ceased to be regarded by penitentiary staff as “the most refractory and

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<sup>16</sup> Protestant Chaplain R.J. Rodgers, *Annual Report*, 1845, Appendix G. *PM*.

<sup>17</sup> Rev. Angus MacDonell, V.G., Roman Catholic Chaplain’s Annual Report, 1851. *PM*.

unmanageable prisoners in the penitentiary”.<sup>18</sup> Through her efforts in the Female Unit, the charismatic Matron Walker eventually won the respect and admiration of male administrators and chaplains. She came to advocate using virtuous women to rehabilitate and train their misguided sisters. However, the independent efforts of Walker and a few middle-class reformers did not fundamentally challenge the conditions under which women were confined in Canadian institutions.

By the mid-nineteenth century, matrons were fairly commonplace in most prisons. Official narratives suggest that matrons were good role models and teachers, who could discipline the misguided convict. Their supervision of women prisoners was also believed to be important, given wide spread concerns about sexual abuse and moral contagion. Hiring matrons to discipline women and to administer gender specific programmes meant that penal administrators could publicly claim they were trying to reform women in gender-specific ways. However, penal officials rarely expended valued resources on the female population. While they sympathized with the matrons charged with the responsibility of governing a population of convicts whom many regarded as “unreformable”, they rarely gave matrons the resources or support they required to fulfil the task of moral reform.

In 1869, Matron Belinda Plees expressed concern about overcrowding, the increased number of women coming to the penitentiary, and the refractory nature of “two or three exceedingly bad and turbulent women who take delight in disturbing the prison”. While she noted that, in general, things had been “going on satisfactorily”, she stated:

there are serious drawbacks for want of proper cells, where lazy, worthless, characters could be isolated, and their day’s work extracted from them. Such a system I believe would tend much more to subduing and reforming them than the present way I am now obliged to adopt, viz. - putting them in a dark cell on bread and water where they can sleep all day and, in the night, sing and hammer so as to disturb the whole establishment.<sup>19</sup>

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<sup>18</sup> This comment was made by a Catholic chaplain at Kingston Penitentiary in 1851, and similar views were held by the Protestant chaplain and other administrators; cited in Oliver (1994: 251). For additional examples see: Oliver (1994) and Cooper (1993).

<sup>19</sup> Belinda Plees, *Remarks on the State of the Female Prison, Annual Report to the Directors of the Kingston Penitentiary*, 1869: 22.

In the same annual report, the warden acknowledged that, although the Female Unit was inadequate, it had some positive aspects. He indicated that the female convicts had been keeping the prison “beautifully clean and neat” and that they were being reformed. He also commented on the improved quality of women’s penal discipline. He noted:

The poor unfortunate creatures, who are sent here, are generally of the unfortunate classes and of the worst temperament. They are, here, taught the usefulness of labour, and those, well disposed, are allowed to learn the working of a sewing machine, so that, on their release, they may be enabled to obtain a livelihood.<sup>20</sup>

Even though this warden does not appear to concur with the negative portrayal of women prisoners submitted by the matron, his comments echo her frustrations with the accommodations available to women prisoners. Prison administrators continued to struggle with the challenge of managing female convicts in a wholly inadequate regime of penitentiary discipline at Kingston Penitentiary. Until the construction of separate reformatories (1874) and penitentiaries (1934), there were few changes in the conditions of women’s confinement. The regime appears to have altered only marginally by changes in administrative staff. Although hiring women to govern other women was a typical maternal strategy, the matrons at Kingston Penitentiary did not have the resources to implement maternalist programs.

### **1c. The struggle for a separate female unit**

Because of inadequate living conditions, extreme punitiveness, the absence of penitentiary discipline and the inability to occupy women with profitable labour, the Brown Commission<sup>21</sup> in 1849

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<sup>20</sup> *Remarks on the State of the Female Prison, annual Report to the Directors of the Kingston Penitentiary*, 1869: 22.

<sup>21</sup> The Brown Commission (1849: 74) reiterated John McCauley's (1836) concerns about the separation of male and female convicts and commented on the inability of the current arrangement to enforce penitentiary discipline. When the Provincial Penitentiary for men was opened in 1835 there were no specific arrangements for women offenders; however, women were housed in the penitentiary during its first year of operation. Information from: Kingston Penitentiary Museum Archives, Kingston, Ontario.

recommended that a separate building be erected for women prisoners. Once constructed, it was hoped that reformation of women could be attempted. This recommendation prompted what became a 90-year administrative struggle for the construction of a separate and autonomous federal penitentiary for women. In 1846, makeshift cells were constructed and the 26 women were confined in cells measuring 8 feet 4 inches long, 7 feet 6 inches high, and 30 inches wide.<sup>22</sup> A few years later, a separate unit for women prisoners was opened in what is now the north wing of Kingston Penitentiary. At the time of Confederation, the warden's report strongly advocated building a proper female prison outside the walls of the penitentiary. Similar recommendations were repeated by Moylan, the Inspector of Penitentiaries, in the years 1885 to 1890.

One of the primary concerns of the petitions to build a separate women's prison was the ideal of separation/classification. Penitentiary officials repeatedly expressed concern about interactions between male and female convicts, and between female convicts and male staff members. For example, in one of his reports Inspector Moylan noted:

I have always considered this portion of the penitentiary [the female unit] unfit for the use that is made of it. Apart from its objectionable proximity to the male prison, the cells being underground in a gloomy and dismal compartment, is sufficient cause for recommending change.<sup>23</sup>

Subsequent to Inspector Moylan's report in 1893, a blueprint for a proposed prison for women outside the walls of Kingston Penitentiary was drawn by the Architect and Chief Trade Instructor of Kingston Penitentiary. Although this facility was never built, the blueprints bear a striking resemblance to the existing Prison for Women, built some 30 years later.<sup>24</sup> Despite numerous requests and recommendations by administrators, wardens, and commissioners, separate quarters for women prisoners were not built until 1910, when a separate cell block was opened with accommodations for 34 women. In February of 1909, Warden Platt of Kingston Penitentiary wrote

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<sup>22</sup> Canada, *Legislative Assembly Journals*, App.2G-AA, 1846 (cited in Cooper, 1993: 37).

<sup>23</sup> *Report of the Inspector of Penitentiaries*, 1889. *PM*.

<sup>24</sup> The original 1883 blueprints are in a Service file at *PM*.

an “unofficial letter” to the Inspector of Penitentiaries, speculating on what to do about the Female Prison, the Keeper’s Hall and the Roman Catholic chapel, while the North Wing of the penitentiary was being reconstructed. The outcome was the construction of the new female prison inside the Penitentiary grounds surrounded by a 7-foot stone wall.<sup>25</sup> Shortly after the new unit opened, it was overcrowded and women were made to sleep in the corridors of the now Female Department.<sup>26</sup>

The 1914 *Royal Commission on Penitentiaries* commented on the new female prison inside Kingston Penitentiary. It noted that while the new building for women was an acceptable alternative to Kingston Penitentiary, it would be in the women's best interests to transfer them either to an entirely separate women's prison or to provincial institutions.<sup>27</sup> By 1916, a population of some 40 female prisoners was placing a strain upon the Kingston facilities, which included only 32 regular and 2 double sick-bay cells. To compensate for the overcrowding problem, the female department at Dorchester Penitentiary was reopened in 1919-1920, and 13 women prisoners of maritime origin were transferred to the east coast.<sup>28</sup> By 1927, the overcrowding problem was so severe that some prisoners continued to sleep in the corridors of the female department.<sup>29</sup>

Beyond fleeting concerns about the separation of women prisoners from their families and children and the hiring of additional female staff, there were few significant efforts to reform the

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<sup>25</sup> This area of Kingston Penitentiary was later known as the Northwest Cell Block and is currently the location of the inmate training administrative offices, the office of the Deputy Warden, Reception and Classification. *PM*.

<sup>26</sup> *Annual Report of the Commissioner of Penitentiaries, 1927-1928*.

<sup>27</sup> While many federal commissions and independent reports recommended that federal female prisons be transferred to provincial institutions because of the inequitable geographic dislocation and displacement of women prisoners from their families and home communities, this practise did not occur on a regular basis until the 1970s. Following the Ouimet report in 1969, federal exchange of services agreements came into existence, allowing some of the women to serve their sentences in their home provinces and allowing the provinces to send "high risk" women to the Prison for Women in Kingston.

<sup>28</sup> *PM*.

<sup>29</sup> *Annual Report of the Commissioner of Penitentiaries, 1927-1928*.

Female Unit in Kingston Penitentiary (constructed in 1910) until September 1920, when the Biggar-Nickle-Draper *Committee on the Penitentiary and Regulations* submitted a report to the Minister of Justice. This committee was appointed by the Minister of Justice, Charles J. Doherty, to review and revise the penitentiary regulations and to advise the government on changes to the existing legislation. The Committee was specifically directed to review the policies and procedures governing the reformation of convicts, “the differential treatment of classes of convicts”, prison labour and the suitability of prison industries, staffing, prison discipline, remissions procedures, visits to and letters from convicts, and the facilities for “self education of convicts and the provision of formal educational instruction” (Doherty, 1920: 7, cited in Biggar-Nickle-Draper, 1921). The Committee's mandate was vast and was informed by a specific logic of correctional reform. Their report strongly denounced past correctional practices based on retribution in favour of more rehabilitative techniques of penal management. They indicated:

It is necessary to eliminate wholly the idea of vengeance, not on humanitarian grounds, or because of its painful consequences to the individual, but solely because of its stupidity and on grounds of common sense (Biggar-Nickle-Draper, 1921: 11).

Instead of vengeance, they argued that:

...the system should be such as to constitute, in so far as possible, a training of the convicted person to retake, as he must, his position in society, to prevent his being deteriorated by the punishment he has undergone, and to enable him while undergoing it to fulfil his natural family obligations ... (Biggar-Nickle-Draper, 1921: 11).

Although detailed recommendations for training female convicts were not outlined in this report, the general philosophy of the report was meant to apply to both male and female convicts, although of course “family obligations” were highly gendered.

The committee's denunciation of punitive correctional techniques was reaffirmed by its allegiance to a scientifically based rehabilitative model of correctional reform. It argued that the central administration of prisons should be based on “development and cure” rather than on “repression and restriction” (Biggar-Nickle-Draper, 1920: 11). The committee also advocated the “use of modern scientific resources for the examination and classification of convicts” to cure their

physical and mental illnesses (Biggar-Nickle-Draper, 1921: 11). Closely linked to these notions of reformation was the belief that meaningful instruction and the employment of convicts in remunerative and productive labour was essential to reform. The Committee was quite critical of traditional prison labour programmes. They argued that repetitive and meaningless labour, such as stock piling or breaking rocks ("hard labour"), did not promote the desired habits of industry.

These ideas were pivotal to the future direction of women's penalty. Drawing on the principle of separation, Biggar-Nickle-Draper argued that women convicts should be held in a "completely separate institution out of view of the penitentiary for male convicts." The Committee noted:

notwithstanding what ... would be possible hardship to a very few women in their withdrawal from the neighbourhood of their friends outside, arrangements might perhaps be usefully made for the concentration of all female convicts at a single institution of which the head should be a woman warden.<sup>30</sup>

The ideal of separation emerged as a key theme in the justification of the construction of a separate penitentiary for women. Even though the Biggar-Nickle-Draper Commission recommended the development of a separate institution administered by a female warden, the Commission did not recommend that women prisoners be subject to a special maternal or woman-centred regime.

## **2. Rationale for a Separate Women's Penitentiary: The Nickle Commission (1921)**

Unlike previous administrators, Nickle and his fellow commissioners faced little resistance to the idea of a separate federal prison for women. While there was strong support for hiring a female warden to manage the Prison for Women independently, when opened in 1934 its administration was ultimately governed by the warden of Kingston Penitentiary, and then by the warden of Collins Bay Penitentiary until the mid-1960s.<sup>31</sup> A few days after the submission of the Biggar-Nickle-Draper report in 1921, the Minister of Justice appointed the same W.F. Nickle to report on the management

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<sup>30</sup> *PM*.

<sup>31</sup> Information about the administrative regulation of the Prison for Women is located in the *PM* in documents that have not been filed and given numbers.

of the women in Kingston Penitentiary. The Nickle Commission in 1921 was the first federal commission report to address the specific issues of women prisoners and their treatment. In his report, Nickle strongly suggested the removal of the Female Unit and the construction of a new prison in keeping with “the best judgement of those conversant with modern prison building.” In making this recommendation, he stipulated that there was no need for “the erection of forbidding stone walls” that characterized most penitentiaries. Instead, he stressed the importance of putting minimal security measures in place to secure the institution from intrusion of outsiders and to prevent escapes (Nickle, 1921: 5). Whilst Nickle (1921) made several significant recommendations, such as the hiring of a French-speaking matron and programs for female convicts, the recommendation to close the existing female prison at Kingston Penitentiary and replace it with a new centralized prison for women was the most significant.

The Nickle Commission (1921), like earlier administrators and reformers, reinforced the importance of classification and, in particular, separate accommodations for women. One of the primary reasons for the construction of the new facility was to ensure the adequate segregation of female convicts from male convicts and male staff. Nickle, among others, was particularly concerned about the harmful effects of women convicts’ innate flirtatious habits and men’s inability to resist this temptation. He notes:

As would be expected, the natural happens, and certain classes of the convicts carry on, when chance permits, active or subdued flirtations with responsive officials or sympathetic male convicts. It is not to be assumed that in all or perhaps in most cases the conduct of women is responsible, except in so far as it is a breach of regulations. Without doubt some of the *women, more particularly at certain periods, are thrown into a violent state of sexual excitement by the mere sight of men*, more often by their being or working contiguously to the female quarters and my attention was called to one instance of this group of cases where a sedative had to be given to soothe desire. Certain objectionable notes were found in the yard of the Female Prison [inside Kingston Penitentiary] to indicate that to some of the men the proximity of the women is equally harmful (*Emphasis added*. Nickle, 1921: 3).

This discussion and the ensuing description of the different types of women confined at the

prison (mildly flirtatious or violently sexual) are consistent with earlier themes of the fallen woman versus the reformable woman. It was implied that the “bad” women prisoners were responsible for the sexual abuse occurring in prison. In rare instances, the conduct of the male guards towards “decent” women was viewed as problematic, but the frailties of men were usually explained by reference to the sexual power of women convicts.

Nothing did more in recent years to disorganized discipline in the Female Prison than the improper conduct of male officials with the female convicts. Jealousies that still exist; decent women were offended by gross misconduct and a feeling of gross resentment aroused against the administration that will take some time to quiet ... While the disclosures of the past year have shown how unscrupulous officers have taken unfair advantage of the opportunities for flirtations, improprieties and indecencies that presented themselves, yet it can be truthfully contradicted that many decent officers are fearful, knowing that a few designing and crafty women might ruin a well earned reputation (Nickle, 1921: 4-5).

These moral concerns, as well as frustrations with the inadequacy of programming, informed his recommendation for a entirely autonomous female prison staffed solely by women. In addition to concerns about sexual activity, Nickle was also appalled by the filthiness of the female prison, the inadequacy of medical care, the use of convict labour to wash, mend and launder the personal clothing of staff, and the appropriation and sale of convicts’ handiwork.

Nickle anticipated that the new prison and its incumbent regime could govern prisoners through “building female character”. Better training and selection processes were presented as possible solutions to past staff negligence, and to what he perceived was a lack of initiative in attempting to improve the convict and to make her fit for the responsibilities of citizenship upon release. In trying to envision appropriate techniques of normalization and correction in the new facility, Nickle stressed his frustration with penal regimes that rely on “repression, rather than reintegration and make no effort to develop latent benevolent inclinations but tend to accentuate the least attractive qualities of human nature” (Nickle, 1921: 34). Nickle's criticisms were not new; however, in his narratives he avoided a maternal language of reformation and redemption and instead relied on evangelical and social scientific analyses of observable problems. This approach is in

marked contrast to the maternalist agenda of Inspector Langmuir who, 50 years earlier, advocated the development of a separate reformatory through domestic metaphors. Nickle did not rely as heavily on maternalism to justify and rationalize the construction of a centralized federal penitentiary. He advocated a more scientific rehabilitative approach which stresses “curing” the female offender. His emphasis on “curing”, however, is not based on the psychiatric ideals of “curing the criminal mind”, but rather on the evangelical goal of “curing the soul” of the offender. Matrons and not scientific experts have a central role in the rehabilitation of women prisoners. He argued that the prison offered women administrators “a great opportunity to do something worthwhile,” and that their success in this institution would contribute to the “*curing* of souls and bodies” (Nickle, 1921: 21).

Nickle’s tactics reflect a combination of evangelical, rehabilitative and maternal logics. The following passage demonstrates these logics as expressed by his concerns about the potential damage of a prison setting and the opportunity for neglect. He notes:

...so many people seem to forget that human nature in the convict does not differ from that of the person outside the walls, and that most of those within will some day be again without. You have not accomplished much if, after years in the prison, you send the unfortunate back to a life either only broken in spirit or filled with bitterness and resentment against her fate and society. Offenders are sent to prison ... as a punishment and not to be punished; the function of those in charge should not be to repress but to stimulate their charges with fresh hope for better days and better things (Nickle, 1921: 16).

In addition, he advocated limiting the use of techniques which have little psychological benefit:

Individuality is lost through convicts being addressed by number and not by name. Nothing as far as I can see, is gained by this practise, while much is lost: self respect and esteem is destroyed. The individual becomes a non-entity. This practise should be stopped. Little effort as far as I could see, to appeal to a woman through her emotions or religious tendencies; even in the House of the Lord she is made to feel that she is a convict. (Nickle, 1921: 17).

Here, Nickle expresses an allegiance to a rehabilitative mentality consistent with the views of several

“non-expert” religious reformers, such as the Prisoners’ Aid Association<sup>32</sup> and the Salvation Army, which also stressed the importance of supportive relationships with inmates and discharged prisoners.<sup>33</sup> Nickle ardently supported the involvement of non-state reformers or “friends on discharge” who helped the women become law-abiding citizens. Typical of many reformers in this period, he advocated increased state involvement in and support of after-care services and discharge planning. Nickle, like many early twentieth century penologists, was quickly losing faith in the nineteenth century penitentiary ideal. Although Nickle supported the ideal of rehabilitation, he did not consider rehabilitation to be synonymous with scientific expertise.

Before discussing the specific programs at the Prison for Women, it is important to shift briefly to a discussion of a few of the wider transformations in penality at the turn of the century. These transformations had a profound impact on Canadian corrections between 1940 and 1970, and they form the basis of common understanding of rehabilitation as a form of “expert” intervention based on scientific understandings of the criminal mind. The type of “rehabilitation” that emerges at the Prison for Women is to a large extent organized around everyday knowledges (Smith, 1987) reinforcing certain expectations about appropriate feminine conduct. Although policy documents as early as the 1920s called for a more “rehabilitative” penal logic, records of expert based psychiatric and psychological rehabilitative programs are not evident at the Prison for Women until the late 1950s. However, that does not mean that women administrators and employees of the prison for women were not using knowledge generated by experts to define and govern women prisoners. It is likely that prison staff combined everyday and expert knowledges in their efforts to manage the female offender.

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<sup>32</sup> The Prisoners’ Aid Association (PAA) provided religious services for Protestant inmates.

<sup>33</sup> In keeping with wider maternal and evangelical obligations to care for the less fortunate, ladies from the Kingston area continued to visit the women in their new homes to provide them with bible instruction and some limited training programs. Unfortunately, there is little information about the women who originally visited the prison and the role they played in the Kingston Penitentiary and the new Prison for Women. However, it is likely that these women were affiliated with local religious and secular organizations mentioned earlier, such as the Salvation Army, Prisoners’ Aid Associations, and Ladies Auxiliaries.

### **3. New Forms of Governing: Rehabilitation and the Woman Prisoner**

Scientific theories became the backbone of many techniques of governing citizens through a growing mass of institutions. As Sumner (1990: 29) notes, “broad images of disease, the devil, crime and treason had been intellectually converted by the, mainly American, sociology of deviance between 1937 and 1968, into neutral sounding deviations, allegedly curable by psychiatry, social work and social policy.” These expert knowledges contributed to the development of new techniques and strategies of governing institutionalized and marginalized populations. The development of national and international congresses and the organization of conferences and associations eventually “pressed the claims of criminology upon the legislatures and penal institutions of virtually every western nation” (Garland, 1985: 77). Penal administrators began to gather at international conferences, where some of the more outspoken advocates of the new penology stressed the importance and value of reform for individuals, and society more generally. Debates about the causes of crime and the most appropriate techniques of reform dominated the penal culture. Traditional notions of motherhood and evangelical or utilitarian ideals and techniques of reform were being challenged by experts. According to new understandings of crime, criminality was caused by an aberration or abnormality in the individual - it was not a sin or the end result of faulty reasoning. Whilst various modes of penal “care” already existed as a result of the integration of pastoral and maternal techniques of managing prisoners, turn-of-the-century penalty was influenced by a new mode of caring founded on the scientific principle of rehabilitation. This new reliance on science necessitated a corresponding reliance on various medical and social scientific experts. In many American institutions, scientific reform programs that encouraged inmates to develop self-esteem and independence began to overshadow more traditional attempts at redemption through motherly example (Freedman, 1981; Strange, 1983; Rafter, 1992; Ruemper, 1994).

According to Ruemper (1994: 352), who examines this shift as it related to changes in the incarceration of women in Ontario, some women's penal regimes followed a similar pattern. She argues that while early nineteenth century state penal policy emphasized individualism and the “remoralization” of deviant and dependent subjects through technologies (such as discipline, segregation, hard labour, and moral and religious training) designed to train the deviant to exercise

reason, welfare state penal policy emphasized the diagnosis of deviance by experts and the normalization of individuals through the use of curative techniques and specialized experts (Ruemper, 1994: 353-54). Under this new welfare regime, the state assumed responsibility for the reformation of the offender through the recruitment of and reliance upon experts and new scientific technologies of reform. Ruemper (1994: 354) argues that at the Andrew Mercer Reformatory for Women, “experts” were used by the state to aid in the reformation of criminal women:

the doctor who took charge of the woman's sexual morality as well as her health; the ministers and their assistants who looked after the woman's spiritual morality; the teachers who taught them obedience as well as reading and writing; the matrons who trained them in humility and the domestic arts; and other community agencies, such as the Prisoners' Aid Society, whose members helped the women re-enter society in their proper sphere.

The strategies of normalization that emerged as a part of this scientific penalty developed a new range of methods for sanctioning which were not simply confined to the task of punishing (Foucault, 1977). Alternatively, I argue that welfare-based penalty relies on a combination of expert and non-expert forms of knowledge. This quotation from Ruemper (1994) shows how women were governed by medical experts and non-experts, like matrons, volunteers and ministers, rather than one form of power / knowledge. The rise of welfare-based penalty led to the coexistence of multiple knowledges and techniques of governing, some of which existed previously and others of which were newer.

For many, the rehabilitative ideal, when mixed with punishment, produced “the notion that the primary purpose of penal treatment is to effect changes in the character, attitudes, and behaviour of convicted offenders, so as to strengthen the social defense against unwanted behaviour, but also to contribute to the welfare and satisfaction of offenders” (Allen, 1981: 2, cited in Cullen and Gilbert, 1982). Thus, the objective of the “benevolent state” was to use forms of social control, such as penal institutions, to rehabilitate and help the offender change his / her character. As Marshall (1981: 23, cited in Cullen and Gilbert, 1982) notes, after the introduction of the rehabilitation model in corrections

virtually everything done with, for or to the offender after conviction was labelled *treatment*.... A wide variety of programs and correctional measures have been included under

the catch-all term *treatment*, ranging from teaching an inmate how to make a license plate to solitary confinement to intensive forms of individual psychotherapy.

Throughout the past century, virtually every western penal regime has employed the rationality of rehabilitation<sup>34</sup> and justified penal technologies on the basis of this ideal. Scientific reforms that stressed psychiatric interpretations of crime and prescribed methods of rehabilitating offenders were instituted slowly, and most extensively in men's prisons. However, they also coexisted with everyday knowledges of matrons in some women's prisons.

Notwithstanding the presence of scientific "rehabilitative" techniques (such as cosmetic surgery and behaviour modification programs), women prisoners' behaviours and habits were more frequently governed through informal processes. Penal domestic science training and personal grooming programs capitalized on everyday processes of producing and shaping normative behaviour to rehabilitate or reform prisoners. Valverde (1996) argues that "habit" is a technology for governing citizens without elaborate expert discourses or technologies. Contrary to most studies of welfare penality, my research shows that psychiatry, psychology and social work, while present at the Prison for Women as early as the mid-1950s, were not the primary mechanisms for the governance of women prisoners. Programs run by institutional staff, such as the domestic science program, industrial sewing, and hairdressing all focused on the production of a "good" citizen who understood her place in the social strata, but did not deploy quantitative or scientific studies, and were not staffed by psychiatric social workers or other "experts". Volunteer visitors to the prison, like the paid staff, contributed to the governance of women's habits. Although they appeared simply to offer women prisoners "fun" programs that broke up the idleness and tedium of incarceration, they made an important contribution to the governance of women's work and leisure habits, as chapter four will explain.

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<sup>34</sup> Despite the prevalence of these changes in penality, it is critical to note that not all institutional regimes changed at the same rate. Some custodial institutions were only marginally affected by this wider transformation in governance. For example, Ruemper (1994) clearly indicates that, while the regime at Mercer Reformatory reflects scientific ideals, these ideals do not exist to the same extent in other Ontario prisons. For a more detailed discussion of the development of specific rehabilitative programs in Canadian penal institutions see Ekstedt and Griffiths (1988).

#### 4. Institutionalization of Women's Everyday Knowledges: the Prison for Women (1934-1950)

It is difficult to determine the extent to which a maternal ethic of care and the scientific project of rehabilitation influenced the first few years of this new federal prison. The extent to which Nickle's recommendations were implemented is also difficult to ascertain from surviving records.<sup>35</sup> There were few, if any, accounts of "rehabilitative programs" occurring at the prison in the first few years of its operation. Rehabilitative programming at the Prison for Women between 1934 and 1970, for the most part, consisted of educational, vocational, and leisure programs aimed at structuring inmates' "free time". These programs reinforced conventional gender stereotypes. However, unlike the regime at the Mercer, maternal discipline was contingent upon the discretion of a handful of well-intentioned staff members.

Construction of the Prison for Women began in the spring of 1925. The surviving accounts of its construction indicate that the building process was characterized not only by delays but also by "quite unnecessary structural changes and alterations" that greatly inflated the cost of the prison. While inmate work gangs<sup>36</sup> from Kingston Penitentiary were employed to build the prison, a number of local contractors would have benefitted from architectural changes by supplying them with materials and services.<sup>37</sup> The change in architectural plans and the eventual building of a congregate-

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<sup>35</sup> Most early Prison for Women records are either missing or inaccessible. Hence, this discussion of the institution's first 20 years is somewhat speculative.

<sup>36</sup> During this time, inmate labour was often used in the construction of new prisons and institutions. Inmates at Kingston Penitentiary were also used during the construction of another local penitentiary, Collins Bay. The use of inmate labour in these particular circumstances can be linked to a more general concern expressed by penal administrators and politicians of the early twentieth century about the absence of useful and productive labour in penitentiaries. Historically, there has been a concern about idleness and somewhat of a blind faith in the merits of "hard labour", regardless of the utility of that labour.

<sup>37</sup> Notes from the Archambault Report (1938) - *Report of the Royal Commission to Investigate the Penal System in Canada* - indicate that the cost of the Prison for Women, including material, labour, and departmental charges, amounted to \$373,781.15. The accountant of the Penitentiary Branch informed the Commissioners that it was impossible to figure out the extra cost to the state occasioned by alterations after the original plans were completed.

style prison, as opposed to a cottage-style (more commonly associated with maternal discipline), was perhaps simply more economical and more conducive to the supervision of a large number of inmates. This rationale was used to justify changes in women's prison designs in many American states (Freedman, 1981). Inspector Moylan's reports in 1892 and 1893 indicate that a large portion of the Prison for Women's boundary wall had already been constructed for the purpose of enclosing one of two planned additions to Kingston Penitentiary (namely, the new women's prison or a Criminal Lunatic Asylum). There seems little reason to doubt that it was the existence of this wall that led to the eventual placement of the present Prison for Women in that location.<sup>38</sup> The new women's prison was a T-shaped complex surrounded by an imposing 16-foot limestone wall. While no towers were constructed in the wall, the exterior wall was topped by 10 feet of wire fabric and six lines of barbed wire to add height. The front section of the wall, which was incorporated into the wall, contained living quarters for the matrons, a chapel, and an administrative area. In addition to single-cell accommodations for 100 inmates, the rear of the institution contained a laundry room and sewing room.<sup>39</sup>

In spite of its antiquated architecture (strikingly similar to that of an 1883 blueprint), some reformers expected this new federal prison to accomplish goals which were similar to those of earlier reformatories. Upon completion of the 100-bed Prison for Women in 1932, its first occupants were not women, but rather 100 male inmates temporarily transferred from the corridors and prison isolation unit of Kingston Penitentiary. This transfer was necessary because of severe overcrowding and damage to Kingston Penitentiary during a major riot.<sup>40</sup> They were eventually removed from the Prison for Women, and approximately 40 female convicts were transferred to their new location in

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<sup>38</sup> *PM*.

<sup>39</sup> In June of 1923, the Dorchester female department was permanently closed, in part due to the recommendations of the Nickle Commission (1921). The remaining three convicts were transferred to Kingston Penitentiary along with the Matron, Miss Edith Robertson, and her bilingual Assistant Matron, Mrs. Allain. "Historical Sketch". *PM*.

<sup>40</sup> *Annual Report of the Commissioner of Penitentiaries, 1932-1933*.

January 1934.<sup>41</sup>

The personal recollections of one early staff member, Mrs. Vera Cherry, a nurse who lived and worked in the Prison for Women for over two decades, indicate that maternal guidance and kindness informed administrative strategies more than scientific techniques of rehabilitation.<sup>42</sup> Mrs. Cherry began working in Kingston Penitentiary in the late 1920s and was transferred to the Prison for Women with the women prisoners. Mrs. Cherry was one of many prison staff who had devoted their lives to caring for marginalized women. While her decision to work in the penitentiary was based largely on her financial needs as a young single woman during difficult years of the depression, once employed she devoted herself to the women. She presented herself as a surrogate mother to the women and affectionately recalled stories of teaching prisoners domestic skills, such as knitting, sewing, cooking and housekeeping, and of times spent talking to the women about their problems. Mrs. Cherry remembered a few meaningful moments during her career, including the day when several women helped her make her wedding dress and plan her wedding. Mrs. Cherry strongly believed that many of the women incarcerated at the prison had made mistakes resulting from poor judgement, but that they were not inherently bad people. Her observations of the inmates' behaviour around her own children were used to validate this opinion. She noted:

they were not terribly dangerous convicts or even mean women, many of them were mothers in difficult circumstances. I remember the days when I used to bring my children to the institution in the morning and fetch them in the evening after the women had played with them and cleaned them up like they were their own.<sup>43</sup>

Mrs. Cherry's style of governing relied heavily on benevolent maternal techniques. She attempted to govern women through kindness and to nurture them as if they were her own children.

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<sup>41</sup> When Dorchester's West Wing was remodelled in the 1930s all vestiges of the female ward were removed. Only a pair of small rooms on the third floor remained for the accommodation of a few transient female prisoners and a temporary matron, pending their transfer to Kingston's new Prison for Women. *PM*.

<sup>42</sup> VC - *Interview Transcripts, 1994*.

<sup>43</sup> VC - *Interview Transcripts, 1994*.

She taught women how to sew and encouraged them to engage in gender appropriate activities.

The dark side of this “happy home”, however, was evident in her recollection of experiences with alcoholics, drug addicts, recidivists, and political prisoners (Doukhobors), who were segregated in the “basement” because of their noncompliance and disruptive behaviour. In addition to these primitive forms of segregation, these women were actively excluded from certain programs because of their past offending behaviours. For example, in the early 1950s, prison records indicate that women with substance abuse problems were not accepted into home-grooming courses because they were deemed “unsuitable candidates”.<sup>44</sup>

Prison for Women staff and records also indicated that some offenders were considered to be beyond rehabilitation and reform. Difficulties with Doukhobor prisoners reportedly led to the opening of the Piers Island Penitentiary in British Columbia.<sup>45</sup> Problems at the Prison for Women are documented in the Annual Report of 1950-51, where it is noted that “the type of inmate being admitted has increased difficulties...” and that the presence of Doukhobor women “has had a most disturbing effect on the balance of the population”.<sup>46</sup> When these prisoners were released from the Prison for Women in 1952, the Annual report noted that “this removed a most difficult nerve-racking problem”.<sup>47</sup> Managerial problems with this population were also reported by one retired correctional officer, who recounted incidents wherein Doukhobor prisoners on hunger strikes had been force fed by strapping them to a table and having a tube involuntarily inserted in their throats. During World War II, several aliens (“internment prisoners”) were held at the Prison for Women. Records indicate that, in some instances, these women received differential treatment and that they placed an additional strain on an already overburdened staff.<sup>48</sup> Despite maternal narratives and a formal state commitment

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<sup>44</sup> *National archives*. file 23-21-23.

<sup>45</sup> For a more detailed discussion of the persecution of the Doukhobors see Jackson and Griffiths (1991).

<sup>46</sup> *Annual Report of the Commissioner of Penitentiaries, 1950-51*.

<sup>47</sup> *Annual Report of the Commissioner of Penitentiaries, 1952-53*.

<sup>48</sup> *Annual Report of the Commissioner of Penitentiaries, 1939-40; 1940-41*.

to improving women's penal conditions, the use of overt forms of coercion continued. Women prisoners were subject to harsh and sometimes cruel forms of treatment that were inconsistent with the wide logic of welfare-based governance.

Shortly after women moved to the Prison for Women, the report of the Archambault Commission (1938) condemned the institution and strongly recommended that it be closed in favour of transferring women prisoners to provincial facilities. This Royal Commission, under the direction of Justice Archambault, was prompted by a series of disturbances in federal institutions and by the recommendations of the Canadian Penal Congress. Archambault firmly believed in the principles of reform upon which the penitentiary was founded. He argued that "the task of the prison should be, not merely the temporary protection of society through the incarceration of captured offenders, but the transformation of reformable criminals into law-abiding citizens..." (Archambault, 1938: 9). He argued that over the last 100 years the state had failed to carry out its duty and responsibility to reform and rehabilitate the offender. He sharply criticized the current Superintendent of Penitentiaries for being "arrogant" and "neglectful" in using "extreme dictatorial methods" in the management of the penitentiary system (Adamson, 1983 cited in Ekstedt and Griffiths, 1988: 51). This report made several general recommendations about the administration of penitentiaries, but also addressed the specific issue of the Prison for Women and, more generally, women's criminality. The Archambault Commission (1938: 148) argued that:

the general conclusion to be drawn from women's relative place in crime is that, as a separate problem, it is comparatively unimportant, and that custodial care should be delegated to properly constituted and properly managed reformatories, and that no woman should be confined in penitentiaries. *There is no justification for the erection of and maintenance of a costly penitentiary for women alone, nor is it desirable that they should be confined, either in the same institution as men, or in one central institution far from their place of residence and their friends and relations. (Emphasis added).*

The 1947 Gibson report restated Archambault's recommendations, the state made few concrete efforts to alter the conditions or circumstances of women's confinement. Minor cosmetic improvements were made (including the construction of tennis courts and gardens), and a few

additional privileges were extended to women prisoners, such as radio reception.

Despite being armed with the best of intentions, Mrs. Cherry and other staff and matrons continued to express difficulties in disciplining the women because of the limited number of staff at the 100-bed institution. However, the warden was reluctant to hire additional matrons because of the small number of incarcerated women<sup>49</sup>. During the next 20 years, the institutional employment opportunities for prisoners improved, with the 1941 addition of a poultry farm for egg production, and the securing of naval contracts for the production of pillow slips. In addition, women at the Prison for Women also manufactured several items (surgical dressings, clothing, and bedding) in the industrial sewing rooms for the Army and Navy.<sup>50</sup> In the late 1940s, women volunteers from the Kingston area began to play a more active role in the delivery of educational and recreational activities.

#### **4a. The Professionalization of Prison Staff**

Changes in penalty and maternal logics coincided with white middle class women's interest in penal reform. An emphasis on "training" women for a variety of criminal justice positions was an important element of early reform platforms that led to the professionalization of past maternal strategies. The commitment and voluntarism of benevolent mother figures was no longer deemed a sufficient method of managing women in conflict with the law. There was an increased reliance on the professional woman trained in modern methods of treating and governing women criminals. While maternal rationalities influenced the training of women professionals (nurses, social workers, teachers, matrons and others), the training received by these women was also heavily influenced by scientific and, in particular, medical and psychiatric interpretations of women's crime.

The University Women's Club was one of several organizations that stressed the importance of technologies of training to mid-twentieth century penal reformers. Their emphasis on training was linked to a wider political agenda that entailed increasing the number of trained women working in

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<sup>49</sup> *Annual Report of the Commissioner of Penitentiaries, 1937-1938.*

<sup>50</sup> *Annual Report of the Commissioner of Penitentiaries, 1947-48.*

state institutions. Rather than evolving simply out of a concern for the welfare of women prisoners, most of the prison reform initiatives supported by this Club were related to the Club's wider interest in promoting educational and vocational opportunities for women. The records of the Toronto University Women's Club show that they were actively engaged in penal reform politics in Ontario between 1949 and 1958, during which time *The Group for the Study of Penal Reform* was formed. Initially, this group expressed an interest in juvenile training schools and courts; however, their interest quickly shifted to "women and girl offenders". Their interest in this population seems to have been prompted by inquiries from other clubs (specifically Halifax and Windsor) asking for current literature on offenders, and guest speakers.<sup>51</sup> Through a longstanding guest speaker series, the Club was exposed to a wide variety of speakers with a variety of views on criminal justice issues. Attendance at lectures and the organization of the speaker series was motivated by the Club's desire to stay up to date on current issues, and to become more active in social reform. One of the lectures attended by Club members was delivered by Major Gibson, Commissioner of Penitentiaries, who spoke about the aims and principles of penology. In a 1948 speech to the School of Social Work at the University of Toronto, Major Gibson noted:

...For penology is a new science, as yet hardly recognized by the public as a profession, but nevertheless one that deals with the problems of human behaviour and treatment that have most important economic and social implications. I say it is a new science because it is only in the last hundred years or so that mankind has begun to deal with crime and criminals on the basis of treatment rather than mere punishment....One of the aims of penology then is the

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<sup>51</sup> For instance, the November 30, 1948 minutes of the *Group for the Study of Penal Reform* indicate that all members of the group read and discussed John Kidman's book *The Canadian Prison*, and that they had a guest speaker attend their meeting to discuss Ontario training schools. The speaker, Mrs. Sanderson, was the only female member of the *Training School Advisory Committee*, and she was a liaison member of the Ontario Board of Parole. Subsequent to this presentation, the Group arranged visits to the Cobourg and St. Mary's training schools for girls. *Toronto University Women's Club archives*; hereafter *TUWC*.

scientific solution of that problem.<sup>52</sup>

He also noted that the “basic philosophy of modern penology” was to use “constructive efforts to bring about change in the anti-social attitudes” that led to the offender’s incarceration. In addition to advocating the benefits of rehabilitative penology, Gibson stressed the importance of community participation in and support of the correctional process. He claimed that prison reform has always suffered from a general lack of public interest and knowledge of the problems occurring in prisons. While some speakers encouraged Club members to become involved in penal reform, others discouraged such efforts, suggesting they were a waste of time and resources. For example, in 1949, Miss Melrose, one of a few women parole officers, told Club members that there “was not much use trying to do anything for a girl once she had reached the Mercer Reformatory”.<sup>53</sup>

Although there was little consensus on the role of women volunteers in the penal sphere in the late 1940s, these women felt strongly about increasing the number of trained women working in penal settings. In the late 1940s, the Toronto Study Group began to lobby actively for penal reform, in collaboration with the Canadian Federation of University Women (CFUW) and other local clubs.<sup>54</sup> They contacted the Department of Reform Institutions<sup>55</sup> and informed them that “there was a group of women with a sympathetic interest in their work, eager to encourage improvement.”<sup>56</sup> While some of their ideas were welcomed by the government, the Study Group expressed frustration with the

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<sup>52</sup> Address delivered by Major R. Gibson, Commissioner of Penitentiaries, On February 16th, 1948, at a meeting under the auspices of the School of Social Work, University of Toronto, page 1. *TUWC* .

<sup>53</sup> Report of the Group for the Study of Penal Reform, May 26, 1949; *TUWC* .

<sup>54</sup> Report of the Group for the Study of Penal Reform, November 20, 1951. *TUWC* .

<sup>55</sup> The Department of Reform Institutions was established in Ontario in 1946. This department had jurisdiction over the Andrew Mercer Reformatory for Women, Ontario Training School for Girls (formerly Cobourg), and St. Mary’s Training School for Girls, and all district, city, and county jails.

<sup>56</sup> Noted in a report sent to Miss Elsie McGill by the University Women’s Club’s Group for the Study of Penal Reform to inform the Business and Professional Women’s Club’s Study Group. The report was written by L.E. Cruikshank, dated March 28, 1953. *TUWC* .

government's reluctance to implement their ideas. Some of their early efforts included lobbying the government on the implementation of the recommendations of the Archambault Report (1938) and passing relevant resolutions. For example, the Group for the Study of Penal Reform presented a resolution at the February of 1949 business meeting, which encouraged all University Women's Clubs to write the Minister of Justice to commend officials at the Penitentiaries Branch for recent reforms.

The Club's support for trained correctional personnel was compatible with the proposals made by Major Gibson. One of his most influential proposals was for the establishment of a "training school" for penitentiary officers.<sup>57</sup> He argued that officers' training should be designed to:

deal not only with the practical matters of duty and discipline, but to give our officers an insight into and understanding of the principles of modern penology and the factors that play a part in the making of the criminal, so that they may return to their duties with an intelligent understanding of the requirements of modern penological treatment, and apply those principles in their dealings with prisoners in their charge.<sup>58</sup>

The Commissioner's advocacy for training in modern penology was consistent with the aims of women reformers, who also believed that a properly trained staff was essential to a successful rehabilitation program.

All local University Women's Clubs encouraged their members to lobby the provincial government to provide funding for the recruitment and training of female probation officers and social workers. Where there was an absence of trained social workers, Club members networked and wrote

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<sup>57</sup> Part of the initial training of correctional officers occurred at the RCMP barracks under the supervision of Deputy Commissioner McCulley. This program was 6 weeks long, covering a wide range of issues. The objective of the Penitentiaries Branch was to train professionally all of the officers working in penitentiaries. Address delivered by Major R. Gibson, Commissioner of Penitentiaries, on February 16th, 1948, at a meeting under the auspices of the School of Social Work, University of Toronto, page 6. *TUWC*.

<sup>58</sup> Address delivered by Major R. Gibson, Commissioner of Penitentiaries, on February 16th, 1948, at a meeting under the auspices of the School of Social Work, University of Toronto, page 6. *TUWC*.

to the Department of Health and Welfare in Ottawa to lobby and record their approval of federal grants to schools of social work. In May 1949, the Toronto Study Group on Penal Reform recommended to their membership at their annual meeting that the Club "continue to study the problem of women and girl offenders" and to lobby for the appointment of a female Assistant Minister of Reform Institutions. This advocacy role meant that the University Women's Club was able to forge links with other like-minded organizations and women such as Business and Professional Women's Study Group.

The Club's primary interest was in promoting employment opportunities for women, primarily because women were perceived to be the most appropriate candidates for certain jobs. For example, in one of their reports on penal institutions, members of the study group wrote:

We are aware that custodial care, particularly of juvenile delinquents is an expensive business, but we feel that there was some need of an over-all good housekeeper. We should like to see a capable business woman in the Department in close touch with the institutions, who could budget for and supply their needs. Such a person could be of great support to staff and save money. More important is the need of women in the Mercer to have their cases heard and decided by women on the Parole Board.<sup>59</sup>

The need for efficient management of finances was presented as a need for an "over-all good housekeeper". Their advocacy for women parole officers also infers that women were best suited to hear and deliberate on the cases of women prisoners,<sup>60</sup> and that "the considerably higher percentage of failures among women parolees than among men parolees [was] attributed to this lack [of female parole officers]".<sup>61</sup> Regardless of their motivation, their efforts were successful and, by September of 1953, three women probation officers were appointed to newly established posts in Ontario to

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<sup>59</sup> Report of the Group for the Study of Penal Reform, March 28, 1953. *TUWC*.

<sup>60</sup> These concerns were also prepared as resolutions and presented to Major Foote, the Minister of Reform Institutions. Most of the University Women's Clubs in Ontario endorsed and submitted similar resolutions. *TUWC*.

<sup>61</sup> Report of the Group for the Study of Penal Reform, November 18, 1954. *TUWC*.

work primarily with female offenders.

Most of the post-war advocacy surrounding the training of the female offender stressed the importance of rehabilitation. Given this emphasis on rehabilitation, the most appropriate candidates to train female offenders were thought to be social workers or individuals professionally trained in modern techniques of penology. Professionally trained men and women began to replace matrons who often had little or no formal training. An increased reliance on professionally trained social workers, psychologists and psychiatrists was reflected in institutional practises. In 1957, Mrs. M. E. Batstone became the first social worker officially appointed to the staff of the Prison for Women.<sup>62</sup> She was responsible for the rehabilitation of prisoners, working closely with local Elizabeth Fry Societies, the Salvation Army, and Children's Aid Societies, who were often responsible for the care of the children of prisoners.

In the United Kingdom, it appears that women's prison programs were, in the post war period, largely run by experts. For instance, Sim (1990: 157) notes that scientific experts and the research conducted by prison medical staff, academics and other medical workers helped to set the rigid parameters within which the woman's actions were explained. It also legitimized individualized and often painful interventions into their lives. However, given the tendency of most researchers to focus solely on expert knowledges and interventions and not on non-expert and everyday knowledges, it is possible that forms of expert governance are overstated. Given the absence or inaccessibility of medical and psychiatric records and program descriptions, the level of "expert intervention" into the lives of women at the Prison for Women is difficult to ascertain. However, one would expect that if a comprehensive scientific rehabilitative regime occurred at the Prison for Women in the post war era records would exist.

#### **4b. Household Management at the Prison for Women**

As requirements for additional office and programming space increased throughout the 1950s, the customary practice of having the supervising matron and other members of the Prison for Women

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<sup>62</sup> *Annual Report of the Commissioner of Penitentiaries, 1957-58.*

staff reside in small apartments inside the main institution was discontinued. At the same time (1960), the supervising matron's position was abolished with the appointment of Isabel Macneill as the first superintendent of the Prison for Women. Isabel Macneill, wartime commander of the *Women's Royal Naval Service* (WRENS), later became the warden of the Prison for Women in 1960 when it was administratively separated from Collins Bay Penitentiary and Kingston Penitentiary. Most observers acknowledged that she was the best thing that ever happened to the prison (McNeil and Vance, 1978: 81). In spite of her non-traditional career choices, she still firmly believed that domestic training could provide women prisoners with skills that were central to the everyday lives of women who were likely to spend large portions of their lives in the kitchen or doing household chores.<sup>63</sup>

Superintendent Macneill was directly responsible to the Commissioner of Penitentiaries for the treatment and training of prisoners and for the direction and discipline of staff. For these purposes, Macneill was given all the disciplinary powers of a warden, and certain other powers necessary for the effective discharge of her responsibility. However, the warden of Kingston Penitentiary, and later the warden of Collins Bay Penitentiary,<sup>64</sup> retained responsibility for several fiscal and administrative duties<sup>65</sup> that were eventually transferred to Regional Headquarters of the

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<sup>63</sup> For a more detailed description of the domestic science program at the Prison for Women see: Jean Webb (1965) "Not By Salads Alone" *Federal Corrections* Kingston: Regional Headquarters of the Correctional Service of Canada. *PM*.

<sup>64</sup> As of July 1, 1962, the responsibility for certain administrative services at the Prison for Women was transferred, by order of the Commissioner, from Kingston Penitentiary to Collins Bay Penitentiary. Surviving records do not clearly outline the reasons for this transfer of duties. *PM*.

<sup>65</sup> Some of the responsibilities withheld from the matrons and the first superintendent of the Prison for Women included: final compilation of annual estimates; accounting for money appropriated for the operation of the Prison for Women; administration of personnel; provision of rations; maintenance of buildings and services; provision of tasks and overall supervision of industrial work. Superintendent Macneill repeatedly lobbied for the financial autonomy of the Prison for Women. She insisted that the institution could not operate successfully unless it was financially separated from the larger men's penitentiaries. *PM*.

Correctional Service in 1963.<sup>66</sup> The elimination of both the matrons' positions and the position of supervising matron was significant because these changes fundamentally altered the implied maternal organization of the prison. The removal of matrons' living quarters fractured a common bond of institutional living, thereby compromising the illusion of a "home-like" atmosphere. This professional distance was in keeping with a new therapeutic model, but it directly undermined the notion of a home-like atmosphere sought by earlier administrators.

Macneill believed that putting women in prison was a waste of time and resources, and she attempted to feminize what she believed to be an overtly harsh and masculine prison environment. She tried to improve both the physical environment and the level of training and programs offered to prisoners, despite a great deal of resistance from male bureaucrats at the newly established Regional Headquarters (RHQ) of the Correctional Service of Canada. Although she was officially placed in charge of the Prison for Women, her decisions regarding daily operations were often questioned by senior male bureaucrats. For example, she attempted to personalize the prison environment by allowing women to put up curtains over their cell bars in order to create a small degree of privacy, and she stressed the importance of finding "meaningful programs". Her attempts to create a "freer and more normal environment" were scrutinized because these efforts were inconsistent with wider correctional objectives of formal discipline and surveillance. For example, she describes her conflict with Regional Headquarters over her concessions to allow curtains in the following passage:

The women hang curtains over those horrible bars (at their cell doors) because they tried to feminize and make the place a little more humane. The regional director came and said those must be removed because the staff cannot see what is going on in the cells. I said we should let them have some privacy in their lives and he said: 'no, you must put up polyurethane curtains and I will order them.' So I said he could order them and but I would not put them

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<sup>66</sup> Regional Headquarters (RHQ) Ontario, which came into operation on April 1, 1963, then assumed certain responsibilities vis-a-vis the Prison for Women and other institutions within its regional jurisdiction. In October of 1963, those responsibilities were extended to include the recruitment of staff for all institutions in the Ontario region. *PM*.

up. So we had a conflict this over this sort of thing...<sup>67</sup>

Her feminine approach to prisoner reform was not perceived by many male administrators to be a “legitimate” form of discipline. Struggles over trivial matters shaped the daily administration of Prison for Women; Macneill had to fight for nearly every program and concession granted to the women at the prison. She was the first woman to govern a federal penitentiary and her ideal of discipline was somewhat different from her male counterparts. Her feminized but nonetheless militaristic style received mixed reviews. She was before her time in advocating alternatives to custody and rehabilitation programs. For Macneill, rehabilitation meant training women in necessary and “appropriate” education and vocational skills. She supported programs geared towards this end.

#### **4c. Specialized Penal Training in Household Management**

Reform narratives of this time period repeatedly highlight the importance of cleanliness, neatness and order in women’s prisons and prisoners’ demeanour. The physical appearance of prisoners and their ability to maintain their environment appropriately was a central measure of the effectiveness of a prison’s administration and management. Advocates of domestic reform techniques at the Prison for Women had three objectives: to train women prisoners in household management; self-improvement; and the reintegration of women into proper roles in the community. While there is some evidence to suggest matrons at the Prison for Women were informally involved in this type of training since its opening in 1934, maternal reformers reaffirmed the importance of these objectives in the 1950s. Descriptions of the domestic science program at the Prison for Women identify it as a rehabilitative program. However, this program resembled several earlier maternal reform strategies used by early penal reformers and administrators.

Home Economic courses were perceived by Macneill as integral to the training of women prisoners who were considered “potential home-makers.” To implement this technology, Isabel Macneill hired a professionally trained domestic science instructor in 1962, and secured funding to

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<sup>67</sup> Interview cited in McNeil and Vance (1978: 81-82).

build a fully equipped home inside the walls of the prison. This small bungalow home, better known as "the little house"<sup>68</sup> is described by Webb (1965: 2) as follows:

The house is surrounded by flower beds, trees and shrubs, and a small vegetable garden.

Once the last barrier of the institution closes behind you, you step into the front entrance hall of the bungalow, you are mesmerized by the complete change in atmosphere. You literally become part of the warm odours of baking, mingled with the clean smell of soap suds from the laundry room, which permeate the house. Each room is immaculate, kept that way by the girls as much through pride in surroundings as from the inevitable chastisement untidy house-keeping brings from Mrs. Hof.

The house training program was governed by Mrs. Betty Hof, the prison's qualified domestic science instructor, who apparently controlled and disciplined "her brood like mother hen."<sup>69</sup>

Descriptions of Mrs. Hof's management of the prisoners in her charge evoke an image of a caring but firm mother who endeavoured to create a supportive home-like environment. The women temporarily residing in this house followed a 10-week regime that included instruction in meal preparation, home-care, and personal grooming. The meal preparation component taught women skills in home-baking and an appreciation for thriftiness and budgeting. This program, like several other techniques designed to regulate the conduct of women prisoners, focused on training women in proper habits. The professionalization of Mrs Hof's role, as a domestic science instructor rather than a mother, shows how women's maternal knowledges continue to be part of "scientific rehabilitation". The following description of "waste" evokes a number of familiar images of mothering and the necessary disciplining of children to instill certain habits:

Waste is not allowed, and while the trainees are allowed to eat as much as they wish during the noon meal, once the food is on their plates, it must be eaten. They learn that while certain dishes are more appealing than others, a variety of food is essential, and the palate of

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<sup>68</sup> The "little house" at the Prison for Women in Kingston is no longer used for this purpose. It is now a private family visiting trailer used to accommodate occasional overnight visits from partners and families of federally sentenced women.

<sup>69</sup> Mrs Betty Hof was educated in Germany, where she studied Household Science.

everyone eating the meal must be taken into consideration (Webb, 1965: 3).

Mrs. Hof's regime was further praised for its "emphasis on economy in meal planning" and for "periodic lectures about the hungry people in the world". As with the preparation of meals, women were provided with maternal guidance as they learned some of the finer skills in keeping a house in "orderly shape". To this end, every woman was expected to participate in a weekly regime of heavy cleaning that included: washing and waxing floors and furniture; scrubbing cupboards and appliances; cleaning silverware; and laundry. Preparing for company was also taught to these prospective home makers by teaching them skills in setting a table, serving tea and saying grace before meals.

Emphasis on social and personal habits was a popular technique of penal governance that was often legitimated through a rehabilitative narrative. Many of these strategies were premised on the belief that women prisoners were not trained by their biological mothers to govern themselves properly. Habit-based training stressed particular social class, race and gender norms. For example, prisoners' grooming habits were highly regulated. They were required to maintain a "pleasing" appearance and were instructed in personal hygiene. Personal grooming was considered important because:

... most [of the prisoners in the program] are not married, and while the way to a man's heart is through his stomach, the old adage tells us, he must first be lured by a pleasing appearance (Webb, 1965: 3).

In spite of the obvious heterosexist ideology, advocates of this type of habit training also appealed to the "healthy" benefits of proper personal grooming. Concerns about "healthy" relationships and grooming was further institutionalized in vocational programs, such as hairdressing and cosmetics. Emphasizing a woman's appearance became a wider strategy to morally regulate her by creating "a marriageable woman". It was believed that if a woman was pleasurable to the eye then, despite of her criminal record, she could attract a suitable mate and regain some of her respectability and status in the law-abiding community. Hence, women were encouraged to develop healthy habits that enhanced their beauty, such as hairdressing and physical fitness.

In some extreme cases women participated in forms of experimental cosmetic surgery in

order to improve their appearance or to remove tattoos and other blemishes (Richmond, 1975; Mitford, 1973; Chandler, 1973). Plastic surgery was one of the “new treatment techniques” introduced at Oakalla in 1953 to correct “any disability which might have contributed towards delinquency, such as scars, squints, unsightly or obscene tattoos” (Richmond, 1975: 48). In addition to these methods of normalization, women also participated in aversion therapy, behaviour modification programs including electroconvulsive therapy, group therapy, and other modern techniques of psychological treatment popular in the 1950s (Ekstedt and Griffiths, 1988: 54). Whilst these techniques were most commonly used in provincial reformatories, they were also used at the Prison for Women in combination with more maternal technologies of physical, spiritual, and emotional improvement.

This normative emphasis on feminine appearance and social habits continued well into the 1970s at the Prison for Women. Prisoners were encouraged to dress neatly and wear makeup. Eventually clothing regulations were relaxed. Instead of wearing institutionally manufactured and issued clothing, women were permitted to wear their own clothing and jewellery and to wear clothing ordered from department store catalogues. In the 1970s, administrators at the Prison for Women reinforced heterosexuality, monogamy and femininity among women prisoners by sponsoring weekly Saturday night dances with students from Queen’s University Law School.<sup>70</sup> These dances were precipitated by homophobic concerns about lesbian activity in the prison. Additional concerns about the creation of an “unnatural” all-female environment led to an increased acceptance and reintroduction of male correctional staff into the prison. The dances, however, were a source of concern for the guards’ union (Public Service Alliance of Canada), who felt these dances were unnecessary concessions that created a security risk. The two most prominent concerns were: the development of affectionate relations between male law students and women prisoners; and the increased potential for smuggling of drugs into the institution. Some guards believed that women should not be given the opportunity to form intimate relationships (with men or other women prisoners) while in prison, and that, in this particular case, there was a possibility that women might

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<sup>70</sup> *PM*.

use their “charm” to convince visitors to bring contraband into the institution.<sup>71</sup>

## **5. Conclusions**

Informed by the notion of separate spheres, maternal reformers and state officials at the turn of the century argued in favour of all-female institutions, “prisons uncontaminated by male influence, in which criminal women would receive sympathetic care from members of their own sex” (Rafter, 1992: 46). In many ways, the development of separate prisons for women marked the institutionalization of differential treatment of women prisoners. Facilities such as the Prison for Women featured some remnants of early maternal strategies, but they were, by and large, a regime designed for women who were perceived to be beyond hope of maternal and spiritual redemption. It was not until the early 1950s that expert-based rehabilitative strategies emerged.

The programs and techniques of reform that emerged at the Prison for Women in the post-war period reflected both “everyday”, non-expert forms of governance such as the encouragement of feminine appearance, and new psychiatric and social work technologies. The operationalization of new penal logics and their integration into pre-existing regimes was erratic and unpredictable. Programs emerge when they are politically expedient, and they are to a degree dependent upon the leadership of charismatic figures like Matron Walker, Mrs. Cherry, Superintendent Macneill, and Mrs. Hof. Volunteers, like the women at the University Women’s Club and later the Elizabeth Fry Society, are essential to the development and design of rehabilitative programs for women.

Many are still inclined to read the history of women’s imprisonment as a series of techniques of governing that neatly and easily replace one another over time. Likewise, it is argued that disciplinary power is connected to expert knowledges which replace non-expert knowledges. This chapter showed how a range of technologies of governing, knowledges and forms of power can simultaneously exist and shape the regime of a particular institution. While this chapter stressed state penal governance, the following chapter will extend themes and show how non-state agents and volunteers play an equally important role in the governance of women prisoners, and how “everyday” knowledge of women is blended with expert systems such as social work and psychiatry.

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<sup>71</sup> *PM* and interview data.



Figure 6. Building of Prison for Women, Kingston, Ontario, October 1931.  
Courtesy of Kingston Penitentiary Museum Archives, Kingston, Ontario

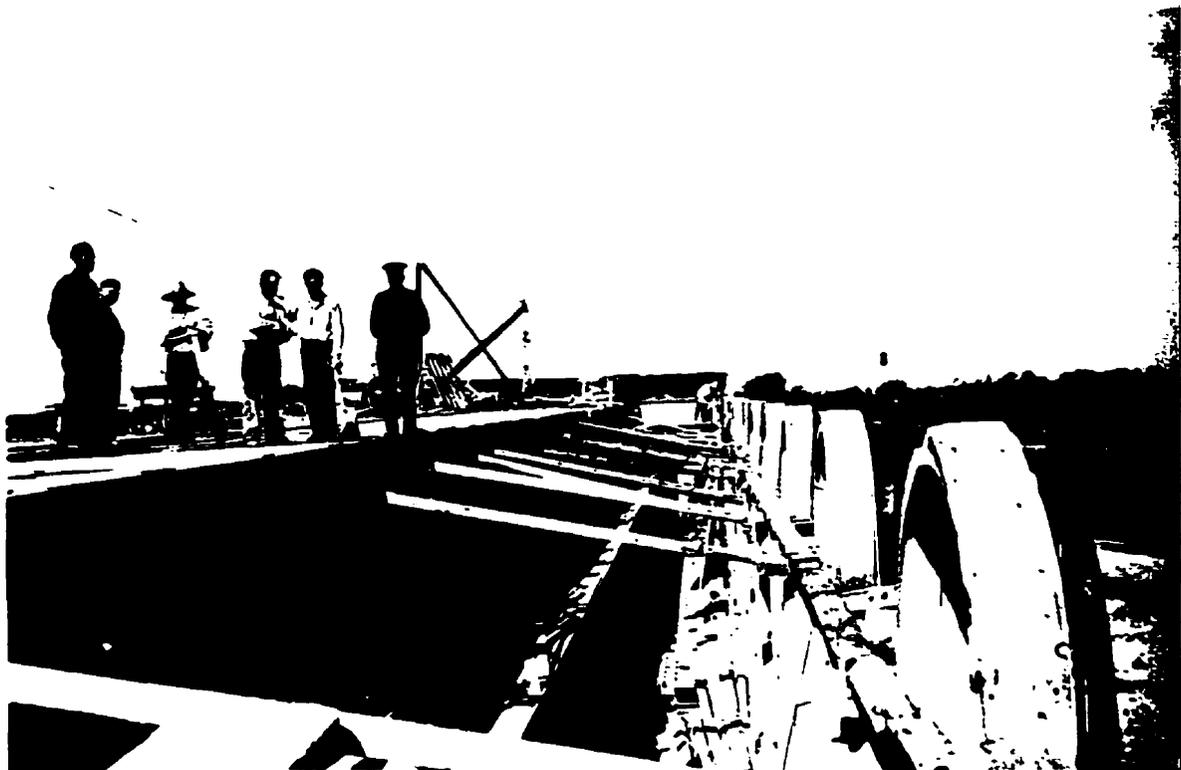


Figure 7. Building of Prison for Women. Inmate workmen and officers from Kingston Penitentiary, c. 1928-29.  
Courtesy of Kingston Penitentiary Museum Archives, Kingston, Ontario.



Figure 8. The main gate of the Prison for Women, Kingston.  
Courtesy of Kingston Penitentiary Museum Archives, Kingston, Ontario.



Figure 9. Female inmates making shirts in Prison for Women, 1962.  
Courtesy of Kingston Penitentiary Museum Archives, Kingston, Ontario.



Figure 10. Mrs. Vera Cherry, c. 1930s.  
Courtesy of Kingston Penitentiary Museum Archives, Kingston, Ontario.



Figure 11. Isabell Macneill, Superintendent at Prison for Women, 1961.  
Courtesy of Kingston Penitentiary Museum Archives, Kingston, Ontario.

## Chapter Four

### A Disciplined Sympathy: Women's Prison Reform (1945- 1970)

At the turn-of-the-century women reformers were considered to be “experts on their sex”. The lay knowledges of women, like Elizabeth Fry were incorporated into many penal regimes; however, this knowledge was marginalised with the rise of professional expert knowledges, like psychiatry in the early twentieth century. This competing notion of expertise was associated with formal training and qualifications. Forms of prisoner training that previously relied on women's everyday maternal knowledge, like house cleaning, cooking and child rearing became the subject of formal university courses, like domestic science: being a well-intentioned, virtuous women and a good mother, no longer qualified women as experts on their own sex. By the mid 1940s, several women reformers had acquired bachelors' degrees from universities, but rather than acknowledging themselves as experts on female crime, well-meaning volunteers used their status in University Women's Clubs and in the community to advocate for the hiring of professionally trained psychiatrists in women's prisons. While women reformers trained in social work and domestic science actively participated in the reformation of women prisoners, they were not given the same professional expert status as male psychiatrists or psychologists. Some women reformers trained in social work pursued a career in the area of corrections by designing “treatment” programs for women, but most reformers continued to rely on their everyday knowledges to govern the conduct of women in conflict with the law.

Scholars interested in the therapeutic regulation of women prisoners have focused on state agents of social control, and on the ways in which these agents construct and respond to the “disturbed” or “maladjusted” female offender (Edwards, 1981; Dobash, Dobash, and Gutteridge, 1986; Allen, 1987a; 1987b; Carlen and Worrall, 1987; Sim, 1990; Chunn and Menzies, 1990; Kendall, 1993b; Faith, 1993; Smart, 1995). The activities of women penal reformers and their role in the governance of incarcerated women, by contrast, are largely unexplored. The rehabilitation of prisoners is usually considered to be a function of the state and male experts; however, women reformers working with women prisoners played an active role in the promotion of psychiatric and

therapeutic services at the Prison for Women and other prisons.

Reformers, like early prison staff, used “everyday” knowledge to govern women’s leisure habits and to create “lady-like” subjects. The actions of early Elizabeth Fry reformers were consistent with those of prison staff. In the late 1950s, reformers, like state officials, pathologized women’s deviance and operated under the assumption that women offenders required treatment. Although the state often supported and sometimes funded the initiatives of women reformers, it did not act independently to create specialized treatment and training programs for federally sentenced women.<sup>1</sup>

The creation of a postwar women’s penal reform movement in Canada brought about a wider change in women’s penalty. In the early 1950s, a small network of enthusiastic women volunteers and professionals interested in helping women in prison emerged. This initial interest resulted in the creation of a network of autonomous Elizabeth Fry Societies, which became the backbone of community services and treatment programs for women in Canada. Reformers of this generation were concerned, as were their predecessors, about prison conditions for incarcerated women; but they were more actively involved in lobbying for the hiring of professionals such as social workers and psychiatrists, and in particular for the hiring of professionally trained women. Many of these reformers were professionally trained in education, social work and other areas. Reformers used a combination of expert and everyday knowledge to design “socially useful” normalization techniques for prisoners.

Non-state reformers supported both postwar ideals of domesticity and femininity (challenged by the liberal equality strategies of the next generation of reformers) and early feminist analysis of women’s criminality. This chapter focuses on the role of reformers in promoting rehabilitation and their knowledge of the female offender. It stresses four interrelated themes: the intersection of various logics and technologies of reform (social work and maternal); the governing of women prisoners by private agents; the interdependence of state and private reformers; and the politicization of the

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<sup>1</sup> As noted in chapter three, historical accounts of the absence and inadequacy of programmes at the Prison for Women dominate Canadian research on federally sentenced women (Shaw, 1991a; 1991b; 1992a; 1992b; Moffat, 1991; Adelberg and Currie, 1993; Faith, 1993; Kendall, 1993a; 1993b). Several state-sponsored commissions and inquiries into the operation of federal corrections also support this contention (Archambault, 1938; Gibson, 1947; Fauteaux, 1956; Ouimet, 1969; Royal Commission on the Status of Women, 1970; Clarke, 1977; MacGuigan, 1977; Needham, 1978; Daubney, 1988; and Arbour, 1996).

experiences and needs of women prisoners. I argue that agencies such as the Elizabeth Fry Society played an important role in the development and administration of programs designed to regulate women's leisure habits and life aspirations. However, they also played an equally important role in politicizing of the social conditions linked to women's crime and in shaping public sensibilities about female offenders. This chapter outlines a brief history of the establishment of Elizabeth Fry Societies in Ontario and their role in the prison reform. While many organizations have shown a brief interest in the female offender, Elizabeth Fry Societies were established for the sole purpose of aiding women in conflict with the law. I show how reformers used non-expert techniques to govern the habits and conduct of female offenders in prison and in the community. I argue that these strategies of governance relied on post-war maternal and later psychiatric views of women's rehabilitation. I show how one Elizabeth Fry leader, Phyllis Haslam, played a central role in the politicization of women's needs and in the collection of information about the male offender. Finally, I argue that rehabilitation is a flexible and enabling logic that can be used to legitimate a wide range of expert and non-expert interventions and reforms.

### **1. The Development of An Ontario Women's Penal Reform Network**

Given the state's reluctance to invest in the rehabilitation of women prisoners, women's reform organizations undertook the task of administering services through their own voluntary efforts, but also continued to stress the state's duty to care for and reform women prisoners. In 1953, after five years of active work in penal reform, the Toronto University Women's Club invited members from other women's clubs (including the Junior League of Toronto, the Welfare Council, the Big Sister Association, the Business and Professional Women's Club, the Women's Law Association, and the Elizabeth Fry Society) to a meeting at the home of Mrs. Dale Harris. The purpose of the meeting was to "consolidate efforts of women's groups working toward the improved administration of justice for women offenders in Ontario".<sup>2</sup> These groups formed *The Penal Reform for Women Joint Committee*. This umbrella organization sent recommendations to the provincial government. This Committee continued to lobby for additional female probation officers, an increased

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<sup>2</sup> Report of the Group for the Study of Penal Reform, May 28, 1953. *TUWCA*.

use of probation for first-time female offenders, and increased training for female probation officers. The committee also lobbied for a new institution with “cottage-like” facilities to replace the Mercer, for the classification and segregation of female offenders, for women’s drug and alcohol programs, and for the hiring of a female “parole and rehabilitation” officer at the Mercer to ease the discharge of female offenders.<sup>3</sup> Participation in the Penal Reform for Women Joint Committee continued to increase over the next year, as did the political power of the committee, and in 1954 it secured a meeting with the Premier. At this meeting they formally presented their brief and argued the changes that later occurred at the Andrew Mercer Reformatory. The committee stated that the meeting served three purposes: to make formal recommendations about the treatment of female offenders; to illustrate the support and cooperation among women’s organizations throughout the province for the improvements sought; and to request that their recommendations for improvement be implemented when possible.<sup>4</sup>

In May of 1954, the University Women’s Club of Toronto deemed that “the Club’s participation in the Joint Committee would be sufficient to maintain its interest in penal reform, and that the Club’s efforts could be directed solely towards that participation”.<sup>5</sup> Subsequent activities of the Toronto Club occurred with the Joint Committee, and the Club no longer acted independently on matters of women’s prison reform. Eventually, the University Women’s Club of Toronto’s involvement in prison reform efforts was limited to that of financially supporting the Elizabeth Fry Society of Toronto with a corporate membership and involvement with the Penal Reform Joint Committee.<sup>6</sup> The final set of minutes in the records of the Toronto Club indicate an ongoing interest in the activities of the Joint Committee. The Club was specifically interested in the use of solitary confinement in relation to girls and women in Europe, Canada, and the United States. Although the

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<sup>3</sup> Report of the Group for the Study of Penal Reform, November 19, 1953; May 31, 1955. *TUWCA*.

<sup>4</sup> University Women’s Club of Toronto, Annual Report of the Group for the Study of Penal Reform, February 17, 1954. *TUWCA*.

<sup>5</sup> Report of the Group for the Study of Penal Reform, May 31, 1954. *TUWCA*.

<sup>6</sup> *TUWCA*.

Club continued to send a representative to these meetings, their active interest in women's penal reform diminished after 1957. The records of the Club showed no continued interest in this issue.

In some communities, the founding of the John Howard Society of Ontario (1929), an organization concerned with male prisoners, redirected the efforts of the Local Councils of Women's and University Women's Clubs, who had been involved with women prisoners and penal reform. The University Women's Club and Local Councils of Women reportedly sent representatives to the meetings of the John Howard Society to keep apprised of their work. The penal reform efforts of the British Columbia University Women's Club were eventually filtered through representatives at John Howard Society meetings (Stewart, 1993: 19). In Ontario, women's organizations such as the University Women's Club and the Elizabeth Fry Society seemed to act quite independently of the John Howard Society. However, the John Howard Society continued to support the efforts of women volunteers in communities which did not have an established Elizabeth Fry Society. They also actively supported Elizabeth Fry Societies when they opened. The John Howard Society participated in the formation of the Hamilton Elizabeth Fry Society in 1971, and strongly supported their visiting activities at the Barton Street Jail in Hamilton, Ontario (Stewart, 1996: 1). The Ottawa Elizabeth Fry Society also forged links with the local John Howard Societies.<sup>7</sup>

## **2. From Kindness to Expertise: Elizabeth Fry Society (1939 - 1970)**

Elizabeth Fry Societies are autonomous agencies that work with, and on behalf of, women involved with the justice system. These Societies are "community based agencies dedicated to offering services and programs to women in need, advocating for reforms and offering fora within which the public may be informed about, and participate in, all aspects of the justice system as it affects women".<sup>8</sup> Today, these organizations reflect a wide range of views from radical feminist to conservative maternalism. There are 21 member agencies across the country registered with the Canadian Association of Elizabeth Fry Societies (CAEFS), a national federation of local Societies. This chapter focuses on the efforts of prison reformers in Ontario between 1950 and 1970, and more

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<sup>7</sup> *Ottawa Elizabeth Fry - Historical Records*; hereafter, *OEFS*.

<sup>8</sup> Canadian Association of Elizabeth Fry Societies 1995- 1996 *Annual Report*.

specifically on some of the activities of the Toronto, Ottawa and Kingston Elizabeth Fry Societies.

Elizabeth Fry Societies of the early 1950s were a product of their time, and most Societies advocated a post war maternal logic. The founding mothers of Canadian Elizabeth Fry Societies came from a diverse array of backgrounds in philanthropy, politics, and social reform. The formal organization of the Elizabeth Fry Society in Ontario grew out of a passionate commitment of prominent women like Agnes Macphail,<sup>9</sup> Margaret McClelland, Dr. Margaret Maclean, Flora Macdonald, Muriel Fergusson<sup>10</sup> and many others involved in the National Council of Women of Canada and University Women's Clubs. The first Elizabeth Fry Society was established in British Columbia, in 1939. Elizabeth Fry Societies emerged in Kingston (1949), Toronto (1951), and Ottawa (1951) with the mandate to serve women in conflict with the law. They have since grown and maintained a monopoly in this area. Each of these local societies has a separate history and personality; however, they all follow the spirit and legacy of the eighteenth-century Quaker reformer, Elizabeth Fry. Unlike Elizabeth Fry herself, the women reformers who organized under her name in the mid-twentieth century did not strictly subscribe to the ideal of religious training. Elizabeth Fry Societies were actively involved in arranging for the provision of multi-denominational chaplaincy services for incarcerated women. However, they advised their members against using their visits to proselytize. Although agency volunteers and staff tended to be white middle-class Christian women,

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<sup>9</sup> Initially, Macphail was not particularly interested in the plight of female convicts. Macphail's initial interest in prison reform stems from experiences with male convicts. This interest gradually developed into a concern for incarcerated women. Throughout the 1930s, Macphail lobbied for an "impartial" investigation into the Canadian penitentiary system. She had many concerns about the living conditions in Canadian penitentiaries, the failure to reform convicts, the lack of adequate classification of convicts, the absence of useful and constructive penal labour, health care in prisons, corporal punishment and the blatant disregard for human rights which was pervasive in many penal regimes (Pennington, 1986). Conditions in the women's penitentiary were not much different from those of men's. After the war, Macphail began to fight for improved prisons for women, and in the early 1950s she was instrumental to the founding of the Toronto Elizabeth Fry Society. For a more detailed discussion of the challenges Macphail faced see: Doris Pennington (1986).

<sup>10</sup> Muriel McQueen Fergusson was the first woman to be the speaker of the Senate. The Ottawa Elizabeth Fry Society's Fergusson house is named after her and in appreciation of her struggle for legal reforms for women and for the development of rehabilitative programs for women in penitentiaries. *OEFS*.

some agencies, like the Toronto Elizabeth Fry Society, made a point of including individuals with a wide variety of backgrounds on their founding boards of directors. For example, the founding president of the Elizabeth Fry Society of Toronto notes that

...they made strenuous efforts to make the society a broadly based organization that would be truly representative of the whole community. They succeeded in attracting people who represented Jewish, Roman Catholic and most of the Protestant denominations, and of many diverse occupations.<sup>11</sup>

Networking was critical to the success of this new organization:

This enlarged group made initial contacts with dozens of groups, clubs and organizations; they enlisted the support of newspaper and radio editors, writers and commentators; they explored the possibilities that might provide financial support; after surmounting many difficulties they started visiting the Mercer Reformatory and working with women after release; they approached and interpreted their aims to governments at three levels: municipal, provincial and federal.<sup>12</sup>

The Elizabeth Fry Societies were members of the National Council of Women of Canada (NCWC), a national umbrella organization of women's groups and of Local Councils of Women,<sup>13</sup> and once established, became the conduit for the activities of the NCWC, and local agencies (Griffiths, 1993: 353). Local Councils, University Women's Clubs and other women's organizations were kept informed of the activities of the Elizabeth Fry Society and wherever possible they would support their projects.

Local societies often began with informal monthly meetings in women's homes and church basements. At these meetings, women discussed how they could help women in jail, and how to

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<sup>11</sup> Newsletter of the Elizabeth Fry Society of Toronto (1978) - special issue in honour of Phyllis Haslam. *TEFS*.

<sup>12</sup> Newsletter of the Elizabeth Fry Society of Toronto (1978) - special issue in honour of Phyllis Haslam. *TEFS*.

<sup>13</sup> Memberships in Local Councils of Women and the Elizabeth Fry Society often overlapped. Membership in the NCWC and Local Councils of Women is based on the discretion of individual Elizabeth Fry Societies. The Canadian Association of Elizabeth Fry Society, however, continues to be a member in good standing with the NCWC.

improve rehabilitative opportunities for women prisoners recently released from jail.<sup>14</sup> The Toronto Society, for example, was started in 1950 by a small group of women in the First Unitarian Congregation of Toronto, who believed that social action was needed to improve the conditions of prisons and to ensure the recommendations of the 1938 Archambault report were implemented. These women (known as the Alice Huston Alliance) invited Agnes Macphail, a Member of Parliament who was interested in penal reform, to a spring meeting to seek advice on how to proceed.<sup>15</sup> Macphail informed the group of the absence of services for women comparable to those offered to men through the John Howard Society. She encouraged them to “lay the foundations of the first female after care agency in Toronto” (Cowley, 1978: 8). With Agnes Macphail as their honorary president, the Elizabeth Fry Society of Toronto was publicly recognized as an after care agency for women in conflict with the law on May 13, 1952 (Cowley, 1978: 8).

Elizabeth Fry representatives visited local jails, the Prison for Women, the Mercer (which was closed and replaced by the Vanier Centre for Women, Brampton, Ontario in 1969) and several juvenile detention centres. When they visited jails and penitentiaries they observed that there were few amenities, meaningful programs or recreational opportunities.<sup>16</sup> Women who visited the Carleton County Jail in Ottawa in the early 1950s collected odd pieces of used furniture to furnish a common room in the women’s section of the prison. They also started a sewing program and provided women prisoners with materials and tools to make clothing and stuffed animals that were later sold by the Society to raise money to help improve prison conditions. Volunteers also provided women with basic amenities, such as soap, hair combs, pens, and paper.<sup>17</sup> Similar activities occurred at the federal Prison for Women in Kingston. Beginning in 1949, the Kingston Elizabeth Fry Society regularly visited the Prison for Women to provide educational and recreational services. Some of these

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<sup>14</sup> Meetings and social events were also used to raise funds for the philanthropic work of members of Elizabeth Fry Societies.

<sup>15</sup> Cited in an unpublished essay by Brenda Cowley (1978: 8) titled “The Political Effectiveness of Phyllis Haslam.” *TEFS Archives - Haslam File*.

<sup>16</sup> “The First Forty Years of the Elizabeth Fry Society of Ottawa”. *OEFS*.

<sup>17</sup> “The First Forty Years of the Elizabeth Fry Society of Ottawa”. *OEFS*.

activities included French and English classes, leather, hobby craft and art classes, physical education programs, sports tournaments, special events and concerts, and folk dancing.<sup>18</sup>

Emerging Elizabeth Fry Societies were primarily interested in the rehabilitation of women prisoners and the provision of community after care services to support women released from penal settings. The general mandate of the Elizabeth Fry Society was

...to act in all areas which can contribute to the effective rehabilitation of the offender. These areas include the laws under which the offender is charged, the jails in which she is held, the courts in which she is tried, the kind of sentence she receives, the design, program, personnel of the prison in which she serves her sentence, the use of probation and parole and access to bail, and the attitude of the community to which she returns after her sentence (Cowley, 1978: 12).

This mandate was quite consistent with the wider ideals of the federal Penitentiary Branch and the provincial correctional authorities, who firmly supported offender rehabilitation. While these societies were evolving in the early 1950s, a variety of government correctional initiatives were being designed to facilitate rehabilitation. These included: the development of individualized classification procedures, the creation of domestic science programs, the training of guards in modern principles of penology and the hiring of more professional staff.<sup>19</sup> In support of the goal of rehabilitation, Elizabeth Fry members advocated practical interventions combined with the use of modern techniques of social work (Stewart, 1993: 25). In essence, Societies advised Elizabeth Fry volunteers to adopt the same strategies as professional social work “experts” in their attempts to facilitate the rehabilitation of women prisoners. Initially, the goals of Elizabeth Fry Societies were threefold: rehabilitation of female prisoners; education of the public to support penal reforms; and the scientific study of the reasons for women committing offenses.<sup>20</sup>

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<sup>18</sup> *Annual Report of the Commissioner of Penitentiaries, 1948-60.*

<sup>19</sup> Address delivered by Major R.B. Gibson, Commissioner of Penitentiaries, On February 16th, 1948, at a meeting under the auspices of the School of Social Work, University of Toronto, page 6. *TUWCA*

<sup>20</sup> For some additional information on the early activities of the Elizabeth Fry Societies see: Dorothy Hart (1959); Lee Stewart (1993).

To fulfil their mandate, Elizabeth Fry workers and volunteers designed institutional and community interventions which they believed targeted the causes of women's crime. Volunteers were actively engaged in the regulation of the habits of women prisoners, and later parolees. They believed that one of their main tasks was to reinforce appropriate behaviours through role modelling, mothering and befriending women. Most of their early interventions focused on creating "legitimate" and "socially useful" leisure activities and options for women both inside and outside prisons. Elizabeth Fry workers quickly gained the respect of prisoners. A 1959 article in the *Telescope*, a prisoner's newspaper, noted that

Any woman in the Mercer or Kingston Penitentiary, if she is so minded, may call upon an Elizabeth Fry worker for advice and counsel. She may talk over her plans for the future and come to feel that she has friends ready to listen to her and to help her. For those without family or friends the workers fill a great gap in their lives (Hart, 1959: 24).

These relationships were often regarded positively by clients of the agency and by the state. Over time certain state surveillance activities, especially parole supervision, counselling, and treatment program delivery were taken over by some local Elizabeth Fry Societies. The state financially supported the work of local agencies through contracts for parole supervision and program development. This financial relationship brought a series of legal obligations that required agency staff to monitor paroled offenders' behaviours and report any infractions to state officials. The Agency's accountability to the state in this area altered this relationship to prisoners. Not only were volunteers regulating the conduct of offenders on an informal level, but they also had a wide range of formal mechanisms of social and legal control that they could fall back on if informal techniques failed to produce the results they desired. Many agencies reluctantly entered into these supervisory relationships because they believed that the relationships between ex-offenders/parolees and agency staff should not be based on coercion. However, several agencies were able to rationalize their involvement in formal state processes by arguing that they best understood the needs of women in conflict with the law and that they could offer a unique range of services that were sensitive to the needs and experiences of their clientele. Elizabeth Fry Societies believed that their "policing" of the conduct of women on parole was preferable and more humane and gentle than the state's intervention.

Given their priorities around rehabilitation and reintegration of prisoners, many Elizabeth Fry Societies established rehabilitation committees that focused on developing normalization strategies appropriate to the needs of the female offender. These strategies targeted women in prison and in the community, and they stressed the importance of professional and non-professional interventions. Elizabeth Fry members, like the Salvation Army and other penal reformers, believed that educational and vocational training were key components of the rehabilitation of prisoners, and that redirecting women's interest into these "useful tasks" would discourage them from pursuing unhealthy interests such as drinking, drugs and sexual relations with men or other female convicts. The Elizabeth Fry Society helped institutional officials find suitable employment for women prisoners about to be released from custody. In 1956, the Elizabeth Fry Society of Kingston participated in one of the first pre-release programs designed to help women reintegrate into the community.<sup>21</sup> These early forms of release were often used to help women prepare for their re-entry into society. On some occasions women were released to the homes of reformers to perform domestic duties, and on other occasions women were employed by private companies. This employment was believed to reinforce the rehabilitative programmes in the prison.<sup>22</sup> Many reformers and administrators believed that the availability of resources in the community was essential to the continuation of the normalization process which began in the institution (Cheriton, 1957). Elizabeth Fry volunteers and the staff made a point of being available to listen to women's problems and providing them with various forms of sisterly and motherly guidance.

A 1964 letter written by members of the Kingston Elizabeth Fry Societies Rehabilitation Committee notes that to enhance the rehabilitation of women prisoners, prison officials should "draw on interested groups of professional people who come into the prison to provide activities for leisure time".<sup>23</sup> They argued that these activities kept inmates in contact with the individuals outside of the prison and gave them an "opportunity for constructive thinking rather than the spending of free time

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<sup>21</sup> *Annual Report of the Commissioner of Penitentiaries, 1956-57.*

<sup>22</sup> Interview with *JP* and *VC*.

<sup>23</sup> Letter dated March 10, 1964 from Rowan M. Paterson, Rehabilitation officer to Mr. Guy Favreau, Minister of Justice. *Kingston Elizabeth Fry Society*, hereafter *KEFS*.

in idle gossip”.<sup>24</sup> In addition to an active program of prison visiting, volunteers provided women with various forms of entertainment and taught middle-class domestic skills such as serving tea. These subtle encouragements to adopt socially acceptable habits were extended into the community by volunteers who advocated early release programs. Elizabeth Fry Societies claimed that community outings were necessary to prepare women for release and to ease the difficult transition from prison to community living.<sup>25</sup> On this point the Kingston Elizabeth Fry Society’s Rehabilitation Officer stated

In the interest of humanity and sound economics, is it not our responsibility to plan so that the woman offender may secure the maximum benefit from her detention? Her life, when she leaves the prison, will not be easy. Let us send her forward as well equipped to meet the hazards as is humanly possible.<sup>26</sup>

These views were also shared by the Toronto and Ottawa agencies who also supported pre-release programs and community supervision programs. Once prisoners were released into the community, well-intentioned volunteers escorted women on outings, and subtly monitored their behaviour and associations.

In the mid 1950s, the Toronto Agency also established a “rehabilitation committee” to “take a personal interest in the rehabilitation of girls and women in prison”.<sup>27</sup> The main activities of this nine member committee were institutional visits and after care, which involved maintaining contact with women upon their release from prison through letters and visits. While the agency was becoming increasingly concerned about the rehabilitation of offenders, their definition of what constituted a rehabilitated woman continued to conform to traditional moral standards used by early maternalists. For instance, in an Annual Report of the Toronto Elizabeth Fry Society, the Agency’s Rehabilitation Committee provided the following success story:

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<sup>24</sup> Letter dated March 10, 1964. *KEFS*.

<sup>25</sup> Letter dated March 10, 1964. *KEFS*.

<sup>26</sup> Letter dated March 10, 1964. *KEFS*.

<sup>27</sup> *The Annual Report of the Elizabeth Fry Society - Toronto Branch May 18, 1955 (Toronto Elizabeth Fry ; hereafter, TEFS)*.

Last year I told you about a young girl who had held her first job ever and lost it. This girl now seems to have settled down. She married a man who knew her background and accepted her, and in January of this year they had their first baby. One can't say: "And so they lived happily ever afterwards" because that does not happen too often in actual life, but after being out of the Mercer for nearly two years, she seems to be fitting into a good life pattern.<sup>28</sup>

The Annual Report also noted that "in nearly every case, the attitude of a girl who is being visited by an Elizabeth Fry Society member, changes - sometimes rapidly, sometimes imperceptibly, because she feels that someone cares".<sup>29</sup> Inspirational stories such as these were used by the agency to promote their work and to recruit new volunteers and sources of funding.

In addition to promoting useful employment and proper leisure habits, volunteers played an active role in women's prison reform politics. They lobbied for more therapeutic interventions. They actively lobbied correctional officials, government representatives, and judges, and networked with other Elizabeth Fry Societies and social agencies in order to promote their reform agendas. Women who volunteered with the Elizabeth Fry Society also actively campaigned for the classification of prisoners, the introduction of meaningful "occupational therapy" (work programs), therapeutic interventions, library services, and educational, vocational and recreational opportunities, as well as continuing to provide for more mundane matters, such as clothing, dentures, glasses, and Christmas gifts.<sup>30</sup>

## **2 a. The Creation of a New Form of Expertise**

Elizabeth Fry volunteers and staff also successfully lobbied the government for the hiring of

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<sup>28</sup> *The Annual Report of the Elizabeth Fry Society - Toronto Branch* May 18, 1955. *TEFS*.

<sup>29</sup> *The Annual Report of the Elizabeth Fry Society - Toronto Branch* May 18, 1955. *TEFS*.

<sup>30</sup> In general, these activities were common to most agencies; however, each Elizabeth Fry Society is autonomous and, as such, their involvement in these activities varies. However, historical records maintained by individual agencies suggest that these societies tended to participate in the same types of activities irrespective of their differences. For a more detailed discussion of the activities of the British Columbia Elizabeth Fry Society see Stewart (1993).

prison social workers, psychologists, a part-time psychiatrist, for the appointment of women to national and provincial parole boards, and eventually for government contracts and private funding so that they could operate transitional homes for women being released from prison. In 1956-1957, the Kingston Elizabeth Fry Society played an important role in lobbying the government for the establishment of a position of a staff social worker at the Prison for Women. They also participated in the selection of a suitable incumbent, who came to occupy the position of classification officer.<sup>31</sup> With the introduction of experts and professional social workers who determined the nature and extent of treatment required by women prisoners, the role of volunteer visitors was re-defined. Stewart (1993: 33) notes that with the introduction of professionals in the penal sphere, voluntarism came to be regarded with suspicion by the professional workers who needed, perhaps, to establish their own credibility and justify their specialized training and expertise. Out of a fear of being displaced, the president of the British Columbia Elizabeth Fry Society encouraged members, in the mid-1950s, to “look for new ways to be useful” (cited in Stewart, 1993: 33). This comment reflects a growing trend through which experts, not volunteers, came to determine the direction and philosophy of rehabilitation programs. Reformers devised new strategies that allowed them to continue to contribute to the carceral network. Increasingly, women hired to work for the Elizabeth Fry Society were professionally trained in social work and related fields. By hiring their own “experts”, Elizabeth Fry societies were able to promote their own philosophy of rehabilitation, which focused more on the specific needs of women in conflict with the law than on a gender-neutral ideal of rehabilitation.

Some of these new strategies included facilitating the expansion of the society across the country, developing comprehensive public education campaigns, and forging new links with “experts”. For example, in the 1950s the Ottawa agency began negotiations with the Ottawa Welfare Bureau and the Catholic Family Bureau, in the hope that both bureaus would appoint staff members to liaise with the women in jail and aid in their rehabilitation.<sup>32</sup> Links were also made with schools

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<sup>31</sup> *KPMA*.

<sup>32</sup> Initially only the Catholic Family Bureau responded and agreed to do referrals. “The First Forty Years of the Elizabeth Fry Society of Ottawa” (*Ottawa Elizabeth Fry - Historical Records*).

of social work through guest lectures and the provision of volunteer student placements for individuals interested in applying their techniques in the field of corrections. For example, Dr. CW. Topping, an active patron of the British Columbia Elizabeth Fry Society as well as a faculty member at the School of Social Work at the University of British Columbia, gave members of the Elizabeth Fry Society an open invitation to visit his classes, in return for the Agency's support of his students in field placements (Stewart, 1993: 34). The Toronto Elizabeth Fry Society also promoted the development of trained social workers by establishing the Agnes Macphail Fund at the School of Social Work, University of Toronto for students wanting to work towards the rehabilitation of prisoners (Cowley, 1978: 8). The social workers hired by the Toronto Society worked in the Mercer Reformatory and the Don Jail counselling women before release and aiding them in the community. This involvement was notable because prior to the Toronto Society's involvement there were no formally trained social workers attached to either the Mercer or the women's section of the Don Jail.<sup>33</sup> This early intervention led to the development of a comprehensive volunteer visiting program, wherein "non-expert" volunteers working for the Elizabeth Fry Society were trained in some basic social work skills of listening and supporting women prisoners. This agency as well as several others continue to send trained social workers into most jail, prisons and penitentiaries across the country in order to help women make the transition from prison to the community.

Elizabeth Fry Societies were also quite involved in the promotion of the development of a gender specific knowledge of social problems such as alcoholism and addictions. Elizabeth Fry members recognized that many of the women they worked with had drug and/or alcohol problems. In order to secure services for women with addictions, the Toronto and Ottawa agencies began to work with the Alcohol Research Foundation.<sup>34</sup> Local agencies began to form Advisory Boards which consisted of several mental health, social services and governmental representatives. Reformers also lobbied for formal access to specialized treatment programs. For example, in their 1957 study of the "chronic petty offender" the Elizabeth Fry Society of Toronto recommended that the chronic

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<sup>33</sup> *Telegram* (1952) media clipping. *TEFS Archives*.

<sup>34</sup> See "The First Forty Years of the Elizabeth Fry Society of Ottawa" (*Ottawa Elizabeth Fry - Historical Records*); and the *Annual Report of the Elizabeth Fry Society - Toronto Branch* May 18, 1955. *TEFS*.

alcoholic be treated in clinics and in extreme cases provided with supervised residential accommodation. At the time, “the addict” and “the alcoholic” were generally portrayed as male deviants. The Elizabeth Fry Society played an important role in having addiction and alcoholism recognized among women. In the 1960s, they urged the Minister of Health to establish a narcotics research foundation and enlisted public support for this idea by writing letters to other organizations and members of the provincial legislature. Shortly thereafter, the Alcoholism and Drug Addiction Research Foundation expanded their research on alcoholism to include narcotics.<sup>35</sup> This concern about addictions evolved into a gender-sensitive addiction program, designed and delivered by the Elizabeth Fry Society staff.

The emphasis on scientific rehabilitation continued into the early 1960s. Inspired by the 1956 Fauteux Report, which strongly recommended a philosophy of rehabilitation, the Elizabeth Fry Society of Kingston drafted a series of recommendations for “the reorganization and revitalization of the Prison for Women”.<sup>36</sup> In this report, they proposed that “the purpose of the Prison for Women be clearly and firmly stated to be rehabilitation of its inmates”.<sup>37</sup> The recommendations of this document are quite consistent with several years of women’s advocacy for professionally trained staff and the administrative autonomy of the Prison for Women. The report encourages the prison to establish new and higher paying positions that could attract “qualified and competent personnel.” It further indicated that these individuals should be hired by a “staff selection committee” consisting of the Warden, the Deputy Warden, a psychologist, a social worker, the National Employment Services Special Placements Officer, and “a layman of experience” in personnel selection. The inclusion of the category “layman of experience” was a direct attempt by the Elizabeth Fry Society to reaffirm the importance of their “non-expert, everyday” knowledge of women prisoners to formal program

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<sup>35</sup> In 1968, the Society urged that the detoxification unit set up by the Foundation for men be extended to include women. For more information see: “History of the Elizabeth Fry Society of Toronto”. *TEFS*.

<sup>36</sup> “Recommendations for the Reorganization and Revitalization of the Prison for Women at Kingston” February, 1960. (*National Archives* - Ottawa, Ontario; hereafter *National Archives*).

<sup>37</sup> “Recommendations for the Reorganization and Revitalization of the Prison for Women at Kingston” February, 1960:1. *National Archives*.

development. Given that the staff of several Elizabeth Fry Societies, during this time, were not professionally trained, they had a vested interest in creating a formal institutional space for their experiential knowledge of the female offender.

In an effort to formalize hiring and training processes and to raise the level of staff training, the report suggested the following projects: ongoing evaluations of staff performance, staff training, staff meetings, and conference participation. The Kingston Elizabeth Fry Society report also contained a “job breakdown” for the position of psychologist and outline of treatment expectations where “treatment” is extremely broadly defined as

... the total of all influences brought to bear on the inmate during her stay at the institution. It may be positive or negative, and result in behaviour changes for the better or worse. The *ultimate* purpose of positive institutional treatment is to gain greater inmate acceptance of society’s rules which regulate the behaviour of every individual in society.<sup>38</sup>

According to the authors of this report, the best way to deliver treatment in the prison setting was to “provide an environment which encourages the growth of the inner resources of every inmate - so that self-respect and self-confidence are increased”.<sup>39</sup>

A point worth elaborating on here is the involvement (or perception of involvement) of this lay organization in defining the role to be played by social workers, psychologists, psychiatrists, and a vast number of formally trained penal professionals. The 1960 document produced by the Kingston agency represents an interesting shift in relations of power. Laywomen played an active role in defining the job description of the staff psychologist at the Prison for Women. The report titled “Job Breakdown - Psychologist” (see Figure 12) suggests that the psychologist should perform six roles: initial reception (including intelligence testing, personality testing, vocational testing, appraisals, treatment conferences, and classification meetings); re-testing (where it is suggested that it is “advisable to re-test individuals at frequent intervals”); group therapy, individual therapy, research projects and further group testing; and treatment meetings. A similar lay advisory role is outlined in

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<sup>38</sup> “Recommendations for the Reorganization and Revitalization of the Prison for Women at Kingston” February, 1960: 4 (appendix C). *National Archives (73-56-file-1-6-40-vol-2)*.

<sup>39</sup> “Recommendations for the Reorganization and Revitalization of the Prison for Women at Kingston” February, 1960: 4 (appendix C). *National Archives (73-56-file-1-6-40-vol-2)*.

the report of the Elizabeth Fry Society which describes the “Reception and Treatment” process (see Figure 13). In this instance, the reformers’ role is formally integrated into a proposed treatment process. For instance, section four of the treatment and reception plan outlined the role and significance of scientific testing and program ascription, while simultaneously ensuring that the largely non-professional role of an Elizabeth Fry representative is also institutionalized. Instead of having experts simply displace lay visitors, this role evolved to accommodate the demands of an increasingly professionalized penal sphere. Women reformers used their own brand of expert knowledge to make a unique contribution to a setting more commonly associated with male professionals.

## **2b. Educating the Public**

Elizabeth Fry Societies also played an integral role in the production of knowledge about women and crime. They believed that one of their primary responsibilities was to educate the public on women in conflict with the law. To accomplish this goal, they collected data and anecdotal stories about women offenders. Some agencies participated in activities, such as record keeping and information gathering, typically associated with the activities of experts rather than lay professionals. Members of the Elizabeth Fry Society argued that because there was very little data on women in conflict with the law and their needs, it was important to keep accurate statistics and gather information about the clients they served whenever possible. This information gathering process often resulted in conference presentations and lectures on women’s criminality. Once representatives of local agencies gathered enough information about their clients they began to produce information pamphlets and lecture on the causes of women’s crime and on the rehabilitative needs of their clients.

The education of the public on various aspects of the criminal justice system and on the experiences of women in conflict with the law was a large part of the organization’s mandate. Certain members of the organization argued that one way to improve community education is

... to provide material which is appropriate to different kinds of groups with whom we might be wishing to share information, such as high school students, people in university, community groups. We have relied almost entirely on speakers and, while these are good, it limits the number of people we can reach. The development of visual aids, participation in

cable T.V. programs and so on might also be helpful.<sup>40</sup>

This concern for expanding the education role of the Elizabeth Fry Society led to the development of Public Action Committees, monthly newsletters mailed to members and interested groups, permanent Speaker Bureaus and active research programs. Individual agencies independently and collaboratively began to write and publish a wide variety of positions papers on issues facing women in conflict. Some of the topics of these papers include: prostitution, co-corrections, juvenile delinquency, "native affairs", employment opportunities, incarcerated mothers, solitary confinement, visiting hours and various briefs on proposed legislative changes (such as the Female Refuges Act, Magistrates Courts, legal aid, Bill of Rights, vagrancy laws and various amendments to the Criminal Code).<sup>41</sup> Between 1957 and 1963, the Public Action Committee of the Toronto Elizabeth Fry Society was also concerned about mental health issues, the development of psychiatric clinics, institutional rehabilitation programs, and drug and alcohol addiction research.<sup>42</sup> By 1955, the Toronto Elizabeth Fry's annual report noted that

A fair portion of staff time is going into the collection of statistical information which we hope will form the basis of material for research work; for it is evident that until some research is carried on in this field, the measure of effectiveness of any program is limited".<sup>43</sup>

These education campaigns generally took the form of public speaking or media coverage. They provided two important functions: First, since local Societies relied on charitable donations, these programs provided a valuable source of revenue. Secondly, this practice contributed to the creation of a social climate amenable to the idea that treatment and not punishment should inform penal institutions (Stewart, 1993: 29). The themes of rehabilitation and community responsibility were at the foundation of most educational campaigns and lobbying efforts. To secure public support for

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<sup>40</sup> *History of Social Action* (1973:2). *TEFS*.

<sup>41</sup> Several copies of these briefs are located in the archives and libraries at Toronto Elizabeth Fry Society and at the Canadian Association of Elizabeth Fry Societies.

<sup>42</sup> These briefs are located in the archives and libraries at Toronto Elizabeth Fry Society.

<sup>43</sup> Comments by Mrs Helen Tracy. Newsletter of the Elizabeth Fry Society of Toronto (1978) - special issue in honour of Phyllis Haslam. *TEFS*.

their efforts, Canadian reformers, like their predecessors in the American women's reform movement, were flexible and creative in their presentation of the dilemmas and experiences of women in conflict with the law. Reformers often used the technique of story-telling to teach lessons on social responsibility and to motivate citizens to take responsibility for social problems and conditions that lead to crime.

By the late 1960s, the advocacy of Elizabeth Fry reformers began to reflect a more politicized understanding of women's crime and they promoted more professional and expert strategies of rehabilitation. To legitimate these proposals and to secure funding for a relatively small population of federally sentenced women, they began to informally study the problem of women's crime and its social / psychological causes. Many believed that research would allow for the development of programs that addressed the symptoms of women's crime. Reformers gave speeches and wrote articles and pamphlets to expand social awareness of the needs and experiences of female offenders and to demystify women's crime.

The activities of these reformers are important because they played a central role in promoting scientific rehabilitation strategies and collecting data on female offenders. Throughout the 1950s and 1960s, reformers located outside the state, like Phyllis Haslam (social worker and Executive Director of Toronto Elizabeth Fry Society), were collecting data and studying the needs and experiences of the female offender. It is not until the mid 1970s and early 1980s that the Correctional Service of Canada begins to research the needs of women prisoners with the view of developing programs designed to meet their needs. Before that, state officials relied on the knowledge and experience of non-professional and professional women outside the state when developing programs.<sup>44</sup> Haslam, in particular, was often invited to write articles and to speak at correctional conferences about the needs and management of the female offender. The information she collected was used to train probation / parole and correctional officers working with the female offenders.<sup>45</sup> In the mid 1970s, she was a member of the *National Advisory Committee on the Female Offender* discussed in chapter five. One could say that it was not male criminologists or medical experts, but rather women

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<sup>44</sup> Interviews with CJ, WE, and LB - October 1996.

<sup>45</sup> Interview with CJ and WM - October, 1996.

reformers intent on doing good, that generated many of today's knowledges about women in conflict with the law.

Phyllis Haslam,<sup>46</sup> the Executive Director of the Toronto Elizabeth Fry Society from 1953 to 1978,<sup>47</sup> was one of the most outspoken and prominent advocates for research on women's crime, the hiring of professional staff and the development of suitable rehabilitative programs, although she has not been mentioned in the literature on women's penalty (see Figure 14). As one of her colleagues noted, "Miss Haslam has been our conscience, our model and our mentor".<sup>48</sup> Haslam and women like her in other agencies are important because they secured the resources and promoted the logic that provided a foundation for many contemporary programs and policies of Elizabeth Fry Societies across Ontario. Her advocacy and writing show how a variety of reform strategies and logics coexist.

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<sup>46</sup> Haslam came from a prominent and accomplished middle-class family. Her mother, Dr. Jean Jones, was one of the first women graduates in medicine from the University of Toronto in 1903. Her father, Dr. Albert Haslam, was an Anglican minister and missionary to India, who became the head of the theological college in Saskatoon. While in India, Dr. Jones founded a hospital and remained one of its chief directors until succeeded by her daughter, and Phyllis's sister, Dr. Florence Haslam. Phyllis Haslam's two other sisters became teachers and her brother became a nuclear physicist (Cowley, 1978). Phyllis Haslam and her sisters were educated at Havergal School in Toronto, and despite their privileged lifestyle, the Haslam children were taught the value of philanthropy and political consciousness. After Havergal, Haslam continued her education at the University of Saskatchewan, where she received a Bachelor of Science degree, majoring in math and physics. In 1936, she acquired a degree in social work from the University of Toronto. She spent some time working at the Galt Training School "developing records" and "helping with recreation" to fulfil the requirements of her degree (Cowley, 1978: 4). Shortly after returning from the Commonwealth games (where Haslam won a medal for swimming), she went to work for the YWCA in Montreal. In 1941, she became the Executive Director of the Cornwall YWCA and participated in the establishment of the Trinidad YWCA. After several years with the YWCA in several capacities, Haslam decided to alter her career path and return to work in the field of corrections. This desire for a change corresponded with the emergence of the Elizabeth Fry Society of Toronto. According to Mrs Helen Tracy, Founding President of the Elizabeth Fry Society of Toronto and Volunteer co-ordinator between 1971-1976, in May of 1953, Haslam reportedly "took a substantial cut in salary" to begin working as the Executive Director of the newly formed Elizabeth Fry Society of Toronto.

<sup>47</sup> Haslam's salary was, at first, paid by the provincial Department of Reform Institutions.

<sup>48</sup> Comments by Elizabeth Grove-White, president of Toronto Elizabeth Fry Society. Newsletter of the Elizabeth Fry Society of Toronto (1978) - special issue in honour of Phyllis Haslam. *TEFS*.

Haslam is remembered for her role in “pushing the provincial and federal governments to stop ignoring the program and resettlement needs of women in conflict with the law”.<sup>49</sup> William T. McGrath, of the Canadian Corrections Association, felt that “she played an important leadership role in informing national correctional authorities about the female offender”.<sup>50</sup> Her writing, in particular a chapter that she wrote in McGrath’s popular text *Crime and Its Treatment in Canada*, was used to train policy makers and correctional workers.<sup>51</sup> Her vigour, commitment and contribution to improving and understanding the plight of women in conflict with the law continues to be admired by her successors within the Elizabeth Fry network.<sup>52</sup>

The founding voluntary board of directors of the Toronto Elizabeth Fry Society was quite pleased with the hiring of Haslam, because she brought formal training and experience in the field of social work.<sup>53</sup> For example, Mrs Eileen Adams, member of the founding board of directors notes:

From the start, we talked of the wonderful day when we would have our own social worker, for we always envisioned an accredited agency, staffed by professional people.<sup>54</sup>

Similarly, the founding president of the Board, Mrs. Helen Tracy, noted:

By working in this field, by enlisting support, and by educating ourselves, we aimed to press on toward greater understanding, improved methods and badly needed reforms. Phyllis Haslam was surely the person eminently suited to help us all make our way toward those

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<sup>49</sup> Interview with LB - October, 1996.

<sup>50</sup> Interview with WM and CJ - October, 1996.

<sup>51</sup> Interview with WM and CJ - October, 1996.

<sup>52</sup> Interviews with several anonymous employees and volunteers with the Elizabeth Fry Society.

<sup>53</sup> Comments by Mrs. Helen Tracy. Newsletter of the Elizabeth Fry Society of Toronto (1978) - special issue in honour of Phyllis Haslam. *TEFS*.

<sup>54</sup> Comments by Mrs. Eileen Adams, member of the founding board of the Elizabeth Fry Society of Toronto. Newsletter of the Elizabeth Fry Society of Toronto (1978) - special issue in honour of Phyllis Haslam. *TEFS*.

shining goals.<sup>55</sup>

Haslam used her expertise to advocate on behalf of women in conflict with the law and to secure a position for the Agency in the correction of women offenders. She used every opportunity to reinforce the importance of rehabilitating offenders and to encourage the “community” to participate in the rehabilitative process. She tried to increase the public awareness of the social and political dimensions of women’s crime by arguing that criminal women were the inevitable consequence of a “deteriorating social fabric”.

In one of her articles, “The Damaged Girl in Distorted Society”, Haslam argued that women criminals are adversely affected by society’s reaction to their behaviour. She suggested that women’s crime is a product of wider social problems such as familial breakdown, poverty, and abuse. To impress upon her readers the gravity of these problems, she recounted the tragic stories of four women: an unmarried mother, a thief, a prostitute and “a dull girl”. Although each of these tales emphasized a different problem, they shared common themes. Each story described in detail how women are cast aside and ridiculed by society. Haslam challenged conventional stereotypes and argued that the community is often judgemental and reluctant to help women in trouble. For example, in her 1970 speech on “The Woman Offender”, she noted:

Middle class society’s expectations of the behaviour of girls is one important ingredient. It expects a girl to be quiet and well behaved, to be considerate of others, to be careful about the language she uses -- and the language she hears, to be clean and attractively dressed. A girl is expected to stay at home until she is old enough to look after herself. There is much evidence of a double standard. ‘It’s shocking to see a woman drunk’. ‘Boys will be boys so you can’t hold him responsible from getting her pregnant’. ‘She must be a bad girl’ (Haslam, 1970: 2).

She believed that this sexism further complicated and magnified women’s problems. Unlike earlier reformers, Haslam avoided making overt claims about moral aspects of women’s conduct. Her categorization of women’s deviance departs from traditional moral condemnations of prostitution and unwed motherhood. Instead, she focused on the moral obligations of society and more

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<sup>55</sup> Comments by Mrs. Helen Tracy. Newsletter of the Elizabeth Fry Society of Toronto (1978) - special issue in honour of Phyllis Haslam. *TEFS*.

specifically the family. For instance, she categorized the tragic circumstances of the prostitute and the unmarried mother as “two manifestations of the deprivation of love” (Haslam, 1969: 3). Rather than morally condemning women for becoming prostitutes or for becoming pregnant out of wedlock, she encouraged society to try to understand women’s circumstances and history. For example, she noted:

The prostitute is perhaps the most obvious example of a person who because of lack of love, is working hard to destroy or degrade herself. She is much like a person who retreats from others to the edge of a cliff and either hurls stones at those who approach her to help her or to harm, or casts herself over the cliff to death in despair. Often she has been driven from her unhappy home by the severe antagonism she has suffered there; in many ways she has been the victim of sexual perversion. She reacts in ways which demonstrate that beyond all doubt her hate for others and contempt of self. As a community, what do we do to bind up the deep and sensitive wounds of these girls (Haslam, 1969: 2).

Haslam also rejected typical patterns of blaming women for their own misfortunes, and stressed instead the importance of treatment and rehabilitation. Although Haslam believed that offenders must be accountable for their actions, she also maintained that society had “its own part in crimes”. She claimed that society, like the offender, must be reformed. She noted:

And all of us citizens need to re-think our moral attitudes and practices, so that integrity in our behaviour and love in our actions may make a firm foundation in our community from which the damaged girl may be made whole (Haslam, 1969: 9).

This emphasis on forgiveness, love and community support for the offender has evangelical overtones. Her writing is, in some ways, comparable to the writing of Elizabeth Fry and the Salvation Army. However, Haslam’s writing and her concern about family breakdown and social deterioration are more consistent with postwar maternalism and scientific rehabilitation than with nineteenth-century Evangelicalism.

Despite increased liberal feminist influences in the late 1960s, many reformers, Haslam included, continued to promote traditional postwar maternal logics of reform. Like earlier reformers and scientific experts, she connected a girl’s need for maternal love to healthy childhood development. For example, she noted:

A girl needs love, we know, if she is to grow normally. We talk about this as if it is a need which in the main is being met; we are happily shielded much of the time from the jar of meeting people who never experienced love, or those who experience love is so limited it has made little impression on them (Haslam, 1969: 1).

Haslam argued that the shelter and security of a stable and loving home were essential to crime prevention, rehabilitation and community reintegration. She often attributed women's criminality to childhood neglect or being "unloved by her family". Although she clearly identified social responsibilities, she also individualized and pathologized women's criminality by focusing on women's deficiency. The supposed absence of maternal love is pathologized and used to legitimize therapeutic interventions aimed at restoring women's self-worth. For instance, Haslam (1970: 2) said that a factor which has direct bearing on women not turning so readily to crime has to do with the relationship of the girl to her home. As a child she will mimic her mother as she goes about her work. To the extent that she has an adequate mother, she will learn her potential role of being a good wife and mother....Having learned these and many other strengths from being part of a home - she does not have the same pressures on her to achieve status by more aggressive methods. But once more we note that a negative experience in the home may well plant the seeds which flower into criminal behaviour.

She (1970: 5) also claimed that older women sometimes resort to crime when they lose stabilizing influences of a home (through the loss or death of a parent or husband). These losses, according to Haslam (1970: 5) cause a women to lose her sense of "purpose in life because there is no one who needs them or loves them or cares what happens to them." The image of a stable home is pervasive in Haslam's writing. She believes that a stable home life is essential to the normalization of women and to the prevention of delinquency.

Haslam's views on crime tended to construct women as victims of wider social evils, and therefore they deny women agency and the power of resistance. Haslam constructed the offender as unable to care for herself. Consequently, she said that society has a moral duty and obligation of care for unfortunate citizens. While Haslam tried to politicize the social structures that affect women's offending, she inevitably attributed women's crime to maternal neglect. The relationship between crime and maternal neglect was commonly linked to maternal neglect in post war psychiatric

discourses (Parr, 1995; Valverde, 1995). Haslam's beliefs about the moral duty of the community to care for the offender is a form of maternalism. For example, she claims that society must "do some thinking on behalf of inadequate and damaged people". She denies women's power to change their own circumstances and to act on their own behalf. Her uncritical embrace of the home as a technique of governance clearly aligns her logic of reform with early reformers who reinforced the importance of maternal guidance in eliciting conformity. Haslam's maternal vision of reform was in conflict with a growing feminist criticism of the safety and the sanctity of "the home" which Haslam acknowledged, but did not politicize. In fact, the next generation of reformers revealed the dangers of the home for women prisoners and women in general in terms of high incidence of physical, sexual and emotional abuse that occurs in this "private" space.

Her emphasis on a "stable" and "suitable" home was critical in advancing the wider political and practical interests of the Elizabeth Fry Society. Elizabeth Fry Societies operating community-based halfway houses and community programs argued that they were providing women with this much needed maternal guidance and that they offered healthy role models and training in desirable social skills. They had the added advantage of providing a regulatory function for women released into the community after prison. Implicit in Haslam's writing is the suggestion that women can be rehabilitated if they are brought under the wing of a caring and loving maternal role model in a pseudo-familial environment or "stable home". In other words, the halfway houses run and operated by Elizabeth Fry staff were appropriate and constructive rehabilitative options that should be taken seriously by judges, paroling authorities and correctional administrators.

However, unlike her predecessors and many state reformers, she believed that therapy should occur in the community and that programmes should have been run by individuals who were trained in social work and had a "capacity for disciplined sympathy" (Haslam, 1969: 9). While she did not reject the notion of institutional programming, she favoured community options run by community-based experts such as the staff of the Elizabeth Fry Society, herself included. She was quite critical of intrusive and punitive measures most commonly associated with state-run custodial institutions. For example, she noted: "We push people who commit offences out of sight into prisons where for the most part the emphasis is on custody, not treatment" (Haslam, 1969: 9). She argued that community-based treatment administered by trained professionals was more likely to successfully

rehabilitate “damaged girls”. The state’s past failure to rehabilitate women and the ideal of community are used by Haslam to advocate the development of state-funded but community-based strategies. In particular, she argued that the Elizabeth Fry Society should be funded to design and administer programs for women offenders. To legitimate her agency’s expert status on the female offender, Haslam conducted a series of informal surveys of women offenders to gather information. Using these data, she argued that women’s crime is different from men’s. She noted that, in general, women tend to commit minor property offences or engage in “self-destructive offences” involving alcohol, drugs, vagrancy and attempted suicide. Based on these data, she argued that male and female criminals are different. Subsequently, she argued that female offenders required different treatment and that the Elizabeth Fry Society had the expertise to meet women’s needs.

Haslam’s interpretation of women’s needs was based on her conversations and relationships with women offenders. Although she was a trained social worker, she says very little about therapeutic assessment techniques and the role of psychiatry or social work. Today, for assessments of women’s need to be seen as legitimate, they have to be defined and interpreted by experts using recognized assessment techniques. Haslam’s methodology was much less scientific, but nonetheless influential.<sup>56</sup> It was not until the mid-1980s, following the criticisms of the anti-psychiatry and feminist movements, that reformers began to advocate prisoners’ / patients’ own interpretations of their needs and experiences.

Near the end of her career, Haslam was nationally and internationally recognized as an expert on corrections and more specifically the female offender. In 1970, she was the first non-government Canadian delegate to the United Nations Congress of Corrections, held in Tokyo. She also became an active member of the Planning Committee of the United Nations Congress and was one of the first and few women in the field of corrections to reach this stature (Cowely, 1978: 17). In a newsletter prepared in honour Phyllis Haslam’s retirement in 1978 it was noted by Glenn Thompson, the Deputy Minister of Correctional Services that “the female offender has a good friend in Phyllis Haslam”.<sup>57</sup>

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<sup>56</sup> Interview with LB and CJ - October, 1996.

<sup>57</sup> Newsletter of the Elizabeth Fry Society of Toronto (1978) - special issue in honour of Phyllis Haslam. *TEFS*.

Politically, Haslam was quite effective. She was highly regarded for her efforts in the area of public education. She steadfastly believed in the rehabilitation of prisoners and through her speeches, conference presentations and commission involvement, Haslam helped place the female offender on the public and political agenda. Haslam's role in the production of knowledge about women offenders and in constructing the staff of Elizabeth Fry Society as experts contributed to the state's recognition of the legitimacy of this agency. From the beginning of her career with the Elizabeth Fry Society, Haslam had a long range vision for the success of the organization. She had an ability to see how the wider social context affected the reformation of women offenders. She combined her vision with her research to further the public's understanding of female crime and to secure a position for the Society in the wider correctional sphere.

Once the Elizabeth Fry Society was acknowledged by the state as having a particular expertise, they began to play a more complex role in the governance of women in conflict with the law. Not only were they governing the lifestyle of women through informal visits to the prison, but they also played a critical role in legal and therapeutic regulation of women through parole supervision, halfway houses and various individual and group counselling programs. Each society participated in challenging popular stereotypes about women's crime and in producing a new image of women in conflict with the law. This collective action increased the prestige, authority and power of the organization as an agent of social change (Cowley, 1978: 14). Women like Phyllis Haslam were an important part of this development.

Some agencies established halfway houses run by residential staff who had degrees or training in social science. In some cases, agencies actively policed the behaviour of offenders on parole and enrolled in their programs. Women offenders using the services of the agencies were expected to be accountable for their behaviour (such as adhering to curfews or abstaining from alcohol and drugs) and to abide by the rules and laws governing their release from prison and their conditions of residence in transitional homes. By the mid 1970s, Elizabeth Fry Societies had expanded their network, widened the meaning of penal reform, and developed an extensive range of services and programmes scarcely envisioned by their founders (see Figure 15 for a list of services provided by Ontario Elizabeth Fry Societies as of 1996). As of the fall of 1996, there were 21 autonomous Elizabeth Fry Societies across Canada providing services and advocating for "women in conflict with

the law”.<sup>58</sup> A voluntary board of directors continues to govern all agencies, including the national umbrella Canadian Association of Elizabeth Fry Societies (CAEFS) and the regional Ontario Council of Elizabeth Fry Societies.<sup>59</sup>

In many provinces, the Elizabeth Fry Society is synonymous with treatment and services for women in conflict with the law, and as such they provide much needed services to women in prison. Since the early 1970s, most Elizabeth Fry Societies across the country have promoted a feminist analysis of the problems facing women prisoners and women more generally. Several agencies have adopted feminist treatment models.<sup>60</sup> However, this change in logic does not negate the role they continue to play in morally regulating women in conflict with the law.

Equally important is the current political role that Elizabeth Fry Societies, through their national organization, play in Canadian penal reform.<sup>61</sup> With the creation of the national umbrella organization, CAEFS, Elizabeth Fry reformers gained greater political power and more access to government decision-makers. Rather than simply providing services for women in conflict or at risk of coming into conflict with the law, CAEFS and most of its members pride themselves on working for the women they serve. CAEFS and its member societies receive their funding through voluntary donations and government grants and fee-for-service contracts. This network plays a central role in correctional planning and in the policing of the state’s treatment of women prisoners.

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<sup>58</sup> The phrase “women in conflict with the law” is the terminology Elizabeth Fry Societies have chosen to use to refer to their clients. These agencies provide services for a wide range of women.

<sup>59</sup> In November of 1953, the Toronto Elizabeth Fry Society joined with Kingston and Ottawa Societies to form a Provincial Council of Elizabeth Fry Societies.

<sup>60</sup> For a detailed description of the debate and ideas informing feminist therapies see: Kendall (1993b).

<sup>61</sup> CAEFS, originally conceived of in 1969, was incorporated as a voluntary nonprofit organization in 1978. In 1969, delegates from the Elizabeth Fry Societies of Vancouver, Kingston, Ottawa and Toronto attending a Corrections Congress held in Vancouver met to discuss the proposal for a national association of Elizabeth Fry Societies (Stewart, 1993: 11).

### 3. Conclusions

During this century, penologists and social reformers have cultivated a significant level of interest in the reformation and “healing” of women prisoners where there was, in the past, relatively little interest. Organizations, such as the Elizabeth Fry Society, University Women’s Clubs, and Local Councils of Women, and selected individuals argued that women prisoners, like men, were reformable with the application of appropriate technologies. Post-war ideals of rehabilitation influenced women’s penalty and played a critical role in the rhetorical legitimization of women’s reform initiatives throughout the twentieth century. The hegemonic status of motherhood was joined by another equally agile and persuasive ideal: rehabilitation. The ideal of correctional systems rehabilitating offenders led to a configuration of the state as caring (even when punishing its citizens). This meant that, like a mother, the state was perceived of as having a duty, an obligation, and a responsibility to care and provide for its citizens. Whereas early maternal penal strategies were based primarily on an instinctual and intuitive knowledge about character reform, the caring state relied on a combination of expert and professionalized maternal knowledges.

At times, clashes between wider state agendas and those of maternal reformers occurred, but eventually women prison reformers embraced new rehabilitative technologies of governing. By the mid 1960s, many women prison reformers easily integrated a therapeutic rationality into their own reform platforms. Women reformers quickly adapted to demands for expert rather than innate forms of knowledge. Some women trained as social workers used their training and knowledge to advocate more feminized and equitable models of care. In certain ways, the emphasis on “expert knowledge” offered women reformers a legitimate base of support for their entry into the work force as “experts on their own sex.” Although the hegemony of professional intervention often seems to threaten any reliance on innate capacities of women and amateur techniques, this era of reform does not conform to this image.

Reformers’ belief in the general principle of rehabilitation and in gender specific programmes shows how logics coexist and how governing occurs in multiple sites. The governance of women in conflict with the law extends beyond state institutions into the community. This analysis of the activities of Elizabeth Fry reformers from 1950-1970 shows how the private sector, armed with an arsenal of technologies aimed at doing good, governed the behaviour and habits of women in

collaboration with the state correctional institutions.

JOB BREAKDOWN - PSYCHOLOGIST  
PRISON FOR WOMEN

Hours per month

INITIAL RECEPTION

(Approximately 7 inmates per month)

1.	Intelligence Testing )		
2.	Personality Testing )	6 hours per inmate =	42 hrs.
3.	Vocational Testing )		
4.	Appraisal for above	2 hours per inmate =	14 hrs.
5.	Treatment Conference )	2 hrs. per	
	Classification Meetings )	inmate =	14 hrs.
	Any further testing necessitated )		

RE-TESTING:

It is advisable to re-test individuals at frequent intervals (not less than 6 months, not more than 1 year) to assess any change in inmate's prognosis, or to assess suitability for parole. Also, it is hoped to submit a report on each prisoner on her release. (Assuming 7 inmates per month) 24 hrs.

GROUP THERAPY:

Possibly 2 sessions per week of 1½ hours per session 12 hrs.

INDIVIDUAL THERAPY:

Some more disturbed individuals stand more in need of individual sessions than others. 20 hrs.

RESEARCH PROJECTS AND FURTHER GROUP TESTING:

Sociometric testing and other such techniques can provide a useful index on inmate's behaviour patterns, if administered from time to time on a group basis. Further time for testing for special purposes, e.g. research investigations, should also be included. 20 hrs.

TREATMENT MEETINGS:

Meetings of treatment staff, committees for selection of staff, and other administrative matters. 4 hrs.

TOTAL 150 hrs.

Figure 12. Job Breakdown - Psychologist, Prison for Women  
Courtesy of National Archives (file 73-v56-1-6-40-v2).

Figure 13. Reception and Treatment.  
Courtesy of National Archives (file 73-v56-1-6-40-v2).

RECEPTION AND TREATMENT

1. RECEPTION:

1. Place - Area below the administration offices. It is regretfully concluded that this is the only area available for the programme. It is recommended that every effort be made to make the area attractive and comfortable. It would need to include bedroom facilities in the large unfinished room, a comfortably furnished sitting room in the present matron's change room. The bathroom facilities are already suitable.

2. Time - It is suggested that a period of 7 days on a trial basis be instituted. It may require an extension for some or all inmates.

3. Direction - The programme would be under the direction of the Clinical Team.

4. Programme -

(a) Immediate -  
Bath in Reception Area  
Inventory of effects - by matron and inmate - the list to be signed by both.  
Assignment to a bed

(b) Interpretation of the Reception Programme by the Deputy Warden or Social Worker.

(c) Programme of Interviews to be arranged by the secretary of the Clinical Services, as follows:-

Warden - Interview  
Reception Card and Newcover's Sheet,) - Secretary  
Social Background History )  
Interpretation of the rules and routines - Head Matron

Interview with the Censor re correspondence and visits

Medical Investigation - Nurse and Doctor

Appraisal - Social Worker

Appraisal - Psychologist

Appraisal - Psychiatrist

Educational and Vocational Interview - Co-ordinator  
(where indicated) Teacher  
Special Training  
Supervisor.

Special visits when indicated to Social Worker, by a Lawyer,  
C.A.S. etc.

Elizabeth Fry Representative - Re recreational auxiliary  
programme.

4. Programme - (Continued)

(c) Regional Representative of National Parole Service  
Chaplain.

5. Evening programme of activity to be arranged with the cooperation of the Elizabeth Fry Society.
6. Conference - Inmate and key Personnel - to chart plans for the inmate's stay in the Institution.
7. An interview with the Supervisor of the first work placement.
8. Tour of the building, if indicated.

<b>Member Agency Programs</b>	<b>Hamilton</b>	<b>Kingston</b>	<b>Ottawa</b>	<b>Peterborough</b>	<b>Peel</b>	<b>Simcoe</b>	<b>Sudbury</b>	<b>Toronto</b>
<b>Courts</b>								
Court worker	✓	✓	✓	✓	✓	✓	✓	✓
Bail supervision						✓	✓	
Probation / parole supervision		✓		✓	✓			✓
Community service orders	✓			✓	✓	✓		
<b>Local Jails and Detention Centres</b>								
Visiting	✓	✓	✓	✓	✓	✓	✓	✓
Counselling / advocacy	✓	✓	✓	✓	✓	✓	✓	✓
Recreation	✓		✓	✓	✓		✓	✓
Temporary absence supervision	✓			✓	✓		✓	✓
Release planning	✓	✓	✓	✓	✓	✓	✓	✓
Life skills	✓	✓	✓	✓		✓	✓	
<b>Vanier Centre for Women</b>								
Visiting	✓				✓	✓		✓
Counselling / advocacy	✓				✓	✓		✓
Temporary absence supervision					✓			✓
Release planning	✓			✓	✓			✓
Recreation					✓			
<b>Prison for Women</b>								
Visiting	✓	✓	✓	✓	✓	✓		✓
Counselling / advocacy	✓	✓		✓	✓			✓
Groupwork		✓						
Recreation		✓						
Temporary absence supervision		✓			✓			✓
Community assessments		✓						✓
Release planning		✓	✓	✓	✓		✓	✓
Residential services		✓	✓	✓	✓			✓
<b>Post or Non-Institutional</b>								
Counselling / advocacy	✓	✓	✓	✓	✓	✓	✓	✓
Residence		✓	✓		✓	✓		✓
Satellite housing								✓
Second stage housing		✓						
Substance abuse		✓		✓	✓			✓
Parole supervision		✓						✓
Employment counselling		✓		✓	✓			
Shoplifting counselling	✓	✓		✓	✓	✓	✓	✓
Incest counselling	✓			✓	✓		✓	✓
Recreational / social			✓	✓			✓	
Employment training						✓		
<b>Young Offenders</b>								
Shoplifting counselling				✓	✓		✓	
Residence					✓			
Community service orders	✓				✓			
Youth crime prevention			✓		✓			
<b>Other</b>								
Drop in		✓	✓			✓	✓	
Library	✓	✓		✓		✓	✓	✓
News bulletin	✓		✓	✓	✓	✓	✓	✓
Speakers' bureau			✓	✓	✓	✓	✓	✓
Drivers	✓	✓		✓				
Sexual assault counselling	✓		✓	✓	✓		✓	✓

Figure 15. Ontario Elizabeth Fry Society's Member Agency Programs.  
 Courtesy of Ontario Council of Elizabeth Fry Societies, 1996.



Figure 14. Phyllis Haslam.  
Courtesy of Toronto Elizabeth Fry Societies.

## Chapter Five

### A Neoliberal Justice: Feminist Reformers and the Empowerment of Women

In the 1970s, the women's movement in Canada and other Western Countries launched ideological and political attacks on the historically entrenched notion of separate spheres that informed maternal and certain first wave feminist strategies. In law reform, liberal feminist equal rights strategies played a central role in improving the positions of some women. Legal struggles around abortion, labour law, family law, and criminal law led to a formal extension of legal rights and protections to women. Liberal feminist concerns about equality rights parallel a wider development in Canadian penalty. During the early 1970s, many Canadian and American prisons experienced violent riots, deaths of prisoners and staff, and serious allegations of abuse and misconduct. Public criticism and political pressure prompted several changes in penal administration, some of which reaffirmed the importance of inmates' rights. Rights-based strategies became an important technique for limiting the right of a seemingly "benevolent state" to punish. At least theoretically, through these strategies governments were held responsible for their actions and legally compelled to adhere to certain due process requirements regarding inmate discipline, institutional release mechanisms, and therapeutic interventions. Prisoners' rights activists, such as Claire Culhane, sought to replace informal arbitrary prison governance with formal, codified rules and regulations.<sup>1</sup> Rights-based advocacy emerged from a due process critique of rehabilitation and from increased political concern about the conditions in Canadian prisons and penitentiaries.<sup>2</sup>

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<sup>1</sup> For a detailed description of Claire Culhane's life and work see: Culhane (1979; 1985; 1991) and Lowe (1992).

<sup>2</sup> During the 1960s and 1970s, criticisms of the rehabilitation movement dominated the correctional landscape. These criticisms emerged from both the political left and right. On the political right, conservatives argued that rehabilitative technologies were "too soft" on crime. The conservative emphasis on "law and order" politics constructed rehabilitation as being too lenient and more concerned about the treatment of criminals than about the victimization of law abiding citizens. Based on the belief that offenders are rational actors, they argued that the goal of offender rehabilitation was futile and that punitive rationalities were preferable. On the political left, however,

The liberal feminist critique of penality identified several discrepancies in the treatment of men and women in state institutions. Equality concerns about women's prisons responded to the conditions of women's confinement, the absence of programs and services, and the harassment and discrimination of women staff and prisoners in the workplace.<sup>3</sup> The primary objective of liberal feminist reform was to eradicate gender bias and to ensure that penal policies were gender-neutral. If this were a full narrative of Canadian women's penal reform, a considerable amount of space would have to be devoted to liberal feminist equality strategies: from the 1970 *Royal Commission on the Status of Women*,<sup>4</sup> to the 1977 *National Advisory Committee on the Female Offender*<sup>5</sup> and related

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liberals who once supported rehabilitative policies became concerned about the abuses of rights and excesses which were occurring in the penal system justified and legitimated through a rhetoric of rehabilitation.

<sup>3</sup> Whilst the project was begun several years earlier by maternal reformers, liberal feminists focused on opening all correctional jobs to women. The ideals of equal treatment and equal opportunity were essential elements of the female correctional officers' struggle for acceptance in the wider male bureaucracy. Women correctional officers used methods similar to those of prisoners to secure equal employment opportunities in men's prisons. For additional information see: Clairice Feinman (1986), Lynn Zimmer (1986), and Wendy Brown (1996).

<sup>4</sup> The *Royal Commission on the Status of Women* (1970) recommended: the development of treatment facilities for female alcoholics to replace the detention of women in penal settings; the revision of the federal *Prisons and Reformatories Act* to eliminate all provisions that discriminate on the basis of sex or religion; the co-operation of the federal, provincial and territory governments in providing services and funding for rehabilitation services; co-operation with Native communities; the development of halfway houses for women; co-operation between criminal justice officials and voluntary and/or community organizations; the use of female police officers for the supervision and management of women in custody; and the closure of the Prison for Women.

<sup>5</sup> The *National Advisory Committee on the Female Offender* (NACFO) was established by the Solicitor General of Canada to: "study the needs of the federal female offenders, and to make specific recommendations to the Commissioner of Penitentiaries and the Executive Director of the Parole Service regarding the development of a comprehensive plan to provide adequate institutional and community services appropriate to her unique program and security needs"(Canada, 1977a: 9). At the time of NACFO's inquiry into the conditions of women's imprisonment, there was a great deal of pressure on the government to provide women with *tangible* treatment options that addressed the "special needs" of the female offender. The recommendations of the NACFO report and those reports established in response to the NACFO report - the National Planning Committee on the

reports, to the 1980 complaint by *Women for Justice*<sup>6</sup> to the *Canadian Human Rights Commission*,<sup>7</sup> to recent *Charter of Rights and Freedoms Challenges* sponsored by the *Women's Legal and Education Action Fund*,<sup>8</sup> and to the recent findings of Madame Justice Arbour in the 1996

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Female Offender (NPFO), and the Joint Committee to Study Alternates for the Housing of the Federal Female Offender - were supposed to provide women better access to programmes and services offered in men's prisons. Although these Committees officially recognized women's inequality and proposed strategies to improve women's access to institutional programs and services, few of these ideas were operationalized. Correctional Service employees were assigned to follow up on the recommendations of the NACFO report and to develop "a master plan to sensitize bureaucrats to women's needs" (Berzins and Hayes, 1987: 267).

<sup>6</sup> Women involved in this rights group came from various factions of the women's community, and they were all deeply committed to the creation of a "just" system of punishment for women. Reformers included Maude Barlow, Lorraine Berzins, Claudia Currie, Sheelagh Dunn, Carol Faulkner, Bridgid Hayes, Christie Jefferson, Anne Marie Smart, Denyse Stone and several others. Some were active in corrections and related agencies; some were academics, interested lay people, and women's rights activists. The development of Women for Justice was a turning point in Canadian women's prison reform. This was the first time that women outside of the field of corrections were consciously organized and brought together to fight for the rights of federally sentenced women. This organization of women, along with kindred groups like the Canadian Association of Elizabeth Fry Societies, sought 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. Several women outside of the field of corrections, but deeply involved with women's issues were being encouraged to lobby for the rights of women in prisons within their own political and social networks.

<sup>7</sup> After a comprehensive investigation of the controversy surrounding the Prison for Women, the Human Rights Commission upheld the complaint by Women for Justice and declared that "federal female offenders were discriminated against on the basis of sex, and that in virtually all programs and facility areas, the treatment of federal women inmates was inferior to that of men" (Cooper, 1987: 139). The Canadian Human Rights Commission said that the state had a legal and moral obligation to provide women with programs and facilities "substantively equivalent" to those provided to male inmates. The investigation also noted that there were few women involved in the development of policies and in senior management of the prison, and it was suggested that increased involvement of women in this area could facilitate improvements.

<sup>8</sup> The conciliation of the human rights complaint did not result in improved conditions for prisoners at the Prison for Women. In fact, conditions in the prison continued to deteriorate. In the late 1980s, the same concerns were revisited in a *Charter of Rights and Freedoms* challenge

*Commission of Inquiry into Certain Events at the Prison for Women*. But a complete and detailed account of all relevant legal battles is beyond the scope of this thesis. This chapter focuses more narrowly on the co-operative effort of Corrections Canada and feminist reformers, in particular the Canadian Association of Elizabeth Fry Societies (CAEFS) to create an alternate “woman-centred” vision of punishment, a vision more consistent with both post-liberal cultural or radical feminism and with 1990s neo-liberalism than with classic liberal equality.

Although women penal reformers used rights strategies, radical non-state reformers tended to downplay or reject liberal equality as a rationality of reform, favouring instead the development of a woman-centred approach to the punishment of women. In the early 1980s, penal reformers, like Women for Justice and the Canadian Association of Elizabeth Fry Societies sought the expertise of women who were familiar with the prison system, and those who worked with women in the community (Hayes, 1983: 3). From consultations it was concluded that:

*the female offender had more in common with other women, particularly disadvantaged women than they did with male inmates. They are not on a whole dangerous or disruptive.*

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sponsored by the Women’s Legal Education and Action Fund (LEAF). LEAF was established in 1984 by a small group of influential Canadian women, almost all lawyers (including Shelagh Day, Mary Eberts, Nancy Jackman, Marilou McPhedran, and Kathleen O’Neil) concerned about the relevance of proposed *Charter* definitions of equality to women’s lives (Razack, 1991: 27). One of the primary tasks of this organization was to engage in proactive equality litigation. The cases taken by lawyers working on behalf of LEAF “had to concern equality rights that arise under the *Charter of Rights and Freedoms* or under Quebec’s *Charter*; present strong facts; and be of importance to women” (Razack, 1991: 48). LEAF declared that it was particularly interested in cases where women were doubly disadvantaged or subject to multiple forms of discrimination such as race or disability. In 1987, LEAF began to prepare a *Charter* case against the Correctional Service of Canada to challenge the social and material conditions of imprisonment at the Prison for Women. This *Charter* challenge was directed at the administration of the institution, regarding the paucity of programs and services and the overwhelming hardships imposed by the centralized incarceration of federally sentenced women. LEAF and their supporters were confident that the Correctional Service of Canada’s treatment of women at the Prison for Women violated section 15 of the *Charter* on the grounds of sexual discrimination. But this case never reached the court: it was postponed as a measure of “good faith” pending the implementations the recommendations of the 1990 report of the Task Force (*Creating Choices*). The government’s intentions to implement the recommendations of this task force, which included closing the infamous Prison for Women, meant that if the case proceeded it would have been deemed moot.

Their crimes are often crimes of a woman trapped and unable to find options -- the battered wife, the woman who sticks by her man, the woman sexually abused as a child who turns to prostitution or drugs, the woman who commits non-violent property crimes for money. They are often disadvantaged -- without education, skills or employment and more often than not they are victims of racial prejudice. We realized that their crime could not be excused, *but that the key to prevention and to reducing the rate of recidivism lay in their affinity to other women* (*Emphasis added*; Hayes, 1983: 4).

While many non-state feminist reformers used these strategies, they also maintained that they were more interested in developing strategies that focused on women's commonality with other women, and differences from men in prison, rather than trying to pursue strict equality strategies. Reformers came full circle in their approach to the governance of women prisoners to argue once again that women prisoners must be governed through strategies which recognized their difference from men. However, rather than relying on maternal metaphors, reformers relied now on ideals of empowerment and choice supported by cultural feminism and other social movements, ideals that turned out to be very congruent with neo-liberalism

In this chapter I show how feminist difference strategies are used and re-fashioned by the state to construct a new vision: woman-centred prisons. The pivotal 1990 Report of the Task Force on Federally Sentenced Women, *Creating Choices*, is used to show how feminist reformers came to support neoliberal techniques of penal discipline. Neoliberal strategies focus on responsabilization and the production of self-governing prisoners. Techniques such as "empowerment" and "choice" were and are used by reformers to advocate a new vision of penalty, by the state to reinforce existing disciplinary techniques, and by more-or-less feminist reformers for their own ends. I argue that both liberal and neoliberal strategies of rule are limited when applied to prison settings because they take for granted the availability of autonomy, equality, and choice. The recent report of the Arbour Commission about the gross violations of human rights at the Prison for Women reminds us that "empowerment" can hardly be implemented in a population that never has enjoyed the most basic liberal legal rights.

## 1. The Politics of Difference and the Ethic of Care

In the early 1980s, there were debates at the meetings of the Canadian Association of Elizabeth Fry Societies on the future direction of the organization and its role in women's prison reform.<sup>9</sup> These debates marked a shift from a maternal reform logic to a feminist reform logic, as well as a generational shift. As one reformer notes, the changes occurring in women's reform in the early 1980s could be conceptualized as a struggle between "the blue hairs and the freaks".<sup>10</sup> Traditional maternal ideals about re-making prisoners into "ladies" were challenged by more radical feminist advocates who questioned the maternal and normative role of well-intentioned women reformers. Cultural feminist critiques of formal equality and arguments in favour of difference were used by correctional reformers to advocate for women-centred correctional strategies that celebrated feminist interpretations of women's difference.

This took place in the context of a wider debate in radical and cultural feminist scholarship about women's difference and alternative visions of justice. The ideas put forward in Carol Gilligan's (1982) book *In a Different Voice* were used by feminist legal scholars and reformers to promote an alternative feminist vision of justice. Gilligan claims that the voice of law and legal practice are based on a "male voice" or male norms and values such as equality, rights, autonomy and impartiality. She argues that the "female voice" is different from the male voice, and that it gives more emphasis to values of care, responsibility, and connectedness. Gilligan (1982) and others, like Frances Heidensohn (1986) and Kay Harris (1987) claim that the law and criminal justice institutions, although they are construed as operating from a gender-neutral stance, reflect a male voice. This argument is extended to the area of criminal justice and penal reform, where it is suggested that reform strategies need to emphasize the restructuring of law based on an "ethic of care" (Heidensohn, 1986; Harris, 1987). For example, Heidensohn (1986) claims that the current model of criminal justice is based on a white, middle-class, male ethic of justice (which she calls the "Portia model") because it encapsulates characteristics of men as rational, clear thinking, and procedurally-

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<sup>9</sup> Interview with CJ, October - 1996.

<sup>10</sup> Interview with CJ, October - 1996.

minded. The means to “justice”, in this framework, is secured through law reform and litigation that focuses on legal equality. Heidensohn (1986) and others argue that liberal equality approaches are limited because they deny the structural inequality of women and more importantly, women’s alternative visions of “justice”. Alternatively, Heidensohn argues in favour of a more feminised version of justice based on an “ethic of care”(which she calls the “Persephone model”). A model of justice or reform based on an “ethic of care” rejects liberal legal ideals of an “ethic of justice”, and instead advocates “caring” reforms that focus on women’s social, political, economic and psychological differences.

Some cultural feminist scholars have argued that Gilligan’s philosophy is important because it can be used to raise questions about the aims and purposes of penalty (Daly, 1989). It allows for a debate about the merits of a model based on an “ethic of justice” (stressing a depersonalised response based on the wrongdoer’s culpability and harm to others) versus an “ethic of care” (stressing a personalised response to offender and their reintegration into the community). However, Daly (1989) also argues that Gilligan’s model is limited. Daly claims that the problem with the treatment of women in the criminal justice system is not that a female voice is absent, but that certain relations of power are presupposed, maintained and reproduced. Secondly, she challenges the association of “justice reasoning as male” and “care reasoning as female” in the context of law and criminal justice (Daly, 1989). She suggests that such a bifurcation erroneously leads to the assumption that justice for women can be achieved by simply adding women’s voice to law or reconstituting the system along the lines of care.

Practically, Heidensohn (1986) and others recognize that it is difficult, if not impossible, to restructure the entire system of justice on the basis of gender-specific visions of justice. However, Heidensohn (1986:292) claims that historically women’s prisons have been harsher and crueler for women than men, and that they can be reformed to reflect an “ethic of care”. Likewise, Harris (1987) calls for a range of compassionate, constructive, and caring reforms to law and the criminal justice system. Daly (1989), on the other hand, is critical of operational “ethic of care models” promoted by Gilligan (1982), Heidensohn (1986) and Harris (1987) because they tend to overlook the injustices and abuses associated with past individualised, welfare-based models of justice such as rehabilitation

that use the ideal of “caring” to justify a wide range of intrusive interventions into the lives of both women and men. Notwithstanding feminist criticisms of reforms predicated on an “ethic of care”, this approach informs the 1990 Task Force on Federally Sentenced Women as well as some recent provincial initiatives in Ontario and Nova Scotia. My analysis of the difficulties associated with recent Canadian efforts to design and implement a “woman-centred” model of punishment reinforce wider feminist criticisms of an “ethic of care”.

## **2. Creating Choices? The Task Force on Federally Sentenced Women**

The Task Force on Federally Sentenced Women<sup>11</sup> was established nearly 10 years after the last committee specifically set up to “settle” the issue of federal women's imprisonment had faded into obscurity (Shaw, 1993: 50). There is no one specific event or organizational interest that led to the development of the task force at this particular moment in history. Instead, the task force and the implementation of its recommendations came about as a result of a combination of factors. It was the consequence of immense social and political pressure on the government by reformers, feminists, Aboriginal organizations, and the media. Pressure for correctional change came from a variety of sources,<sup>12</sup> all of whom emphasized the long history of apathy and neglect of the federal government with respect to federally incarcerated women. The emergence of a politically influential women's movement throughout the 1970s and 1980s raised social awareness of the oppression of women in many sectors of Canadian society, including prisons. In the early 1980s, politically active groups organizations such as the Canadian Association of Elizabeth Fry Societies (CAEFS), the women's Legal Education and Action Fund (LEAF), and Women for Justice were using litigation and the threat of a *Charter of Right and Freedoms* challenge on the basis of discrimination to force the

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<sup>11</sup> The task force's mandate was to examine the “correctional management of federally sentenced women from the commencement of their sentence to the date of final warrant expiry and to develop a plan which will guide and direct this process in a manner that is responsive to the unique and special needs of this group” (TFFSW, 1990: 1).

<sup>12</sup> For a more detailed description of the events that led to the development of the Task Force on Federally Sentenced Women, see Shaw (1993) and Moffat (1991).

government to improve programs and services available to federally sentenced women. Aboriginal organizations such as the Native Women's Association of Canada, and government and non-government reports (Proudfoot, 1978; Jackson 1988; Task Force on Aboriginal Peoples in Corrections, 1988) raised public awareness the discrimination of Aboriginal people, and in particular the unequal treatment of Aboriginal people in the criminal justice system. Simultaneously, the Canadian government was struggling to address Aboriginal peoples demands for self government and cultural autonomy. The strength of these groups' demands was reinforced through a series of tragic events and deaths of Aboriginal and non-Aboriginal prisoners at the Prison for Women. These deaths resulted in a Coroner's Inquest (Ontario, 1991), which once again revealed the appalling conditions at the Prison for Women, federal government's failure to develop programs appropriate to the needs of women prisoners, and the urgent need for change. These groups and the revelation of sensational cases and tragedies<sup>13</sup> at the Prison for Women exposed the prison and the government to increased public scrutiny (Moffat, 1991: 191). The government responded to the concerns and criticisms of the public by setting up a joint community and government task force in March 1989. This federal initiative was spearheaded by a newly appointed, progressive Commissioner of Corrections, Ole Ingstrup. As Shaw (1992:442) notes Commissioner Ingstrup firmly supported the development of a new correctional vision and he was "perceived by many to be an innovator, and someone sympathetic to the very real problems of imprisonment, which have built up in Canada".

From its inception, the task force committee was unlike any previous government committee in Canada or elsewhere (Shaw, 1993: 53). The Steering Committee of the task force was co-chaired by the Canadian Association of Elizabeth Fry Societies and a deputy commissioner of the Correctional Service of Canada. Two-thirds of the task force members were women. Two of these women had served federal sentences, and more than half of the members were from non-government and/or voluntary organizations. As Shaw (1993: 53) indicates, "no previous government inquiry into

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<sup>13</sup> During the few years prior to the development of the task force and during the task force meetings, there were several suicides and attempted suicides at the Prison for Women. Many of the inmates who committed or attempted suicide during this time were Aboriginal women. These events, in addition to the inadequate living conditions at the prison, led to an increased public awareness of federally sentenced women.

women's imprisonment had included so many voluntary sector representatives, or Aboriginal or minority groups, and certainly no women who had personal experience of prison". Further, many of the task force members held a feminist perspective and a passionate commitment to change. The report states unequivocally that it adheres to a feminist philosophy and it clearly acknowledges the plight of Aboriginal women prisoners.

There were a number of struggles and sacrifices made by the task force participants in their efforts to cooperatively produce a vision for change. For example, many of the voluntary organizations expressed their concerns about having to work within the existing legislative and penal structure when they believed that a community-based correctional approach was more appropriate (Shaw, 1993: 54). There were also concerns about whether the voices of the Aboriginal women and prisoners would be heard and respected. Despite these reservations, the government and the community worked together to design a prototype for woman-centred corrections. The recommendations of *Creating Choices* are currently being implemented, and the Canadian government is planning to close the Prison for Women and replace it with four new woman-centred facilities (prisons) and an Aboriginal "healing lodge."<sup>14</sup>

The research completed for the Task Force was driven by a "woman-centred approach" stressing "that issues such as poverty, racism, wife battering, and sexual abuse are central to women's crime" (*Task Force on Federally Sentenced Women - Creating Choices*, hereafter TFFSW, 1990: 83). Some research for the Task Force was completed by two Native inmates at the Prison for Women, Fran Sugar and Lana Fox. Their report provides anecdotal information on the lives and experiences of 39 Aboriginal women who have been incarcerated at the Prison for Women. Likewise, a survey of federally sentenced women, completed by Margaret Shaw (1991a), outlines the views and experiences of federally sentenced women in Canada.

The Third National Workshop on Female Offenders (Pittsburgh, Pennsylvania, in May 1989)

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<sup>14</sup> The emphasis of this chapter is on the four regional facilities (prisons) for women and the current situation at the Prison for Women. Although the healing lodge is mentioned briefly, it is not addressed in detail. A separate analysis of the healing lodge is required, but this is beyond the scope of the thesis.

was influential in *Creating Choices*. The theme, “The Changing Needs of the Female Offender - A Challenge for the Future”, was generally interpreted as “a call for the restructuring of corrections for women rather than the patch-working evident in so many correctional systems, which work against the objective of responsible self-sufficiency” (TFFSW, 1990: 83). The second major influence on the thinking of the Task Force was the Aboriginal struggle for self-determination. The Task Force emphasized that the achievement of equality for Aboriginal women in the correctional system is dependent on enhanced Aboriginal participation and increased Aboriginal control over programs and services. It was these trends and events within the correctional system and Canadian society that supported the Task Force's comprehensive approach to change.

The recommendations of the Task Force were presented in a report to the government in April 1990, and a few months later the federal government announced that it would implement the Task Force's recommendations. One recommendation to be implemented immediately was ending transfers from provincial correctional institutions to the Prison for Women. In the past, provincially sentenced women who posed a security threat could be transferred from a provincial facility to a federal facility. Other proposals were to recruit more feminist and Aboriginal counsellors, and to establish a daily presence of an Aboriginal counsellor at the Prison for Women. Also, there is a recommendation to admit prisoners who have self-injured to the prison or community hospital and return them to the general population as soon as possible instead of treating these individuals punitively. It has also been recognized that geographic dislocation can cause many hardships, and, as a result, it has been recommended that prisoners should have access to funded visits with family members and enhanced telephone contacts.<sup>15</sup>

The most significant long-term recommendation of the Task Force was the closure of the Prison for Women, and the construction of four small regional facilities and one Aboriginal “healing lodge”. Each regional facility was supposed to operate under a program philosophy that

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<sup>15</sup> A more detailed and comprehensive discussion of the recommendations proposed by the Task Force on federally sentenced women can be located in *Creating Choices* (TFFSW, 1990). For this chapter, I have only summarized what I believe are the most significant recommendations with respect to the problems outlined by the research for the Task Force.

approximates community norms, focuses on the use of community services and expertise, and is geared to the safe and earliest possible release of federally sentenced women. The primary programming was also to include health care, mental-health services, addiction programs, family visiting, mother and child programs, spirituality and religion, Aboriginal programs, education, and vocational training (TFFSW, 1990: 138-147). The Aboriginal healing lodge would allow federally sentenced Aboriginal women to serve all or part of their sentences in a “culturally sensitive” environment. This facility would address the needs of federally sentenced Aboriginal women through Native teachings, ceremonies, contact with elders and children and interaction with nature (TFFSW, 1990: 147-150).

## **2a. A New Philosophy of Women’s Corrections?**

The task force indicated that, by rejecting the traditional male approach to correctional programming and management, it has had

to formulate a plan which would respond to the needs and risks represented by women themselves, which would respond in a way reflective of women's perceptions of, and interactions with, each other and society generally. However, it should be noted that the work to build a correctional system, based on women's reality rather than sexual and racial stereotypes, was made more difficult by the fact that a comprehensive, coherent female correctional model does not exist, particularly one that is also responsive to Aboriginal perceptions (TFFSW, 1990: 91).

The report of the task force, *Creating Choices*, envisions that the new women-sensitive correctional model will be characterized by the five guiding principles: “empowerment, meaningful and responsible choices, respect and dignity, supportive environment, and shared responsibility”.<sup>16</sup> Let us analyse these principles one at a time.

“Empowerment”, in *Creating Choices* (TFFSW, 1990: 105-106), is meant to highlight that

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<sup>16</sup> More detailed descriptions of these terms can be located in *Creating Choices* (TFFSW, 1990) and the *Draft Correctional Program Strategy for Federally Sentenced Women – Abridged Version* (CSC, 1994a). Shaw (1993: 55-56) provides a more detailed summary of these principles.

the structural inequities experienced by women prisoners are similar to broader gender inequalities. It is noted that the “research and the words of federally sentenced women have repeatedly stressed the connections between women's involvement in the criminal justice system and the inequalities, hardships, and suffering experienced by women in our society.” Empowerment is connected to the perception that women prisoners, like women generally, lack self-esteem and, as a result they are believed to have little power to direct their lives: “they feel disempowered, unable to create or make choices, unable to help create a more rewarding, productive future, even if realistic choices are presented to them” (TFFSW, 1990: 105). The task force locates the disempowerment of women in two sites: in the structural arrangements of society and in the woman herself, with an emphasis on the latter (cf. Cruikshank, 1993).

“Meaningful choices”, the second guiding principle of the woman centeredness, is defined as the need to provide women “choices which relate to their needs and make sense in terms of their past experiences, their culture, their morality, their spirituality, their abilities or skills, and their future realities or possibilities” (TFFSW, 1990: 108). The construction of a meaningful choice in this report suggests that there are two types of meaningful choice: the choices offered to the prisoner by the institution in terms of programming, and the choices (or decisions) made by the woman while residing in the institution and on her release.

The third principle, “respect and dignity”, is “based on the assumption that mutuality of respect is needed among prisoners, among staff, and between prisoners and staff if women are to gain the self-respect and respect for others necessary to take responsibility for their futures” (TFFSW, 1990: 109). The task force indicates that it feels this principle is important because Canadian correctional institutions “have often been criticized for their tendency to encourage dependent and child-like behaviour among women” (TFFSW, 1990: 109). Further, it is acknowledged that many of the rules in the prison have been administered in an arbitrary and humiliating way. These practices are said to have contributed to the prisoners’ sense of powerlessness (or disempowerment).

“Supportive environment”, the fourth principle, is understood in terms of the “constellation of many types of environment ... political, physical, financial, emotional/psychological, and spiritual, especially for Aboriginal women” (TFFSW, 1990: 110).

The final guiding principle of woman-centred corrections outlined in the task force is “shared responsibility”. Similar to other principles, the conceptualization of shared responsibility emphasizes the responsibility of the prisoner, the government, and the community. The report notes that governments at all levels, correctional workers, voluntary sector services, businesses, private sector services and community members generally must take responsibility as inter-related parts of society. This is essential in order to foster the independence and self-reliance among federally sentenced women to allow them to take responsibility for their past, present and future actions. To make sound choices, women must be supported by a coordinated comprehensive effort involving all elements in society. This, as Aboriginal teaching's instruct us, is a holistic approach (TFFSW, 1990: 111).

Further, the principle is said to be important because

the holistic programming and multifaceted opportunities which support an environment in which women can become empowered can only be built on a foundation of responsibility among a broad range of community members. Currently, because the Correctional Service of Canada has legal obligations for federally sentenced women, *responsibility for federal women is too narrowly assigned to correctional systems (Emphasis added; TFFSW, 1990:111)*.

Under the heading “supportive environment”, the task force clearly emphasizes the responsibility of the community in the empowerment of the woman prisoner while simultaneously redefining the responsibilities of the Correctional Service of Canada.

These principles reflect a shift towards a strategy of responsabilization (O'Malley, 1992). The approach to governing women prisoners is no longer conceptualized as the sole responsibility of the federal government, but rather as the collective responsibility of the community and even the responsibility of the offender. The offender, in this new correctional framework is responsible for her own self-governance and for the minimization and management of her needs and risk to the public or herself. I will discuss in more detail the adoption of this logic by the Correctional Service of Canada.

## **2b. Implementation Of *Creating Choices***

The implementation process has been characterised by exclusions and redefinitions of the original meaning of woman-centred corrections. Whereas Shaw (1993: 66) and others are quite right in noting that “the involvement of feminists and prison activists in a task force can not always be dismissed as incorporation or legitimation” the participants discovered that there are limits to their power and ability to fundamentally alter institutional structures. Many feminists and activists were successful in having their philosophies reflected (at least in part) in the report of the task force. However, the outcome of their involvements was largely unanticipated. Non-state feminist and community groups have been systematically alienated from much of the task force implementation process. At present, the operationalization and definition of woman-centred corrections is totally in the hands of the Correctional Service of Canada.

The Federally Sentenced Woman Program of the Correctional Service of Canada and the wardens of the five “new” institutions are controlling the implementation process. Wardens continue to selectively draw on “volunteer” community resources to define the types and content of programming in the institutions. For instance, the present involvement of the community in the planning process for the new prisons is subject to the discretion of individual wardens. By and large, feminists and activists are no longer being included in the process of defining the meaning and content of the new penal regimes. In spite of these exclusions, the Correctional Service of Canada continues to maintain that it is adhering to a woman-centred approach as defined by the task force. While struggling for inclusion in the planning processes, activists continue to attempt to hold the government accountable for their treatment of federally sentenced women and diversions from *Creating Choices*.

Correctional Service of Canada (1994a: 3) operational documents have stated that a woman-centred approach means “that programs must reflect the social realities of women and respond to the individual needs of each woman”. To implement the woman-centred philosophy, the government has outlined the following five “operational” principles,<sup>17</sup> what they call “contextual analysis”,

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<sup>17</sup> The operational principles do not appear to replace the original guiding principles outlined in *Creating Choices* (TFFSW, 1990: 104-112). Instead, these operational principles are further

“cooperative”, “challenging”, “connection”, and “agency”. These operating principles selectively incorporate feminist analysis and ideals outlined in the guiding principles of *Creating Choices*.

The principle of contextual analysis draws on the premise that the lives and actions of federally sentenced women have to be placed in a wider social, political, and economic context and on the belief that programs must reflect the social realities of women while responding to the individual needs of each woman. The second principle, cooperation, argues in favour of a correctional model not based on hierarchical relations of power. Women are said to be valued as experts on their own needs and, thus, are to be afforded some decision-making autonomy. The third principle, challenging, is expected to promote “the most effective interaction between women and the facilitator in a supportive, encouraging, empathic, accepting, *challenging*, and non-confrontational manner” (Correctional Service of Canada, 1994a: 10). The principle of “challenging” is vague, but it seems to imply that penal regimes should encourage prisoners to question their life choices. The fourth principle, connection, invites women to learn from one another through a dialogue and sharing process designed to promote trust. The final principle of woman centeredness is agency, which envisions women as

active agents rather than passive victims. While they are accountable for their actions, including criminal activities, all activities are understood in relation to the context in which they occur. Though many women have been victimized, they have also survived violence even when their options were very limited. The strength and creativity employed by women demonstrates their potential power to effect change. This strength can be used and refocused towards empowerment (CSC, 1994a: 10).

Overall, the woman-centred approach is perceived as “empowering” federally sentenced women.

## **2c. Paradoxes Of Woman-Centred Corrections**

Canadian histories of women's imprisonment reveal that building an institution based on the

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elaborations and modifications of the guiding principles. In some correctional documents, both sets of principles are referenced.

perceived needs and experiences of women prisoners; employing only female staff and administrators; and integrating feminist, maternal and therapeutic discourses with a penal regime is not original or radical. Strange's (1983) discussion of the Andrew Mercer Reformatory, the first separate institution for women in Canada, illustrates that in the past women's penal regimes have been based on variations of the woman-centred philosophy. Strange illustrates clearly that although maternal regimes ameliorated some of the pains of imprisonment, they also induced their own pains. This comparison is not intended to suggest that past and current regimes are the same; they are not. However, it does illustrate that certain institutional dynamics have continually undermined the successful implementation of woman-centred reforms.

The language of woman-centred corrections incorporates problematic assumptions and overlooks certain material experiences of incarcerated individuals. The language that defines the new woman-centred regime is not being contested, even though it is increasingly apparent that feminists and correctional officials have conflicting interpretations of terms such as empowerment. Feminist uses of the term "empowerment" and correctional uses of the term are different, and are perhaps irreconcilable in the current institutional context. Unlike Corrections Canada, feminists do not believe that the woman-centred model is contingent on the construction of new institutions. The following analysis outlines some of the difficulties associated with these assumptions. I address four problems: the category "woman", false dichotomy of woman- and male-centred prisons, legal/material "reality" of women's imprisonment, and the problematic of empowerment.

#### **2d. The Category "Woman"**

Recent government reports have adopted the same assumptions as have many feminist criminologists: "women in prison have more in common with other women than they do with male inmates, and ... programs and services should be designed to meet their local needs and circumstances, or planned individually, not on the basis of some centralized blueprint" (TFFSW, 1990: 68). One female member of the task force explicitly noted: "We need to think in terms of a safe place for women. Women offenders are not different from any other woman in this room" (TFFSW, 1990: 23). Reformers and feminists have tended to emphasize the commonalities shared by women

as a disempowered and marginalized group. Although this assumption of common disempowerment illustrates some of the undeniable experiential and demographic similarities between women prisoners and “free” women, it fails to articulate the heterogeneity that exists among women. The experiences of women in prison are much more than a microcosm of the experience of all women. Prisoners experience the dehumanizing pains of imprisonment - a unique experience shared by a small portion of Canadian women (and men). The construction of women prisoners as “no different from other women”, or as “having more in common with other women than male prisoners”, denies the involuntary and unique aspects of their experience of incarceration. An emphasis on the commonalities of women results in an insensitivity to the differences among women and, consequently, the experiences of women as prisoners are trivialized. This lack of attention to difference leads to many flawed assumptions such as a belief that if women are employed as guards, run programs, and administer prisons, women in prison will be cared for better.<sup>18</sup>

A related point is that the language of “woman-centred” has the capacity to deny other forms of oppression experienced by women prisoners. An emphasis on gender-based oppression minimizes and obscures other forms of oppression such as race<sup>19</sup> and class. The woman-centred prison and the expectations placed on women prisoners are informed by White, middle-class sensibilities.<sup>20</sup> *Creating Choices* expends considerable effort discussing the importance of cultural sensitivity; however, these sensitivities are limited to Aboriginal women's experiences.<sup>21</sup> Such an awareness is crucial because

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<sup>18</sup> Howe (1994) discusses some of the possibilities for addressing the discredited category of “woman” on a political level. For example, she cites the efforts of political prisoners and others who have sought to develop “new bases for affiliation” with fellow inmates and other political detainees (Harlow, 1986: 508-520; cited in Howe, 1994: 169).

<sup>19</sup> Within Feminist criminology there has been an extensive critique of the omission of the experiences of black and minority women through the use of analytical categories like “woman”. For a more detailed analysis of this critique see Rice (1992).

<sup>20</sup> The reference to a White, middle-class sensibility is not meant to suggest that the category “White, middle-class individual” is homogeneous.

<sup>21</sup> The experiences of Aboriginal women prisoners are different from those of non-Aboriginal women prisoners. This chapter does not articulate the breadth and content of these differences and

Aboriginal women are disproportionately over represented in Canadian prisons (Adelberg & the Native Women's Association of Canada, 1993). Nevertheless, it overlooks the needs of other minority women. This oversight has left Black women inmates “feeling slighted because they have not been asked for their opinions on any of the proposed facilities or programs” (Stewart & MacKay, 1994: 34). Issues of systemic racism<sup>22</sup> tend to be limited to a discussion of Aboriginal culture. Even though the issues of Aboriginal women appear to be a priority, Aboriginal prisoners have expressed some discontent. Some Aboriginal women prisoners feel that they have been alienated from the development process for the healing lodge (prison). Native women prisoners reportedly want to know more about the prison being built for them (Stewart & MacKay, 1994: 37).

Cultural sensitivity is limited to the content and not the structure of the regime. Some of the frustrations expressed by the Aboriginal women involved in the wider *Creating Choices* process articulate a similar concern. Aboriginal women reformers are not fully empowered to explore carceral alternatives consistent with their abolitionist philosophies. Adelberg and the Native Women's Association of Canada's (1993: 77) discussion of the *Creating Choices* process describes some of the frustrations Aboriginal women experience in engaging with “federal correctional officials and other organizations said to represent women in cages which had already conducted study upon study”. For many women, the bureaucratic discourse had little relevance and connection to the “reality” they had experienced. Adelberg and the Native Women's Association of Canada (1993: 79) note:

No amount of tinkering with prisons can heal the before-prison lives of the Aboriginal women who live or have lived within their walls. Prison can not remedy the problem of poverty on reserves. It can not deal with immediate or historical memories of genocide that Europeans worked upon our people. It can not remedy violence, alcohol abuse, sexual assault during

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experiences. For further information on Aboriginal women prisoners, see Sugar and Fox (1989, 1990), and Adelberg and the Native Women's Association of Canada (1993).

<sup>22</sup> More recently, the Commission on Systemic Racism in the Ontario Criminal Justice System (1994) has begun to consider the experiences of racism in a wide variety of communities. However, the recent report of the commission, *Racism Behind Bars: The Treatment of Black and Other Racial Minority Prisoners in Ontario Prisons*, does not provide a detailed or systemic account of the experiences and problems of minority women prisoners.

childhood, rape and other violence Aboriginal women experience at the hands of men. Prison can not heal the past abuse of foster homes, or the indifference and racism of Canada's justice system in its dealings with Aboriginal people. However, the treatment of Aboriginal women within prisons can begin to recognize that these things are realities of the lives that Aboriginal women have led. By understanding this, we can begin to make changes that will promote healing instead of rage.

However, Adelberg and the Native Women's Association of Canada also maintain that although prisons have been problematic in the past, they still have within them the capacity to “promote healing instead of rage.” Prison regimes, however are not safe places for healing, even if they are re-named “healing lodges.” What remains to be seen is the extent to which diverse cultural goals can be integrated in the forthcoming healing lodge (prison).

## **2e.False Dichotomy of Woman- and Man-Centred Prisons**

The construction of two separate and distinct models of corrections - woman centred and male centred - sets up a false dichotomy. Some feminist critics argue that women's penal regimes have epitomized male-centred corrections with an emphasis on security, discipline, and control. The woman-centred approach is conversely characterized as caring, empowering, supportive, respectful, and meaningful. This split reproduces and reinforces normative standards of femininity in the correctional discourse. This dualism does not adequately reflect the diversity or complexity of either women's or men's prisons.

The woman-centred trope reproduces male-centred views about what women need and want. The image of a woman-centred prison as benevolent, caring, therapeutic, and supportive denies the existence of similar relations in men's prisons. Conversely, dominant conceptualizations of the therapeutic nature of woman-centred prisons tend to minimize and obscure the oppressive aspects of involuntary treatment and disciplinary regimes. It is assumed that woman-centred punishment will be experienced by women prisoners as less oppressive than previous male-centred approaches. The potentially coercive nature of therapeutic regimes are well documented in many correctional histories (Dobash, Dobash, & Gutteridge, 1986; Foucault, 1977; Strange, 1983).

The ability to achieve the ideals of the woman-centred approach in a prison setting is generally assumed. To date, reformers have tended to embrace feminist-based therapies for women without clearly acknowledging and articulating the limits of this approach in prisons. The feminization of penal regimes does not absolve these regimes of their punitive and oppressive tendencies, particularly when the subjects of the regimes are involuntary. For example, Kendall (1994: 21) notes that whereas:

feminist therapy is premised on helping the woman see their own power so they can resist harm and take self-determined action, prisons generally remove whatever autonomy women have in their lives by enforcing rigid control over inmates, restrictions on movement, scheduling of activities and communication. Such control, coupled with arbitrary enforcement and application of rules, merely reproduces a sense of powerlessness and unpredictability present in the lives of women prior to their imprisonment.

Kendall (1993a, 1993b) further notes that it is this control that women prisoners identify as most damaging. Nonexistent opportunities and choices make it almost impossible for women to make what they regard as “meaningful choices.” Women in prison lack the power and autonomy to make even the most mundane decisions such as when to get up and go to sleep, when and what to eat, when and who to visit. This paradox frames women's experiences as prisoner and the experiences and frustrations of many well-intentioned therapists and correctional staff.

Arguably, therapeutic ideals are compromised by the preexisting structure and discipline that require correctional authorities to be accountable and legally responsible for those in charge. After all, the main priority of Corrections Canada is the protection of the public, not healing the offender. Frequently, therapy is aligned with control and security. Women prisoners who are believed to be dangerous or violent are often defined as needing “more structure and more intensive therapeutic programming” (CSC, 1995: 42). If we are to learn anything from correctional histories, we should be cautious when embracing ideological shifts away from punishment and toward healing and treatment in prison settings. Woman-centred ideals uncritically embrace therapeutic notions of healing and holistic regimes. Caution is warranted when one recalls the tragedies and abuses that led to the demise of the rehabilitative ideal in Canada and elsewhere (Culhane, 1979; Ekstedt & Griffiths,

1988; Gosselin, 1982; McNeil & Vance, 1978).

The key point here is that advocacy of woman-centred prisons fails to challenge the use of prisons. Most feminists have discussed penal policy in ways that accept the current institutional framework rather than question it. The woman-centred approach assumes that whereas “male models of corrections” are not suitable for women, prisons are suitable as long as they are based on a feminist vision of justice, punishment, and care. The restructuring of women's imprisonment based on a feminist vision of justice, care, or punishment is problematic because there is no uniform or essential “female approach”. Drawing on the work of Gilligan (1982), many feminist criminologists and legal theorists have argued that the law and the criminal justice system are based on a male system of norms that, when applied to women, are inappropriate. Male-based norms and rules are said to deny the experiences and social situations of women offenders. Male-based justice is often taken for granted in feminist efforts to document the deficiencies of the law and criminal justice policy and practice. To encourage a female-based approach to justice, some feminists (see Heidensohn, 1986) have argued that the emphasis needs to be placed on the differences between men and women to produce a uniquely feminine approach. In spite of the criticisms by many feminists (Daly, 1989) that question the possibility of a “woman’s” law or criminal justice system, some feminists still maintain that the woman-centred model can be achieved in prisons (Heidensohn, 1986: 297).

The prison is tied into wider networks of social action and meaning (Garland, 1990). Simply changing the content of a penal regime to reflect a woman-centred approach leaves the wider institutional framework unchallenged. Currently, the way we think about and define punishment is derived from the wider criminal justice context. The feminizing of women's penal regimes reinforces and to some extent legitimates the incarceration of women. Rather than presenting a viable alternative to the problems faced by incarcerated women in the prison setting, feminist discourses, informed by therapeutic ideals, are selectively mobilized. The selective integration of some feminist ideas and not others contributes to the production of a feminized social control dressed up in therapeutic and feminist language.

## **2f. Material / Legal “Reality” Of Women's Imprisonment**

Another concern with the woman-centred prison is its denial of the material and legal reality of carceral relations embodied in the prison. The use of incarceration in a liberal state assumes the loss of certain rights and freedoms. The explicit intention of imprisonment is to punish and to limit the freedom and autonomy of individuals subject to this sanction. As noted, reforming the content of a regime tends to obscure and to some extent silence or minimize the oppressive aspects of prisons and the unequal relations of power that characterize this sanction. Prisons are governed by material structures, cultural sensibilities, and mentalities that limit the extent to which the content of a regime can be changed. Regardless of the form and content of a woman-centred regime, it is still, in many respects, about punishment, security, and discipline.

Efforts to make the new “regional facilities” (prisons) more women-centred range from modifying the architecture and security barriers to less intrusive technologies. *Creating Choices* proposes the construction of five regional facilities for women. These institutions are expected to be “community orientated, holistic, woman-centred, culturally sensitive, supportive of autonomy and self-esteem, and orientated towards release” (LeBlanc, 1994: 12). Accordingly, *Creating Choices* (TFFSW, 1990: 115) states that the design of the “new” facilities should use “environmental factors known to promote wellness”. These factors include natural light, fresh air, colour, space, privacy, and access to land. The design will also incorporate small cottages, independent living areas, and non-intrusive security measures. However, in at least one instance, it seems that Corrections Canada has not modified its approach to prison architecture, and in another the architectural design has been changed to address public and state concerns about security and protection of the public.

A Correctional Service of Canada (1994b: 2) document describing a proposed regional facility in Kitchener, Ontario, notes that

the entire facility will be enclosed by an eight foot chain link security fence. In addition, a four foot fence with state of the art electronic detection devices will form the interior perimeter surrounding the living area. There will be alarms on all the exit doors and windows of the living units. The architectural design has been changed to allow the community access to the gymnasium without any contact with the *inmates*. (*Emphasis added.*)

The same document notes that the public need not be fearful of these women because “*the number*

*one priority of the correctional system is the protection of society* as recognized by the Mission Statement of the Correctional Service of Canada and the Corrections and Conditional Release Act” (CSC, 1994b: 3). This description of the new woman-centred facility refers to women prisoners as inmates instead of the popular terms such as “the women”, “consumer”, “client”, or “resident”. The term inmate and the claim that the main priority of Corrections Canada is the public and not the woman prisoner reinforces a commitment to public safety, security, and discipline.

A good example of how woman-centred ideals are compromised is illustrated in Karleen Faith's description of one of the new federal facilities, the Burnaby Correctional Centre in British Columbia. Although Burnaby was not built as specified by *Creating Choices*, the institution was modified to house federally sentenced women and will continue to do so after Prison for Women is closed. In addition, programming and staffing are expected to conform to the spirit of *Creating Choices*. Faith describes Burnaby as a replica of Bentham's panopticon, which reproduces the same security and classification problems for which the Prison for Women is criticized:

technically, the institution is a medium security facility, but for all practical purposes, due to the architectural design and high level technological security systems, and because women from every classification are locked up together, they must all abide by the maximum custody rules intended for the few women who are perceived as security risks. The immense rotunda in the centre of the prison recalls and structurally manifests the Panopticon design, conceived by the English utilitarian reformer, Jeremy Bentham in 1787 as the ideal architectural design for (male) penitentiaries or, for that matter schools or factories (Faith, 1993: 146).

Ironically, *Creating Choices* (TFFSW, 1990: 31-32) documents the same concern to justify calls for the closure of the Prison for Women. The report quotes the *Ouimet Report* (Canadian Committee on Corrections, 1969), the report of the Royal Commission on the Status of Women (1970), the *MacGuigan Report* (Canada, 1977b), and the *Daubney Report* (Standing Committee on Justice and Solicitor General, 1988), all of which indicated the problematic nature of incarcerating women in “facilities which provide much higher security than most of them require and than most of them would be subject to if they were men” (TFFSW, 1990: 31-32).

Faith's discussion of Burnaby documents clearly the continued presence of intrusive, static

models of security. Irrespective of the institutional rhetoric to the contrary, “the impression imparted by the new Burnaby prison is that this highly secure institution has been constructed for the precise purpose of protecting *the public* from dangerous, unruly criminals, when in reality very few of the women who are sent here represent a threat to anyone at all” (*Emphasis original*, Faith, 1993: 147). The development of plans for the more “disruptive” prisoners reveals, in their starkest form, some of the contradictions of a woman-centred prison. Women who breach the rules of the prison continue to be

punished with segregation from the main prison population, or, if in the opinion of the staff they are suicide risks or otherwise require ‘medical observation,’ they are placed in solitary confinement in top security ‘strip’ cells in isolated locations, where total twenty-four hour a day surveillance is achieved by both cameras and the direct and constant gaze of guards who sit behind protective glass (Faith, 1993: 147).

Similar practices are occurring in the Prison for Women, where a special handling unit has recently emerged in the prison's segregation facility. The characteristics of this prison within the prison include additional mesh fencing on windows, 24-hour surveillance cameras, no activity, sensory deprivation, minimal contact with significant others in the institutions, and the shackling and handcuffing of women while being showered and during recreation. These descriptions fail to support the previously outlined general principles of empowerment, meaningful and responsible choices, respect and dignity, supportive environment, and shared responsibility.

Current classification strategies in the Prison for Women are being intensified, and the new prisons are making changes to accommodate problem prisoners. These practices suggest that an increasing number of women are being classified by institutional staff as risky despite the fact that 4 years ago many of the same women were believed to present more of a risk to themselves than to anyone else (TFFSW, 1990: 41-42, 89-91). None of the new security developments discussed previously are perceived by Corrections Canada as being in contradiction with its wider philosophy of empowerment and woman centeredness.

Another aspect of the material reality of prisons is the relations between guards and the prisoners. According to the new mandate of Corrections Canada, the institutional staff, including the

guards, are expected to engage in meaningful, respectful, and supportive relations with the prisoners under their charge. As one incarcerated woman notes, even though guards are now *program deliverers* and newly classified under case management, “they still wear the uniform of guards” (Horii, 1994: 14). It is difficult to envision the development of meaningful, respectful, and supportive relationships when guards continue to perform strip searches, open women's mail, monitor their relations with others within and outside the institution, and at times punish the prisoners for infractions against institutional order. At the same time, the total number of “enhanced security” cells in the new prisons has doubled from the number in the original design of the regional facilities. The Correctional Service claims that these cells (which are similar to isolation / segregation cells) are to be used for new admissions, protective custody prisoners, prisoners at risk of self injury, and prisoners behaving in a violent or disruptive fashion (Arbour, 1996: 190).

But one could claim that these descriptions characterize a small and insignificant part of the women's carceral regime and that the punishments noted were directed at a small number of disorderly inmates. However, “orderly” women, in the general prison population, are uninformed and confused about the pending changes. Advocates for the women are equally perplexed. Corrections Canada, however, continues to maintain that it is working toward empowerment in partnership with the community. In practice, Corrections Canada simply reports on program development and on the progress of the new institutions. Consultation with the prisoners and the commitment to the principle of “cooperation” (CSC, 1994a), which “favours a non-hierarchical model and values women as experts on their own lives”, seems to have ended before it began. Imprisonment defines a certain set of relations between those imprisoned against their will and their keepers. These relations are structured by unequal power relations that do not facilitate supportive environments, self-respect, or empowerment. These relations are contingent on the institutional culture, which is the product of accumulated knowledge, techniques, normative rules, and working procedures that have developed over time (Garland, 1990: 283). The institutional culture is reciprocally affected by wider social networks that extend beyond the narrow parameters of the prison. For the most part, correctional systems are in the business of assessing and minimizing risk while maximizing the public's security. Although the coercive and oppressive powers of the keepers may be downplayed in the woman-

centred model, unequal relations of power and the legal responsibilities of the prison remain and will continue to shape the institutional response to women in prison. It is increasingly difficult to tell who or what is being empowered: the prisoner or the prison.

## **2g. Problematic Of Empowerment**

In her article on the treatment and punishment of female drug addicts, Young notes that “empowerment is like democracy: everyone is for it, but rarely do they mean the same thing by it” (Young, 1994: 49). Young's comments capture some of the difficulties associated with the current emphasis placed on empowerment in women's penal and treatment regimes. Whereas some feminists have begun to think about the meaning of empowerment as it relates to punishment (Snider, 1994), most of these analyses have emphasized the empowerment of the victim rather than the offender. For feminists, empowerment (ideologically, politically, and economically) has been traditionally embraced as a way of transforming the lives of women by limiting gender oppression. The language of empowerment emerging out of social movements has provided a base for many reform efforts. Empowerment strategies have been used by many activists to reorganize relations of power and affect organizational and policy changes.

Feminist criticisms of empowerment strategies, for the most part, have been limited to a concern with the individual rather than the collective character of empowerment programs and the perceived abandonment of the political for the personal (Cruikshank, 1993: 327). Feminist concerns with the individualizing and pathologizing potential of strategies such as battered women's syndrome are good examples of this critique. Many feminists are apprehensive because current structural arrangements are not able to empower marginalized women. Criminal justice institutions tend to stress that women need to take ownership of and responsibility for their problems without simultaneously acknowledging wider systemic barriers. Further, as Young (1994: 33) notes cogently, programs for women “often operate to adjust women to dominant gender, race, and class structures” while depoliticizing and individualizing their situations.

But these critiques are limited in that they do not show how empowerment is part of a wider

technology of self-governance<sup>23</sup> and how empowerment discourse has produced a self-to-self relation that is governable. Cruikshank (1993: 327) notes that whereas strategies of empowerment, self-help, and democratic participation can enhance the subjectivity of women and the poor, they are also practical techniques for the subjection of individuals.<sup>24</sup> She also argues that the movement toward empowerment or self-esteem seeks “to forge a new terrain of politics and a new mode of governing the self, not a new government” (Cruikshank, 1993: 328). Canadian women's prison reform can be placed within a similar framework by asking how the question of governing women in prison has been transformed into a question of self-governance in the discourse of empowerment.

Empowerment is a flexible rationality that resonates with several governmental technologies to create strategies for reform. These strategies can be employed to regulate many marginalized groups. Recently, this language of empowerment has been incorporated into state discourses of punishment and women's prison reform. The incorporation of a language of empowerment signifies a transformation in the strategy for the governance of women prisoners. The difficulty is that strategies of empowerment resonate with multiple and conflicting objectives. Such a situation is apparent in the most recent reform effort.

The current objective of Corrections Canada is to “empower women to accept responsibility and make good choices for themselves” (TFFSW, 1990: 91). Empowerment in this context has a different meaning from empowerment in a feminist discourse, which seeks to redistribute power and link women's oppression to wider structural inequalities. For Corrections Canada, empowerment is individualized and clearly linked to responsibility and self-esteem. It is noted that

the inequalities and reduced life choices encountered by women and experienced even more acutely by federally sentenced women have left them with little self-esteem and belief in their power to control their lives....Low self-esteem can contribute to the inability to plan for the

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<sup>23</sup> This analysis of empowerment is based on a Foucauldian critique of power and the literature on governmentality.

<sup>24</sup> Perhaps one limitation of the approach offered by Cruikshank (1993) is that it tends to overstate the “social control” qualities of self-esteem technologies while understating alternative interpretations of these technologies.

future, take responsibility for one's actions and to violence against others. Improving self-esteem increases the ability of each FSW [federally sentenced woman] to make choices and gain more control in her life. Empowerment is a process through which women gain insight into their situation, identify their strengths, and are supported and challenged to take positive action to gain control of their lives (CSC, 1994a: 2).

Corrections Canada indicates that its empowering process “acknowledges and holds FSW [federally sentenced women] accountable for their actions, but also recognizes their actions in a wider social context” (CSC, 1994a: 9). However, concerns about accountability tend to override concerns about the prisoner's self-esteem or the wider context of her offending. This construction of empowerment is consistent with recent discontent reflected in the following statement by Corrections Canada:

There are conflicting philosophies influencing the Prison for Women. These are the Mission Statement of the Correctional Service of Canada and the belief that female inmates are victims of violence and therefore not responsible for their action. The Management of the Prison for Women appears to have been forced into a balancing act between the two. The media, non-governmental agencies such as the Elizabeth Fry Society of Canada, and the Government policies affecting Natives have all contributed to this influence (CSC, 1995: 40).

They also note:

The philosophy governing treatment and management of inmates at the Prison for Women appears to assume that women are victims and therefore not responsible for their behaviour. This assumption results in confusion of treatment and no clear goals for inmates. The operational framework should integrate the Mission Document's first Guiding Principle under Core Value 2, namely that *offenders are responsible for their actions and must bear the responsibility for giving up their criminal behaviour* (CSC, 1994a: 9).

This Correctional Service of Canada document goes on to note that because of the inconsistencies in the management of the women, there has been a “diminished level of control and feeling of powerlessness among the staff” (CSC, 1994a: 41), suggesting that the staff as well as prisoners require some empowering.

Empowerment for Corrections Canada is clearly about “responsibilizing” (cf. O'Malley, 1992;

Rose & Miller, 1992; Singh, 1994) the prisoners and having them become accountable for their actions. Individuals become responsible for carrying out the activities that were previously state functions. This new discourse is integrated with an old correctional discourse that emphasizes reforming the irresponsible deviant. The new solution to the “crisis of governability” that exists in women's prison regimes is “relocated in the capacity of women prisoners to act on themselves” (Cruikshank, 1993: 328). The discourse of empowerment is a technology of self-government that requires a woman to take responsibility for her actions to satisfy the objectives of the authorities and not her own.<sup>25</sup> When evaluating the choices made by prisoners in the new prison, a pressing question comes to mind about the determination of what Corrections Canada calls “responsible and meaningful choices”: for whom are these choices meaningful and responsible - the prisoner, the social worker, or the parole board? For example, women prisoners may participate in institutional programs so that they are in a better position when they have a parole hearing, or a woman prisoner could be paroled on her agreement to participate in a required community treatment program.

The responsabilizing agenda of the Correctional Service of Canada blends with reformers' agendas because feminist demands for the integration of women's experiences and a strategy of empowerment do not imply or necessitate the displacement of offender accountability or “agency”. Feminists have fully acknowledged that the negation of personal accountability or responsibility often results in the “disempowerment of women by rendering them harmless victims, thus stripping them of self-determination” (Allen, 1987; cited in Kendall, 1993b: 14). It is this particular facet of feminist notions of empowerment that resonates with the agenda of the Correctional Service of Canada. One of the guiding principles of woman-centred facilities, “agency”, clearly constructs the offender as accountable and responsible for her actions irrespective of victimization and structural impediments. Corrections Canada, by virtue of its legal role and responsibility in the criminal justice process, attempts to make the offender accountable and responsible for her criminal behaviours, regardless of

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<sup>25</sup> This statement is not meant to suggest that the objectives of the women prisoners are always, or even generally, incompatible with the objectives of the correctional authorities. Rather, what is important here is that the woman prisoner is expected to conform to certain standards and criteria that are defined and evaluated primarily by the correctional authorities.

structural and/or situational limitations. It is this process that Corrections Canada terms empowerment.

Despite the influx of “empowerment discourse”, woman-centred corrections is about responsabilizing the prisoner, not empowerment as defined by feminists. Corrections Canada's acknowledgement of the structural barriers facing women and their attempt to remove some of the “pains of imprisonment” has not replaced the liberal notion of individual responsibility. This emphasis on responsibility decontextualizes feminist constructions of women's resistance, and it disregards feminist analysis of the social, economic, and political barriers experienced by women - and, in particular, by marginalized women.

### **3. Conclusions: Placing the Cart Before the Horse?**

The past twenty years of Canadian women's prison reform does show that the concerns of women reformers about women's difference have been institutionalized but they have also been redefined. Barnsley (1988: 19) argues that redefinition of women's issues effectively serves “to protect the status quo, the existing political system and structures and all the while bolster the image of institutions as fair and responsive upholders of the greater good”. The Correctional Service of Canada claims to have developed a correctional model that satisfies the “unique needs” of women prisoners and with the opening of the new prisons the Prison for Women may close. However, one of the darker sides of the institutionalization of women's concerns is the unanticipated redefinition of women's issues to make them compatible with the existing institutional arrangements of incarceration. Terms, like “empowerment” and “healing” used in current correctional narratives create an illusion that makes the activity of punishing less visible and less open to scrutiny. After all, few oppose or question the logic of “empowering” oppressed groups or the “healing” the “sick”. I have argued that this language obscures the reality of who is doing what to whom.

The limits of the current direction of “woman-centred” reforms are perhaps most clearly reflected in the findings of the 1996 Arbour Commission. The *Commission of Inquiry into Certain Events at the Prison for Women in Kingston* was established to investigate and report on the operation and policies of the Correctional Service of Canada as they pertain to the management of

the Prison for Women in 1994. The report was prompted by a public outcry following a violent altercation between staff and prisoners. The findings of this report vividly document the violation of prisoners' rights and abuses of power that occurred in April of 1994. Over the weeks following the incident, prisoners were denied access to their lawyers, forcefully strip searched by a male emergency response team, and held in an unsanitary and callous environment. The report of the Commission reveals numerous violations of women prisoners' most basic human and legal rights.

The report pays particular attention to the absence of "a culture of rights" and "the rule of law" at the Prison for Women and in the prison environment more generally (Arbour, 1996: 179-189). Justice Arbour notes:

the facts of this inquiry have revealed a disturbing lack of commitment to the ideals of justice on the part of the Correctional Service ... there is nothing to suggest that the Service is either willing or able to reform without judicial guidance and control (Arbour, 1996: 198).

She argues that the rule of law is fundamental to penal governance and to the establishment of legal norms in penal institutions. Justice Arbour notes that while there are an abundance of rules and laws governing penal relations, analysts of the penal system have shown that prisons can represent a complete negation of every principle of legality (Lemondé, 1995; cited in Arbour, 1996: 180-181). She claims that this "dual characteristic" or contradiction was apparent throughout the inquiry. Although there are several rules, policies and laws that govern every minute aspect of the Correctional Services of Canada and the conduct of its representatives at Prison for Women, "the applicable law or policy in a given situation appeared to be either unknown or easily forgotten and ignored" (Arbour, 1996: 181). And further, that "despite this plethora of normative requirements, one sees little evidence of the will to yield pragmatic concerns to the dictates of legal order" (Arbour, 1996: 181).

In response to these violations, Justice Arbour reaffirms the essential limits on the state's power to punish. She states:

one must resist the temptation to trivialize prisoners' rights as either an insignificant infringement of rights, or as an infringement of rights of people who do not deserve better. When a right is granted by law, it is no less important that such a right be respected because

the person entitled to it is a prisoner (Arbour, 1996: 183).

She also notes that these rights provide protection to vulnerable populations, like prisoners. For example:

The right not to be subjected to non-consensual body cavity searches is not particularly valuable to those who are unlikely ever to be subjected to such an intrusive procedure. It is only valuable, and therefore should be enforced with the greatest vigour, in cases where such searches are likely to be undertaken. In the same way, the right for a woman not to be strip searched by a man is of little significance to someone who has never been and is realistically unlikely to ever be strip searched by anyone (Arbour, 1996: 183).

These statements are reminiscent of the due process claims of prisoner's rights advocates in the early 1970s.

It is easy for individuals who enjoy autonomy and freedom from such intrusive practises to overlook or take for granted the importance of certain fundamental legal rights. Post-liberal reform strategies like "empowerment" or "healing" require and assume that women in prison already enjoy certain rights. Justice Arbour's (1996: 198) inquiry raises serious questions about the potential of a repressive state to "empower" individuals who are not even deemed by that state to be legitimate recipients of the most basic of human rights.

Over the past six years, the Correctional Service of Canada, despite its intentions regarding the regional facilities, has not fundamentally altered the conditions of federally sentenced women. The two regional facilities that opened in 1995-1996 have been plagued with problems (escapes, riots, suicides and self-injury). The Prison for Women has not changed in accordance with the new ideals of "healing", "empowerment" and "meaningful choices". If anything, conditions at the Prison for Women have worsened. In hindsight, we could argue that feminists and other advocates of women prisoners should have pursued a more vigorous campaign for formal legal equality rights. This strategy may have won inmates more tangible benefits rather than the dubious benefits delivered through the Correctional Service of Canada's cooptation of the feminist politics of difference and empowerment.

## Chapter Six

### Actuarial Penalty: Rethinking Risk

*One of the most interesting characteristics of commentary on penalty today is that everyone agrees that the field is changing, and in fundamental ways. However, there is surprisingly little agreement about the precise nature of this transformation, or about the causes that are bringing it about (Garland, 1995: 189) .*

The governmentality literature argues that there has been a shift in the process of government which is, in part, a consequence of the shift from welfarism to neo-liberalism (Rose, 1993). This multi-dimensional shift has resulted in the development of new technologies of power. Traditional forms of pastoral and disciplinary power are now complemented and in some cases overshadowed by newer forms of power relying on new managerial techniques. Some theorists in penalty use risk theory to make claims about the changing dynamics of the correctional sphere and criminal justice systems more generally. In particular, the self described “new penology literature” ( Feeley and Simon, 1992; 1994; Simon and Feeley 1995) addresses the specific issue of actuarial forms of power and risk based technologies in correctional settings. The new penology framework of Simon and Feeley expands on the claims of earlier attempts by Bottoms (1983) and others (Peters, 1988; Tuck, 1991) to describe changes in the penal system by examining the growth of what Bottoms (1983) describes as “managerialism” (Garland, 1995). These analyses argue that the evolution of a “risk society” is reflected in penalty. Crime and its management are presented as a problem of actuarial management (Simon and Feeley, 1995: 147-148). The new task of penology is managerial, not disciplinary and transformative (Cohen, 1985).

Accordingly, Feeley and Simon (1992:449) argue that current emphasis on risk minimization (which has its counterparts in other areas of the law as well) has shifted our attention away from the traditional concerns of the criminal law and criminology, concerns about the individual, and redirected it to actuarial consideration of aggregate data. Penology is now “less concerned with responsibility, fault, moral sensibility, diagnosis, or intervention and treatment of the individual

offender”, it “seeks to *regulate* levels of deviance, not intervene or respond to individual deviants or social malformations” (Feeley and Simon, 1992:452). The new language of penology no longer speaks of

impaired individuals in need of treatment or of morally irresponsible persons that need to be held accountable for their actions ... rather ... it seeks to sort and classify, to separate the less from the more dangerous, and to deploy control strategies more rationally (Feeley and Simon, 1992:452).

Some of the distinguishing features of the new penology include: a new discourse, a new set of objectives designed not to punish or rehabilitate individuals but to manage and identify unruly groups, new techniques of control, and a new managerial perspective on correctional practise.

While several risk scholars have studied the dynamics of risk-oriented institutions and new management techniques ( Simon, 1988; 1993; 1994; Ewald, 1991; Defert, 1991; Castel, 1991; O'Malley, 1992), few have examined the moral and political aspects of categories of risk, or the differential impact of actuarial risk claims on different populations. This chapter is also innovative in examining the potential use of neo-liberal rationalities and of categories such as risk to mask the continued exercise of the regulatory practises that are often assumed to have disappeared. Based on evidence from Corrections Canada and from the recent Arbour Inquiry into the Prison for Women, I argue that risk-based strategies are simply one of several new management techniques used to manage women prisoners. Rather than either applying or rejecting the efforts of risk theorists, this analysis is intended to complement the growing body of literature analysing the implementation of actuarial or risk-based assessments of behaviours and situations in a variety of contexts. By raising questions about the construction of risk, the relation between risk categories and older notions of “danger”, and the regulatory potential of these categorizations, it contributes to a more complex and dynamic understanding of the regulation of incarcerated populations.

The chapter begins by looking at some of the limits of the theoretical literature and risk-based technologies. The suggestion that amoral and objective actuarial forms of power have replaced or displaced alternative forms of power such as disciplinary or pastoral forms of power is disputed. By contrast, I argue that multiple forms of power co-exist in a series of dynamic and unstable relations. Section two examines the Canadian correctional research that informs and validates actuarial

technologies such as classification tools, and static and dynamic security management. I focus on two strategies of risk management and risk reduction evident in institutional classification processes: correctional actuarialism and correctional prudentialism. Section three investigates how these techniques are used to interpret behaviours and to assess women's "risky behaviours", concluding that risk has been used as a euphemism to understand and manage the behaviour of and concerns about women prisoners. Institutional expectations of good and bad behaviour are reflected in correctional classification processes and in the definition of certain behaviours and activities as "risky". I provide an assessment of the risk management techniques designed specifically for women that are currently being used by Canadian correctional officials in the new federally sentenced women's facilities, and discuss some of the broader implications of risk theorists' analyses of the trend towards penal actuarialism as they relate to women in the criminal justice system. I argue that the development of new classification systems for women prisoners has resulted in a re-classification of women's "needs" into "risk factors". Contrary to claims about the decline of rehabilitative technologies and the independence of risk technologies, I show how the Correctional Service of Canada's new emphasis on "intensive healing" is a hybrid technology of risk and rehabilitation, which emphasizes the responsabilization of prisoners.

### **1. Risk Theory**

New rationalities and technologies which profess to measure and precisely define risk are quite obviously present in most Western custodial regimes. However, while the techniques for the measurement and calculation of risk may be characteristic of neo-liberal governing strategies in several contexts, public concerns about risk, danger, or peril are not necessarily new (Menzies, Chunn and Webster, 1992; Castel, 1991; Strange, 1995). The previous chapter on maternal forms of governance, for instance, illustrates how rationalities of motherhood were mobilised to combat the manifestation of moral risks. Historically, women's penal regimes were organized around variations of the dual image of "women as a risk or at risk". Corresponding to these constructions of risk are

“correctional” strategies<sup>1</sup> intended to ameliorate these risks.

The notion of risk has a long and complicated relationship to traditional systems of social control. The manifestation of risk techniques is one of several characteristics of an increasingly technocratic and calculated system of governing. Notions of dangerousness, the prevention of risky behaviours and the protection of society are deeply ingrained in the correctional culture and in the systems of knowledge embraced by practitioners, which claim an expertise in the diagnosis, prediction, prevention and treatment of risk (Menzies, Chunn, and Webster, 1992: 63). Correctional systems have an indisputable interest in claiming that they have the capacity to identify and contain “risky” citizens. Recent critiques of these systems, however, illustrate that the task of predicting risk is not a simple result of statistical calculations. In some ways the current debate about risk techniques is a contemporary manifestation of the older “dangerousness” debate. The techniques used to calculate and predict risk have some of the same limitations as those employed to classify dangerous people and behaviours. However, what seems to be new is the increased reliance on scientific technologies for the definition and management of risk.

Risk theory attempts to understand two inter-related concerns: first, the shift in rationalities, programs and technologies of government which are now emphasizing actuarial forms of power, and second, the material impact of this shift in governing. The term risk is used differently by different authors to describe a variety of circumstances, behaviours, or actions. It has been suggested by Ewald (1991: 198), who examines the influence of technologies of risk in the insurance industry, that “the term *risk* which one finds being used nowadays apropos of everything has no precise meaning other than as a category of this technology [insurance]”. The term risk implies not an objective threat as much as

a specific mode of treatment of certain events capable of happening to a group of individuals - or, more exactly, to values or capitals possessed or represented by a collectivity of individuals: that is to say, a population. Nothing is a risk in itself; there is no risk in reality.

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<sup>1</sup> The community of non-state reformers are very much involved in the definition of women as a risk or as being at risk of harm.

But on the other hand, anything *can* be a risk; it all depends on how one analyses the danger, considers the event ... Rather than notions of danger and peril, the notion of risk goes together with those of chance, hazard, probability, eventuality or randomness on the other hand, and those of loss or damage on the other - the two series coming together in the notion of an accident (Ewald, 1991:199).

Implicit in contemporary risk-language is the notion of prevention. There is the expectation that one is able to accurately and adequately calculate the probability of an event if equipped with an understanding of the causal variables. Within criminology these assessments are made through the identification and understanding of so called criminogenic factors, or more recently, risk factors. Governing citizens through risk-based technologies emphasises preventative strategies. The literature on risk suggests that traditional mechanisms of individual regulation have been displaced by an attempt to regulate the environment rather than the individual. In describing the emergence of a new form of governance, governmentality scholars such as Rose (1993:295) indicate that “advanced liberal modes of rule have a certain *formal* character” and that “the calculative regimes of positive knowledges of human conduct are to be replaced by the calculative regimes of accounting and financial management”. This new form of environmental regulation is often referred to as *actuarialism*: it relies on the techniques such as standardized testing and statistical calculations. The term actuarialism connotes the regulation of populations through collectivist risk management strategies; individuals, once understood as moral or rational actors, are increasingly understood as locations in actuarial tables of variations (Simon, 1988). Many risk theorists claim that actuarial forms of power and risk-based technologies are becoming more popular because they represent a more efficient and effective means of control than alternative disciplinary technologies of power (Ewald, 1991; Simon, 1987; 1988; Brennan, 1987). As O'Malley (1992: 255) notes “it is largely because of its greater efficiency, [that] actuarial power is seen to permeate virtually all social fields replacing the *punitive city* (Cohen, 1979) with the *risk society* (Simon, 1987; Gordon, 1991) or *post disciplinary order* (Castel, 1991). Similarly, Garland (1995: 191) indicates that the primary goal of actuarial prediction is to “ensure the proper allocation of resources and the efficient management of risk, not to secure the best treatment for the purposes of individual reform.” These conceptualizations

of risk suggest that disciplinary forms of power are being replaced with more efficient actuarial forms of power, and they seem to imply that actuarial forms of power do not have a disciplinary component. Further, they fail to articulate the overlap between these two forms of power which can often be located in new managerial techniques.

Risk theorists such as Simon (1988:772) argue that this shift from "moral agent to actuarial subject" signifies a transformation in exercise of power on individuals by the state and other large organizations. According to Simon (1988: 772) "where power once sought to manipulate the choices of rational actors , it now seeks to predict behaviour or situate subjects according to the risk they pose." Brennan (1987) goes as far as to suggest that newer "objective" classification approaches are more efficient and they aim to constrain or limit the extremes of subjective discretion, bias, and prejudice through the use of reliable data. He claims that "the traditional *judgement* approach is gradually being abandoned and objective numerical procedures are emerging" (Brennan, 1987: 331; cf Glaser, 1987). Similarly, but to a lesser degree, Castel (1991) indicates that new forms of actuarial management have replaced and significantly altered traditional therapeutic relationships which were dependent on professional discretion and diagnostic techniques. This trend is also present in the recent work of Simon (1994:29) who suggests that an important aspect of the emerging rationality of government in higher education is the decoupling of moral authority from the responsibility for managing risk.

While Simon (1994) appears to suggest that the development of risk management techniques involves mechanical, amoral, and apolitical technologies of modern government. He also suggests that the processes of risk management are geographically and historically contingent; and he cites the work of Douglas and Wildavsky (1982) and Tesh (1988) to claim that "how a particular society perceives and manages risks is a deeply political and cultural issue"(Simon, 1994:27). Simon (1994; 1988; 1987) offers some interesting insights on evolution of governance through risk management techniques. However, his analysis tends to remain at a macro level where he identifies the presence of trends and shifts in governing without exploring in enough detail the material implications, especially for subordinated groups such as women prisoners, of the shifts he describes.

Castel's (1991) analysis of the state's preventative management of risk suggests that there

have been qualitative changes in the way in which populations are being governed in the *post-disciplinary state*. Like other risk theorists, Castel (1991:287) argues that the governance of “risky” citizens and populations in therapeutic settings has changed with the advent of new managerial techniques predicated on actuarial forms of power. He claims that as a result of these new forms of actuarial management there has been a shift away from classical forms of treatment which involved a direct relationship with the *assisted subject* or client to a neo-liberal relationship in which relations with or surveillance of the *assisted subject* or client have been depersonalized to the extent that in extreme instances surveillance can be achieved without any direct contact with or representation of the subject. He argues that while historically the notion of a risk was somewhat synonymous with and inseparable from that of danger, contemporary managerial techniques allow for the separation of risk and danger. Castel (1991:287) notes that within a *post disciplinary society*

A risk does not arise from the presence of a particular precise danger embodied in a concrete individual or group. It is the effect of a combination of abstract factors which render more or less probable the occurrence of undesirable modes of behaviour.

The combination of “abstract factors” and the application of these factors to certain criteria to make predictions about behaviour depersonalizes and changes the relationship between the client and the therapist / specialist/ professional: the professional no longer starts from a conflictual situation observable in experience, but rather deduces it from a general definition of the dangers one wishes to prevent (Castel, 1991:288). Castel (1991:288) is suggesting that

to intervene no longer means, or at least not to begin with, taking as one's target a given individual, in order to correct, punish or care for him or her (however one cares to interpret these later forms of intervention - positively, according to the tradition of charitable, albeit muscular philanthropy, or negatively in line with the anti-repressive school of thought). There is, in fact, no longer a relation of immediacy with the subject *because there is no longer a subject* (emphasis original).

O'Malley (1992:254) observes the presence of a similar phenomenon:

through its utilization of risk-based techniques to detect and manage social problems, this emergent form of power divides the population into statistical and behavioural categories

organized around risk , that tend not to correspond to people's lived experiences.

However, O'Malley's (1992) argument does not suggest that actuarial forms of power displace alternate forms of power. In general, risk theorists have argued that the disciplinary technologies of power which Foucault (1977) describes as operating through and on individuals are being replaced by calculated, efficient and abstract actuarial form of power. Instead O'Malley (1992) suggests that this transition in power is not as clear-cut and obvious as many risk theorists claim.

I would agree with O'Malley's point that practises of governing are much more fragmented and inefficient than postulated by most risk theorists. While the identification of broader trends is an important task, most models of actuarial forms of power fail to acknowledge Foucault's recognition of discipline and regulation as *two poles of development linked together by a whole intermediary cluster of relations* characterised by *overlapping and echoes* (O'Malley, 1992: 255). O'Malley (1992: 256) suggests that the task for risk theory is not to map the evolution of technologies of power, but rather to understand the dynamics of relations and conditions which affect the types and combinations of techniques in any given situation. With respect to the claim that new forms of power displace or replace previous technologies, he notes that the history of the prison or of actuarial techniques should not be understood as a gradual encroachment of a more efficient technology of power, but instead as "an uneven and negotiated (thus partial) implementation of a political program and the consequent (equally partial) installation of appropriate techniques" (O'Malley, 1992: 258). Further, he notes that the appeal of any given technology may be based on a number of criteria, and an alternative understanding of these new actuarial techniques would be to see them as an outcome of moral and political struggles which continue to be the object of major conflict (O'Malley, 1992: 259). This construction of an actuarial form of governing and risk management allows for conflict and resistance and for the coexistence of multiple programs and technologies which may rely on diverse relations of power that do not appear to exist in other analysis of actuarialism.

Questions which remain unanswered for risk theorists include: To what extent and how are actuarial forms of power more efficient or less coercive than other forms of power ? To what degree and under what conditions have old disciplinary technologies of power been replaced /displaced by a new actuarialism? How have these shifts remained at the level of discourse or have they affected

material practises in particular settings? In the instance of new forms of governing such as actuarialism, it is evident that different forms of power enable and reinforce other forms. We are often too quick to assume that one form of power (such as disciplinary powers in the prison) is omnipresent, and consequently all technologies are ascribed a disciplinary significance. It is much more useful to think of social settings such as the prison as a location for the simultaneous exercise of several technologies often guided by quite divergent rationalities.

To summarize: the discussion of the emergent risk society has offered some valuable insights, but there are four limitations apparent in these analyses. First, it is generally assumed that actuarial techniques are devoid of a moral and / or political component. Secondly, existing theories imply that the scientific and “actuarial” quality of these technologies translates into a claim of greater efficiency and objectivity. Thirdly, there is a somewhat unquestioned assumption that in most settings actuarial forms of power have displaced or replaced alternative regimes. Fourth, risk governance is usually considered as acting uniformly across whole populations rather than differently according to gender, race and other variables. In short, the literature describing this transformation there is a failure to recognize and acknowledge the subjective, moralistic, and disciplinary capacity of actuarial techniques. For the most part these difficulties are replicated in recent criminological studies of punishment.

## **2. The “New” Actuarial Penalty**

### **2a. Risk and Corrections**

The penological debate about risk occurs at two distinct, but somewhat inter-related levels. First is the general sociological debate about the influx of actuarial management techniques into the various aspects of penalty and the attempts to theorize this shift and the evolution of a “new penology”. This debate parallels the arguments made in the previous section. Secondly there is an administrative or managerial discussion of risk (Motiuk, 1996; 1993; Brennan, 1987; Glaser, 1987; Andrews, 1989; Andrews, Bonta and Hoge, 1990; Pepino, 1993; Bonta, Pang and Wallace-Carpetta, 1995) which is primarily concerned with the development of effective and efficient techniques for the management of *risky individuals and risky behaviours*. A major portion the research conducted

by the Correctional Service of Canada has been dedicated to the collection of data bases needed to understand and manage issues related to risk. Risk factors within this correctional sphere refer “to personal attributes and circumstances that are assessable prior to service and are predictive of future criminal behaviour”(Andrews, Bonta and Hoge, 1990: 24). Prediction figures prominently in these debates, and many have argued that this research “convincingly demonstrates that criminal behaviour can be reliably predicted when predictions are based upon objective, empirically based, assessment instruments”(Bonta, Pang and Wallace-Carpetta, 1995:280; cf. Andrews and Bonta, 1994). The technical debate about the correctional risk management responsibilities and the development of risk assessment tools and programs tend to dominate contemporary correctional debates.

What does it mean to say that prisoner are being managed through actuarial calculations of risk? How are these new techniques different from those which previously dominated the correctional arena? These are some of the questions to be answered through an examination of actuarial management techniques in Canadian women's facilities. The construction of a “gender sensitive risk assessment” tool for women prisoners is discussed in light of these considerations.

Correctional institutions are charged with the responsibility of managing risk while an offender is in custody and minimizing her risk of recidivism upon release. Discussions about risk in correctional settings are primarily concerned with the risks presented by inmates to others (in terms of escape risk or risk to public safety) and sometimes the risks that they present to themselves (in terms of suicidal or self injurious behaviours). In addition to the emphasis on the danger presented by the offender to society, actuarial management techniques are used by correctional officials to assess the treatment needs of offenders, to assign security classifications, to predict recidivism, to define offender management, and to determine the type of accommodation required. While predictions and risk management are ongoing processes throughout the carceral experience, many of these assessments occur during the “classification” process.

Officials who assess these risks have traditionally been guided by subjective deliberations on individual cases, while professionals (psychologists, case mangers, and administrators) relied on expert opinions when deciding an appropriate security and custody level for each offender (Proctor, 1994:257). However, with the influx of actuarial technologies, these tasks are being mechanized and

depersonalised (Glaser, 1987; Brennan, 1987; Proctor, 1994). Glaser (1987:255) describes this shift in terms of two management techniques: the “subjective approach”, where assessing risks consists of “classifying each case into a category of others about whom one has assumptions of dangerousness”; and the objective method, which is to “compile statistics that show the risk of danger for various categories of offenders”. Statistical tools are used to assess and calculate offender risk levels and to inform authorities about what risks they can take in the management of the offender. Actuarial models attempt to be objective by scoring each inmate on a standardized set of variables and by making predictions on the basis of variables believed to be valid predictors of behavioural problems (Proctor, 1994: 258). The Correctional Service of Canada has several techniques for the assessment of the risks posed by and the needs of offenders, both of which are evaluated and taken into consideration in the designation of a security classification and program assignment.

Before elaborating on the details of classification technologies, however, it is crucial to note that “classification is a much used and ill-defined term” and that its meaning often varies depending on the jurisdiction or individual perspective (Burke and Adams, 1991:3). Classification systems are usually linked to a number of correctional objectives: inmate, staff, and public safety, rehabilitation, reintegration, provision of services, equity, efficient resource allocation, management planning, social control, discipline, surveillance, and protection from liability (Brennan, 1987: 323). Furthermore, classification systems are multi-faceted and they can have differential effects on prison populations depending on how they are used and on the significance attributed to these systems. For example,

at the very narrow extreme, classification may be equated with a set of forms that need to be filled out for offenders that generate some sort of designation. This designation may have minimal impact on what happens to the offender or how the system interacts with the individual. At the other extreme, classification may encompass virtually all the systematic assessments of and responses to offenders. In short, it can shape how the system deals with an individual inmate. It can be, in essence the major organizing principle for the work of the institution as it interacts with inmates (Burke and Adams, 1991: 3).

In spite of these ambiguities, “classification” or risk identification and management is a major technology in all correctional institutions. It is regularly used to assess the needs and risks of offenders and to fulfil the legal obligation of the Correctional Service of Canada to assign a security level to each inmate and to provide the inmate meaningful programs.

While the assessment process and the operationalization of risks and needs are left to the discretion of the Correctional Service of Canada, ultimately case management officers and other correctional staff, the legal expectations of correctional risk management are outlined in the *Corrections and Conditional Release Act (CCRA)*, the legislation governing the operations of the Correctional Service of Canada. The *CCRA* outlines some general parameters for the management of risk through the designation of one of three security levels: maximum, medium or minimum<sup>2</sup>. The *CCRA* also outlines seven factors which should be taken into consideration in determining the security classification to be assigned to an inmate: the seriousness of the offence committed by the inmate; any outstanding charges against the inmate; the inmate's performance and behaviour while under sentence; the inmate's social, criminal and (where available) young offender history; any physical or mental illness or disorder suffered by the inmate; the inmate's potential for violent behaviour; and the inmate's continued involvement in criminal activities. These categories are enabling and flexible and generally emphasize the likelihood of escape and surveillance requirements. They also reflect one key objective of corrections: to protect the public from the risk of an unreformed or escaped inmate. Beyond these parameters, and some policy and operational directions outlined in the *Commissioner's Directives*<sup>3</sup>, the methods and techniques used to assess and manage risk are left to

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<sup>2</sup> Maximum security inmates are those individuals who present a *high probability* of escape and a higher risk to public safety in the event of an escape or require a high degree of supervision and control within the penitentiary. The medium security inmate presents a *moderate probability* of escape, and a moderate risk to the public safety in the event of an escape or requires a moderate degree of supervision and control within the penitentiary. The minimum security inmate presents a *low probability* of escape, and a low risk to the safety public in the event of an escape and requires a low degree of supervision and control within the penitentiary.

<sup>3</sup> The *Commissioner's Directives* are rules and regulations designated by the Commissioner of Corrections, under the authority of the *Corrections and Conditional Release Act* which provides guidelines for the management of the Correctional Service of Canada more generally. The

the discretion of each institution and ultimately to individual case management officers. Although there are some generic tools for the measurement of offender risk such as the Intake Assessment System (Motiuk, 1993), decisions about risk and its management are determined and interpreted by correctional staff. Ultimately, the security classification given to an inmate at the end of the classification process affects several aspects of correctional life from housing and supervision to access to programs and the community through parole or temporary absences.

## **2b. Risks, Needs and the Classification of Women Prisoners**

Risk is gendered. Our definitions and interpretations of what constitutes risk are contingent upon specific cultural, political and moral evaluations of behaviours and events. But criminology, and feminist criminology in particular, have not considered the claim that there has been a transition in the governance of women prisoners by the state or reformers from punishment and treatment to risk assessments and actuarial calculations. One feminist states that sophisticated risk calculations are *not* used with women prisoners:

... risk classification is generally a very simple undertaking for female offenders: you can generally tell as soon as you get to know the inmate, and therefore [it] does not require a highly sophisticated classification system (which usually have poor predictive capacities in any case)(Axon, 1989: 72).

Apart from a concern with the construction of woman prisoners as a risk to the community, and a criticism of male-based classification systems as over-stating the risk to the public presented by women prisoners, feminists have not analysed the concept of risk as it applies to women's penal regimes; nor have they provided a detailed critique of existing techniques for measuring risk,<sup>4</sup> except

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*Commissioner's Directives* are supposed to be accessible to all prisoners, staff, and members of the public. In some cases the *Commissioner's Directives* restate the law and in others they set out policy and practise with respect to matters not specifically addressed in the *CCRA*. The *Commissioner's Directives* are further elaborated on in a series of detailed *Regional Instructions* and institutional *Standing Orders* and *Post Orders*.

<sup>4</sup> There are several instruments used to "measure a women's level of risk". Some of the tools use at the Prison for Women include: Interpersonal Behaviour Survey (IBS); Minnesota Multi phasic

to suggest that these measures do not adequately reflect the context of women's experiences and behaviours.

When feminist criminologists discuss the issue of risk in relation to the female offender they tend either to use anti-risk language or to locate the source of risk exclusively in male behaviour. In the first instance feminists argue that women prisoners are generally convicted of relatively minor, non-violent offenses<sup>5</sup>, and that when women are perpetrators of violence their victims are often abusive partners. Reformers and state officials (femocrats<sup>6</sup>) have lobbied for improved prison conditions and additional community programming on the basis that women in prison do not represent a substantial risk to the safety of the public. In the second instance, it is argued that rather than presenting a risk to society in the traditional sense, women in prison are *at risk* of being victimized or of harming themselves through self-mutilation or self-abusive behaviours. Women in prison have been seen as very similar to women in the community: it is argued that women in general often find themselves in “risky situations” with few structural supports. Unlike the male prisoner, the woman prisoner is rarely constructed as a risk to the community: but like women in the community, she is often portrayed as being at risk of being victimized by men. Feminist research reinforces this claim by noting that women in general are at risk<sup>7</sup> of becoming victims at some point in their lives and that over 80% of the women who come into conflict with the law have been physically, sexually, and / or psychologically abused, and that many of these women are socially, economically and politically

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Personality Inventory - Revised (MMPI-2); Multidimensional Aptitude Battery (MAB); Beck Hopelessness Scale (BHS); Traumatic Symptoms Checklist - 33 (TSC-33); Alcohol Dependence Scale (ADS); Drug Use Questionnaire (DAST). Some of the tools considered inappropriate for use with the female offender, but still used on certain occasions include: Statistical Information on Recidivism (SIR); Psychopathy Checklist - Revised (PCL-R); Level of Supervision Inventory (LSI); Violence Risk Assessment Guide (VRAG).

<sup>5</sup> For a more detailed analysis of the offenses committed by Canadian women see Johnson and Rodgers' (1993).

<sup>6</sup> The term *femocrat* is taken from Sophie Watson and Rosemary Pringle (1988).

<sup>7</sup> For an interesting discussion of this issues, as it relates to the experiences of battered and incarcerated black women in the Untied States see Richie (1996).

disadvantaged; hence they are in potentially risky situations<sup>8</sup> (Richie, 1996). Feminist criminologists and advocates emphasize the common links between the struggle for penal change and societal change without questioning the concept of risk.

When risk, other than the risks that threaten women (from themselves or others), is discussed in women's corrections by feminists, it is in the context of a critique of traditional classification systems and methods of risk management which usually assumes that women prisoners are risky by virtue of their "offender" status. Women offenders, in part because of their small numbers and in part because of convenience, have generally been managed with the same technologies used to govern incarcerated male populations. The feminist critique of women and classification has, for the most part, emphasised three general questions: are women over-classified or inadequately classified when processed through the same system as male offenders? Should practitioners use different criteria to assess the security risks and program needs of women prisoners? Should needs be stressed more than security risks? The following is a brief discussion of some feminist criticisms of existing classification processes and attempts to sensitize these processes to gender differences and in some cases develop entirely different systems for women.<sup>9</sup>

Recent critiques indicate that the risk posed by female offenders is qualitatively different from the risks posed by male offenders. For example, Shaw (1991a) notes that "the criteria used to assess the risks which men present, both in prison and on release, do not necessarily relate well to the circumstances and characteristics of female inmates". Traditional risk technologies rarely capture the circumstances in which women participate in violent offenses, the logic of their self-destructive behaviours or the structural limitations which make certain activities difficult. For example, regarding risk factors such as *escape risk* and subsequent *public risk*, it is suggested that given there are so few

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<sup>8</sup> There is also an extensive literature which suggests that women are more likely to present a risk to themselves through self-injurious behaviours than to others (Heney, 1990; TFFSW 1990). There is also a small literature criticising current constructions of women as violent. For a detailed review of this literature see: Shaw and Dubois (1995).

<sup>9</sup> There are still debates about the appropriateness and utility of this enterprise which is not explored in detail in this section. For more detailed information on the classification debate see Burke and Adams (1991).

instances of escape from women's facilities, it is difficult to draw reliable and valid conclusions about these risk factors. Consequently, correctional officials have used speculative techniques to make determinations about women's escape risk and public risk. For example, in the Illinois Department of Corrections<sup>10</sup> classification system, the level of escape risk of the inmate was based on the "judgement of practitioners regarding indicators of escape risk"(FSWP, 1994a: 12; Burke and Adams, 1991). In other jurisdictions such as New York, research indicates that the incidence of escape and institutional violence was so limited that the most effective policy was to predict that all female inmates would adjust well.

In Canada, however, escape risk and public safety risk continue to play a critical role in the classification of federally sentenced women. Recent policy hearings of the Arbour Commission<sup>11</sup> revealed that one of the major problems with the classification of women is there are no criteria to form the basis of a reliable classification system.<sup>12</sup> For example, most classification systems use a women's offence as a central predictor of risk : however, recent research has indicated that a woman's offence often has very little to do with her adjustment to prison life, and a very tenuous or weak link with how she does after release in the community (Shaw and Dubois, 1995). Shaw and Dubois (1995) also suggest that a woman's offence is not correlated with women's institutional violence, their convictions while incarcerated or behavioural problems in prison. In general, very few personal or criminal history variables predict women's institutional violence, their convictions or

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<sup>10</sup>This designation could require a prisoner to wear a certain colour badge identifying an inmate as a high escape risk and determine her living arrangements.

<sup>11</sup> The policy hearings referred to here were held at Westlake Hall in Kingston, Ontario between November 14, 1995 and November 30, 1995. The public hearing were held by the *Commission of Inquiry into Certain Events at the Prison for Women in April of 1994 - the Arbour Commission*, and participants at the hearings included the Correctional Service of Canada, the Correctional Investigator, Inmate Committee, Native Sisterhood, Canadian Association of Elizabeth Fry Societies, Union of Solicitor General Employees, Legal Education Action Fund, experts identified by the Commission and Commission staff.

<sup>12</sup> There is a great deal of research on this topic occurring in the United States and, in particular in California where the population of female offenders is much larger.

behaviour (Maclean, Arbour Commission - Public Hearings, 1995:699). Dr. Heather Maclean, a psychologist at the Prison for Women, (Arbour Commission - Public Hearings, 1995: 698-699) went so far as to note that “even if the [risk] criteria are valid ... the very scientific state-of-the-art basis for even having a classification system is something that I would like to question”.

When applying the same risk criteria to male and female populations, women appear to have less serious offending histories and lower re-conviction rates than men (Shaw, 1991a). Likewise, women have lower rates of serious disciplinary offenses, and they pose a lower risk to the public than male inmates (Alexander, 1988).<sup>13</sup> The literature suggests that women prisoners are often over-classified high. This is in part due to the fact that designation of criminogenic risk and need factors are not based on women-specific research findings. For example, violent offenses are typically given higher ratings than non-violent offenses; however, it is commonly known that women's violent behaviour tends to be situational and a response to violence experienced in personal relationships. Not only do generic offense categories over-classify women offenders who commit violent offenses, they also further disadvantage Aboriginals. It has been pointed out that Aboriginal women tend to have even higher security ratings and lower rates of parole than non-native inmates (Shaw, 1991a). Furthermore, in the isolated situations where women commit violent offenses and / or place others at risk, the cultural and psychological circumstances of the offence are rarely taken into consideration.

Another, particularly Canadian rationale for over-classification is central housing of all federal women prisoners in one maximum security facility. The absence of appropriate housing options (minimum, medium and maximum) means that women and correctional staff are not given the opportunity to experiment with different types of accommodations and levels of supervision. And finally, the classification system for women is deemed inadequate because of its philosophical orientation which over-emphasizes security as opposed to rehabilitation.

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<sup>13</sup> He further notes that when women do engage in violence there is a tendency for this violence to have stemmed from a personal relationship. He argues that a new factor *isolated personal violence* should be used when assessing women's risk, and that this factor can account for the relational aspect of women's violence, implying once again, that they are not a danger to the community at large. For more information see: Alexander (1988)

For the most part research on the female offender has focused on how to do a better, more gender-sensitive or more “scientific” risk classification, without questioning the necessity or utility of this enterprise. Researchers and correctional officials have been asking if they need separate tools for women, or more precise tools, whether it is possible to import a classification tool from another jurisdiction and how to get around the problem of a small population associated with statistical analysis (Burke and Adams, 1991:13). Few have questioned why we do risk classifications on women. When the question of the purpose of classification in women's prisons was raised during the recent Arbour Commission, the answer from the Correctional Service of Canada was: “*it satisfies a legal obligation*” (original in french, Arbour Commission - Public Hearings, 1995:21). According to the Correctional Service of Canada, then, techniques which are known to be of limited use for women are being used to fulfil existing gender-neutral legal requirements (*CCRA and Regulations*), although the same legislation allows for the development of special programs for women in recognition of their unique needs and circumstances. While risk management is clearly on the agenda of the Correctional Service of Canada, there remains a great deal of confusion about how to manage a population which is qualitatively different from male prisoners, and which historically has presented more of a risk to themselves than to public safety at large. Notwithstanding the limitations of these techniques, they continue to be used on a regular basis to satisfy the legal requirements for classification. Practitioners are attempting to modify and feminize assessment tools to better reflect the experiences of incarcerated women. Woman-centred classification schemes attempt to account for the different circumstances surrounding violent offenses with criteria such as “isolated personal violence”(Alexander, 1988). However, on a practical level they are still required to defer to traditional research and modes of risk calculation and prediction.

### **3. Woman-centred Classification and the New Federally Sentenced Women's Facilities**

*Risk factor is a term coined in the context of male classification systems, male security systems, male predictions of dangerousness and it's not relevant to an examination of women* (Faith, Arbour Commission - Public Hearings, 1995: 728).

Over the past ten years, the Correctional Service of Canada has made several innovative changes in the management of federally sentenced women and these have received a great deal of favourable international attention. These reforms, suggested in the report of the Task Force on Federally Sentenced Women (TFFSW, 1990), have attempted to re-structure women's corrections by integrating a feminist analysis of the experiences and needs of federally sentenced women, while fulfilling the legal requirements of custodial facilities. One of the primary objectives of this initiative was to identify and respond to the gender-specific causes of women's crime. Risk assessments play a critical role in defining the correctional needs and experiences of federally sentenced women, and actuarial techniques have penetrated the managerial and operational realities of corrections. Canadian correctional researchers are still attempting to test traditional classification criteria and techniques for their validity on women prisoners (Bonta, Pang and Wallace-Carpetta, 1995; Hoffman, 1982; Coulson, 1993). Reformers and femocrats continue to favour the development of "gender sensitive" assessment tools which they believe more adequately reflect the experiences of women and in particular violence in women's lives. Taking into consideration the limitations of traditional classification systems and consistent with the emergent rhetoric of managerialism, the new regional facilities for federally sentenced women have developed a unique *security management model*. The classification system relied upon in the new prisons is based on the system used at Shakopee Woman's facility in Minnesota, the only purportedly woman-centred classification in operation. The Shakopee classification system is a behaviour-based system which outlines clearly articulated performance expectations and consequences. The system was designed to assign a security classification (medium, minimum, or maximum) to federally sentenced women (CSC, 1995:3). This model differs from the established security classification levels which currently exist in federal institutions. One classification system presently used at the Prison for Women is based on the Wisconsin *client management classification model* which groups inmates into behaviour types based on the behaviour expected of them (Axon, 1989:72).<sup>14</sup>

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<sup>14</sup> For more detailed information on the Wisconsin model which was used at the Prison for Women see Axon (1989).

Conventional security classifications are based on minimum, medium and maximum security designations. The *security management system* uses a numeric management level in conjunction with conventional security levels. The prisoner is given a number between one (minimum) and five (maximum) which corresponds with a certain set of privileges and level of supervision. In the new security management model levels four and five are maximum security, level three is medium security, and levels one and two are minimum security. When a new prisoner arrives at the prison unclassified she is given an “admission level status” which does not correspond to any particular security classification (FSWP, 1995:7). The initial process for designating a prisoner’s management level occurs after “all relevant information received upon the admission date is summarized and analysed by the team leader, the case management officer and the primary (correctional) worker”(FSWP, 1995:6). The reports and documents relied on include the results of the case management interview with the federally sentenced women, the security classification assessment, the observation reports on daily life in the housing unit, scholastic equivalency results, and other information including any disciplinary reports (FSWP, 1995:6).

The security classification process is quite significant because it is “used to record the analysis of all information leading to the recommendation for security classification and management level assignment” (FSWP, 1995:9). The primary criteria used in the classification process are *institutional adjustment*, *escape risk*, and *public safety* (FSWP, 1995). (See figure 16).

The factors used to rate *institutional adjustment* include violent incidents, disciplinary convictions, continuation of criminal activity, administrative interventions, behaviour, and program participation. The category “violent incidents” is operationalised according to the following criteria: degree of violence, personal life situation, victimization, role as a follower or a leader in incidents, the harm caused, and the use of a weapon. The “disciplinary conviction” is relatively straightforward: it refers to the pattern, nature and circumstances surrounding convictions for violations of institutional rules. The determination of continued criminal activity while in custody is dependent upon preventative security information which relies on the use of institutional informants, surveillance of mail, telephone calls, and visits, as well as police information suggesting that the prisoner continues to be involved in criminal activity. “Administrative intervention” refers to previous

transfers, incompatibilities with other prisoners which may lead to a need for protection, and patterns of disruptive behaviour. The institutional adjustment criteria refer to behaviour and program participation. This section addresses

the ability [of the offender] to adapt to open living situations; effect on the good order of the institution; level of cooperation in addressing the criminogenic factors addressed in her correctional plan; consider positive results of current or previous programming; ability to deal with anger; level of participation in institutional work or personal development programs; consider mental health concerns, are they causing adjustment problems (e.g. non-compliance with medication etc.); physical health concerns causing adjustment problems; cultural identity indicating a requirement for special intervention on an ongoing basis; and any other special needs that should be considered (such as protection, suicidal tendencies, self-mutilation etc.) (FSWP, 1995: 11).

From the examples provided earlier and existing research it is evident that many of the “risk factors commonly used in classification can not be validated for female offenders because of the limited amount of cases which prevent sound statistical study” (FSWP, 1994a: 16). Yet, the Correctional Service of Canada continues to use measures such as *offense history*, and *escape risk* in the “woman sensitive” model of *security management* (FSWP, 1995).

The second set of criteria used to evaluate a woman prisoner's security classification is *escape risk*. Escape risk is measured through an evaluation of previous escapes or attempts to escape, sentence status, and “other concerns”. The measure for escape or attempted escape is evidence of an actual escape or attempt or of other “breaches of trust”, such as failure to respect a curfew at a community correctional centre, failure or late return from an unescorted temporary absence, and failure to report to a parole officer or the police while on parole or statutory release. The sentence status is another variable believed to be indicative of escape risk: here the length of sentence, outstanding charges, possibility of deportation, pending appeals, and time remaining prior to release are considered relevant to whether or not a prisoner will attempt an escape. The final category “other concerns” is a residual category which is used to classify

any unusual circumstances having the potential to increase the FSW [federally sentenced

woman's] escape risk (eg. is she involved in a custody battle, is she concerned about the placement of her children, outstanding problems with spouse, gambling or drug debts, 'incompatibles' within the facility and her ability to adjust to open security) (FSWP, 1995; 13).

The vagueness of this category permits criteria such a woman's concern for her children, which in most instances is a highly regarded and often encouraged maternal quality, to be construed as a potential escape risk factor. In some cases a woman's concern about these areas, if she were a free citizen, would make her a responsible parent or partner. However, in this instance a woman's overt display of moral and parental responsibility can be used to her disadvantage.

The final criterion in the security classification schema is *public safety*, which is subdivided into four sections: violent incidents, program participation, mental illness or disorder, and other public safety concerns. The first refers to the prisoner's involvement in violent incidents in the community, triggers of these events, the use of a weapon, degree of violence and harm caused, and the offender's role. Secondly, program participation considers the level and benefit derived from program involvement, and the likelihood of the correctional plan having an effect on recidivism. Interestingly, these two criteria: violent incidents and program participation, which are used as measures of institutional adjustment, reappear as measures of public safety. Even though the emphasis here is on the community context, there is a duplication, and consequently an over-emphasis on previous violence and / or non-compliance with institutional requirements. The section of the evaluation which considers mental illness or disorder considers all information relating to the therapeutic intervention, psychological and psychiatric assessments, and compliance with therapeutic requirements, such as taking medication as required. The final residual category of "other" incorporates the following information: third party information about whether a prisoner will re-offend and the prisoner's level of need in "primary need areas" (such as employment, family, social integration, associates, substance abuse, community functioning, attitude or personal emotional stability, *notoriety* - likely to evoke a negative public image, victim or police reaction).

Within each of these categories it is necessary to evaluate the seriousness, frequency and recency of each factor as well as any progress that the prisoner may have made to mitigate the concerns identified in each category. Once this evaluation has occurred a cumulative rating for each

of the three areas is given: high, medium or low. Contrary to the myth of actuarial penology, there does not appear to be a sophisticated calculation used to generate these determinations. The designation of a security classification which adds up ratings in three distinct categories presents an interesting management dilemma. Given that the implications for management are clearly different for an offender with a high risk of escape versus an offender who is unable to adjust to institutional living, the combination of these individual concerns into a singular classification raises questions about the usefulness of these ratings in the management of individual problems. While on one hand there is an attempt to adopt a “personalised and holistic approach”, the techniques used to achieve this goal do not appear to satisfy this objective. Within this new model there seems to be a great deal of confusion about what the classification process is supposed to accomplish.

Techniques of governing prisoners through risk remain problematic for several reasons. In spite of popular beliefs, there seems to be little relationship between behaviour in prison and that outside (Shaw, 1991a; Louckus, 1995). Yet, the initial classification of the offender is generally contingent upon her offence, and her subsequent release is often predicated on her behaviour while in the institution. This inconsistency is overlooked by woman-centred classification models. The assumption that these behaviours are linked often obscures other significant issues such as the relationship of the prison environment to the production and provocation of “risky behaviours”. Margaret Shaw (1991a: 81) notes:

there would appear to be no direct relationship between offending background and risk of institutional disruption or violence. In fact, such disruption or violence may tell us more about the characteristics of the institution concerned than about the risk posed by the individuals involved in the disruption.

The current classification scheme is unable to differentiate between different types of risks and the severity of risk. The cumulative risk score (management level) is based on the sum of several independent assessments. The all-important details of these assessments are obscured in this cumulative process. The management level assigned to an inmate is therefore meaningless. The generic management of risk is not particularly useful or efficient as an actuarial technique. However, the score provided by this process can be used to satisfy vague and somewhat irrelevant legal

requirements for classification.

The proposed<sup>15</sup> women-centred security management system is organized around several guiding principles. The primary aim of this system is “to enable FSW [federally sentenced women] to serve their sentence within the least restrictive possible environment but reflects their needs and the risks they present, while preparing them for release at the time considered most appropriate” (FSWP, 1995:4). In order to satisfy this requirement the security management system “recognizes the ability of FSW to accept responsibility for their actions, make informed choices on the basis of their needs, and thus, assume all consequences thereof” (FSWP, 1995: 4). The principles outlined also suggest that the proposed security management system is more than a process for the designation of a security classification. This new model is expected to be an essential component of a “holistic” and personalised approach to women's corrections. At the heart of this model is the belief that “participation in the programs aimed at meeting offenders’ needs significantly reduces the risk they present”, and that it is important for this model to “encourage and reinforce appropriate behaviour, as well as regular participation in programs, on the part of FSW by increasing their privileges as they progress” (FSWP, 1995:4). Another premise of the security management model is the expectation that staff will be equitable and constantly revise the management level / security classification based on the prisoner’s progress (or lack thereof).

In addition to pointing to the responsibility of the offender to be accountable for her actions and make choices, this model also, not surprisingly, suggests that there will be consequences for a woman prisoner's failure to meet institutional standards and take responsibility for minimizing her risk through the realization of her needs. Her progress is monitored and evaluated by correctional staff. Perhaps the most astonishing illusion is that the prisoner will accept her role in this regulatory process as “an informed and committed participant”(FSWP, 1995:4). In a recent article, Simon (1994) claims that one of the recent phenomena of modern forms of government is a shift in emphasis from “choice and the responsibility for choice” to an emphasis “on creating the condition for

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<sup>15</sup> At the time that this chapter was written a version of this security management was being used to evaluate the “risk level” of federally sentenced women being transferred to the new regional facilities for women that opened in 1996.

responsible choices”. There is some validity to this later construction of choice within the realm of women's corrections. Making choices, however, is as much a process of government as a practise of freedom. O'Malley claims that actuarial governing does not necessarily leave individuals free: it also includes strategies for the responsabilization of citizens. Risk management is, in many regards, the responsibility of the individual as well as of the authorities. O'Malley (1992:261) labels this realignment of responsibility *prudentialism*, which he describes as “a construct of governance which removes the key conception of regulating individuals by collective risk management, and throws back upon the individual the responsibility for managing risk”. Under a prudential mode of governing the individual is governed through the expectation that they will engage in activities of self governance and avoid situations, behaviours and populations deemed “risky”. Within this framework, prisoners are treated ‘as if’ they were free, rational and responsible individuals responsive to rewards and benefits (Garland, 1995).

### **3b. The Persistence of Discipline and the Return of Subjectivity**

*We have a joke at the Prison for Women - that you can get a good security classification if you get along with your CO [Correctional Officer] and your Case Management Officer, if you're friends with them you get a good security classification. If you're on the bad list you can not get one (inmate, Arbour Commission - Public Hearings, 1995: 706).*

One of the practises that demonstrates the limits of the “new penology” is the fact that when actuarial tools are used, correctional officials frequently use “overrides” to adjust risk assessment scores to what *they feel* is most appropriate. The use of overrides means that “exceptions can be made to the initial classification instrument *when warranted*, both to increase and decrease the security classification” (*emphasis added* FSWP, 1994a:11). The use of overrides poses a serious threat to objective classification systems and signals an unwillingness of staff to fully embrace actuarial systems (Buchanan, 1986:289). In the case of women prisoners, overrides are commonly

used to compensate for the perceived deficiencies of many traditional methods of classification.<sup>16</sup> Clinicians using these tools for women from specific cultural groups (i.e. Aboriginal) frequently include disclaimers that indicate the results of risk assessments should be interpreted with caution because of the tool's cultural limitations.

As Kim Pate, executive director of the Canadian Elizabeth Fry Societies, noted:  
... the systems that are set up to look as though they are objective tests of certain behaviours aren't taking into account, in our opinion, the subjective opinion that staff have in terms of incredible leeway to interpret behaviour as certain things. So, for instance, someone singing or calling out which may be seen from one person's perspective as objectively innocuous, may, from another person's perspective be seen as threatening ... (Arbour Commission - Public Hearings, 1995: 696).

Another example of the limits of actuarialism and the persistence of subjective judgements is that one of the components of a criminal risk assessment is the case manager's "own judgement of criminal history risk based on a thorough review of the offender's criminal record" (Motiuk, 1993:15). The items typically used for an assessment of "criminal history risk" are: offense severity, sexual offense history, number of convictions, previous offenses, length of sentence, placement in institutional segregation, institutional misconduct, and mild, moderate or serious "psychological harm". But an offender's criminal record, police reports, pre-sentence reports, and sentences are not objective representations of an offender: they are often the outcome of a series of legal and normative processes which are arguably quite subjective (Ericson and Baranek, 1982). The previously discussed woman-centred classification scheme includes categories such as institutional adjustment and program participation, which have similar limitations. These practices do not appear to be closely aligned with the objective statistical technologies supposedly used in actuarial approaches to correctional management identified earlier by risk theorists.

Old fashioned personal judgement by a correctional officer is by no means eliminated by actuarialism, therefore we can also see that contrary to "the new penology" thesis, moral regulation

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<sup>16</sup> Interview with prison psychologists, October - 1995.

and disciplinary powers also persist. For example, a correctional researcher claims that the higher stability of the inmate's street life, the more likely she will abide by the prison rules and not escape. Thus, the inmate who has completed high school, held a fulltime job and been married is a better risk (Alexander, 1988; in FSWP, 1994a: 6).

This quotation illustrates the amalgamation of moral evaluations of behaviour and actuarial assessments of risk. The new regime at the Federally Sentenced Women's Facilities (prisons) makes two pivotal assumptions which result in what I call a hybrid moral / actuarial penalty. First, implicit in the new *holistic* approach to women's corrections is developing techniques to manage an individual's moral character. This holistic emphasis is contrary to an actuarial management technique which is inclined to be concerned not with the whole person but instead with a specific category of risky behaviour. Secondly, there is also a tacit assumption that prisoners, in particular women, require a therapeutic intervention, and that these interventions will ultimately reduce recidivism. The managerial techniques used to reinforce these assumptions include processes for the identification of women's "criminogenic needs" and risks, which involve the participation of the prisoner, but tend to rely on the opinions of correctional staff, the use of ongoing institutional monitoring and assessments of the prisoner's emotional stability, behaviour, adjustment to the institution and progress in programs; and an institutional requirement to participate in therapeutic programs.

Disciplinary elements are also evident in the four core program areas outlined for the new Federally Sentenced Women's Facilities (prisons): *abuse and trauma*, *substance abuse*, *parenting skills*, and *vocational and educational training*. These program areas are expected to address the needs of most women prisoners, thereby reducing their risk. Participation in these programs and co-operation with therapeutic interventions can lower a person's security classification / management level, while a refusal to co-operate with this regime could result in an increased or at best unaltered security classification / management level. For example, in the *Program Strategy* for federally sentenced women the Correctional Service of Canada notes:

An offender's progress towards addressing specific needs and in reducing the level of risk serves as a major factor in the decision-making process, and its assessment is central to the management of the offender throughout the sentence (CSC, 1996:5).

Programs endeavour to teach the prisoner how to fit into categories associated with lower risk. Vocational and educational training in the *Literacy and Continuous Learning* program encourages women to acquire the skills deemed “essential to reintegrating FSW [federally sentenced woman] as law-abiding citizens” (FSWP, 1994a: 17). But a woman who chooses to support herself through prostitution, exotic dancing, shoplifting, or selling drugs is not likely to be supported or regarded as having made meaningful or responsible career choices. Overall, these programs make a series of moral assumptions about women's characters, responsibilities, and abilities. For example, the philosophy of parenting classes assumes that the prisoner requires training in child care. Even though criteria for this program indicates that “CSC [Correctional Service of Canada] should not assume that all women offenders are inadequate mothers and require a parenting course,” they also state: “however, given the high profile nature of this program [mother / child program]<sup>17</sup> and that the environment is considered *at risk*, it is recommended participation in the program be mandatory for all women involved in the mother-child program” (CSC 1996). Similarly, leisure training assumes that women do not engage in socially legitimate activities during their leisure time and that they need to be taught about health, wellness and nutrition, and that they need to be apprised of recreational alternatives which do not include the use of alcohol, drugs or in some cases tobacco. Some programs outline criteria and rules for participation that are quite regulatory. For example, a woman participating in the “intensive healing program” is required to abide by the following rules: no substance abuse, no violence, and “no intimate sexual contact with other members of the group” (Laishes and Lyth, 1996: 5). These programs are making clear moral assessments of past, present and future conduct and choices. While all of these programs serve an important material and moral purpose - to discourage future criminality and to offer women options - that does not eliminate their capacity to morally regulate prisoners while under their supervision. More often than not the moral standards of behaviour are ascribed by institutional policies and correctional staff.

The link between these forms of moral regulation and actuarialism occurs when programs and

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<sup>17</sup> The mother / child program is a program designed to allow some incarcerated mothers to live with their children in the institution if they meet all the requirements for this program.

moral categories are used as criteria and data in managerial risk assessment tools, such as the *security management system* described earlier, and through institutional discipline. Women prisoners are often penalised for lack of deference or resistance to an institutional regime which tries to produce “healed”, “productive” and moral citizens, who no longer engage in “criminal”, “deviant”, or “immoral” activities. In many cases resistance results in higher security classifications. This designation of “high risk” is originally premised on a moral interpretation of a prisoner’s character, rather than on calculations about “risky” behaviour.

### **3c. Actuarial Calculations of Women’s Needs**

*“Need is also a political instrument, meticulously prepared, calculated and used” (Foucault, 1979:26 cited in Fraser, 1989).*

In struggling to understand the qualitative differences between men's and women's risk factors, the Correctional Service has focused on the “needs” of women prisoners. What has emerged from this practise is an interesting slippage between the concepts of: “need” and risk. It seems that where there is an unsatisfied need - there is a potential risk factor. In some cases, these two categories are indistinguishable from each other. Unlike past feminist narratives on women’s needs that stress women’s entitlement, the Correctional Service uses a language of needs to facilitate responsabilization. The prisoner is expected to “cure” herself and manage her own risk by satisfying her needs. Present policy discussions about the “needs” of women prisoners are dominated by correctional researchers and technicians, who tend to emphasize the criminogenic characteristics of women's needs. In this instance, “criminogenic” refers to characteristics or factors that are thought to be linked to an individual's involvement in criminal activities. Correctional concerns about women's needs are understood within a context which emphasizes the importance and necessity of managing the risks presented by and to women offenders. This management task is complicated by the feminist claim that women's risks are qualitatively different from men's, thus requiring different managerial and assessment techniques which have not yet been developed, but are legally required.

The recent redefinition of needs as risks in the correctional sphere appears to emerge from

a desire to improve predictive capacities concerning both male and female prisoners. Researchers have argued that there are two critical elements to classification. The first is making a distinction between the characteristics of offenders and their circumstances which are subject to change over the course of an offender's sentence versus the factors which will remain constant. The second is identifying which of these factors indicate an increased or reduced chance of recidivism (Andrews, 1989:13). Accordingly, correctional researchers encouraged practitioners and researchers to look beyond static risk factors such as criminal history, history of substance abuse, and poor adjustment to prison life early in the prisoner's sentence. Andrews (1989:13) suggests that in order to detect shifts in the chances of recidivism, "risk factors which are dynamic must be assessed"; "these dynamic risk factors are often called *criminogenic need* factors" (emphasis original). An example of such a need or risk factor would be employability or education (Motiuk, 1996). In a recent study of offender employment patterns Larry Motiuk (1996: 22) notes:

Unstable employment is a major risk and need factor. Offenders with unstable employment patterns are at much greater risk of re-offending than offenders with a stable employment history. Therefore, identifying offender employment status at the time of arrest, and analysing offender employment needs on admission to prison and monitoring offender employment patterns while under community supervision can provide program targets that could potentially lead to substantial reductions in offender recidivism.

This interpretation of needs as criminogenic neatly locates them within a realm of correctional managerialism, and justifies normative interventions aimed at reducing the effect of criminogenic needs. For example, another recent article on "developing employability" as a correctional strategy notes:

...employability is not just determined by factors related to job training and occupational skills. Management of other factors such as free time, money, attire, accommodation, ability to travel, family relations, personal stability and health also have a direct impact on employability. We must try to understand and work with the offender's personal characteristics and ability to adapt and participate in the labour market and society (Brouillard and Sirois, 1996:32).

The legislation and policy<sup>18</sup> governing the management of federally sentenced women and principles of woman-centred corrections emphasizes a requirement to address the needs of federally sentenced women. Furthermore, current correctional ideology suggests that there is a “strong link between the social and personal deficiencies of offenders and the fact that they end up in the penitentiary”, and that “something can be done about these deficiencies and, thereby, about the likelihood of the offenders repeating their criminal behaviour”(Vantour, 1991: 33). Correctional research and the development of managerial techniques operates on this premise. According to one correctional researcher, the *needs principle* asserts that “if correctional treatment services are to reduce criminal recidivism, the criminogenic needs of offenders must be targeted”(Andrews, 1989:15). In the case of the federally sentenced women, Corrections Canada has acknowledged that women offenders have a “different range and types of problems that contribute to their criminal behaviour than do men”, that “environmental, situational, political, cultural and social factors experienced by women offenders, as well as physiological and psychological factors, are not the same as those experienced by men”, that “women’s criminal behaviour is largely associated with their backgrounds and life circumstances”, and that “a holistic approach to correctional programming for women should be adopted” (FSWP, 1994a: 5 program strategy). Accordingly, several inter-related problems and characteristics have been identified as criminogenic female needs. These characteristics include: dependency, low self-esteem, poor educational and vocational achievement, parental death at an early age, foster care placement, constant changes in the location of foster care, residential placement, living on the streets, prostitution, suicide attempts, self-injury, substance abuse, and parental responsibilities (FSWP, 1994a: 5). In addition to these characteristics, awareness and

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<sup>20</sup> The *Corrections and Conditional Release Act and Regulations* states that correctional programs must respect gender, ethnic, cultural, spiritual, and linguistic differences among offenders, and that programs must respond to the special needs of women and Aboriginal offenders, as well as, other groups with special requirements. Likewise the second corporate objective of the Correctional Service of Canada mandates the Correctional Service to develop and implement research based programs that target the specific needs of offenders to promote their successful reintegration into society. And finally, the recent report of the Task Force on Federally Sentenced Women - *Creating Choices* - indicates that programs should reflect the social realities of women and respond to their individual needs (FSWP, 1994a: 3).

acknowledgement of women prisoners' survival of abuse and trauma plays a key role in the management of their sentence and program planning, although the literature suggests that survival of abuse or trauma does not constitute a criminogenic factor because "there has been no statistical link between surviving violence/abuse/trauma and criminal behaviour". Ironically, failure to participate in these programs, when a woman prisoner is identified as having a need in one of these core areas, can affect future assessments of her level of risk.

In correctional policy risk minimization and needs satisfaction are linked to therapeutic intervention. Unsatisfied needs are seen as both risk factors and as a "mental health concern". For example, a 1995 report on the mental health of federally sentenced women that recommended the development of an "Intensive Healing Program" for high need women notes that some women have "special needs which make them a management problem" (Whitehall, 1995). It is also argued that "needy women" require more intensive supervision and that a woman prisoner's resistance to therapeutic intervention is considered a risk factor. To accommodate these high need women the Correctional Service proposed the development of an "intensive healing program", which is to occur in an "enhanced unit". The enhanced unit is to be used for both high need and high risk women. It is described as follows:

The enhanced unit is contained within the main building; it is a closed unit and has its own enclosed exercise yard. The unit consists of four cells and program areas, with two levels of supervision (Segregation - 23 hour restriction; or Maximum with access to program participation). The unit has 24 hour supervision by staff. *It provides housing for inmates who: exhibit violent behaviour and or have special needs, and or serve disciplinary sentences (Emphasis added. Whitehall, 1995:22).*

From this description there is no difference in the management of women who are considered "high risk" due to violence and women who are "high need" because of "mental health" problems. Similarly, the classification of maximum security does not appear to differentiate between the management of a woman designated "high need and low risk" versus a woman who is "high risk and low need". Regardless of the qualitative difference in maximum security designations the Correctional Service of Canada has recently stated that "maximum security prisoners" will not be accommodated in the

new women-centred prisons. Ole Ingstrup, the Commissioner of Corrections stated that maximum security women will not be transferred to the new facilities because of:

...the need, as assessed by Dr. Margo Riveria and other professionals, to provide appropriate mental health services for a significant number of FSW [federally sentenced women], many of whom are classified as maximum security. These women require an intensive program in a secure environment before they will be able to function successfully in a regional facility.<sup>19</sup>

In addition to blurring the distinction between “needs” and “risks” correctional policy documents also clearly identify the prisoners as being responsible for the management of their own risk. The Correctional Service sees itself as governing from a distance by providing program and treatment options and emphasizing the responsibility of the offender to manage her own needs and risk by participating in these programs. The new Deputy Commissioner for Corrections, Nancy Stableforth notes:

I don't believe in molycoddling. I'm interested in effective corrections. I have very strong views on accountability and responsibility. Female offenders ultimately, have to take responsibility for their actions. Even those who were victims of abuse have to accept they have broken the law, learn to cope and move on...<sup>20</sup>

The “new” programs developed to manage women's needs and risks and to ensure they become responsible use traditional techniques of governing that “create an environment for women to understand and change their problematic behaviours”(Laishes and Lyth, 1996: 1). Nonetheless, it is recognized that “the responsibility for healing rests with individual women”(Laishes and Lyth, 1996:3). In this context the governance of women's needs is not based on feminist claims to entitlement but instead on the production of a self governing, law abiding citizen who has benefitted from traditional strategies of therapeutic discipline.

Nancy Fraser (1989: 159) argues that “needs-talk functions as a medium for making and

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<sup>19</sup> Letter dated August 29, 1996 for Ole Ingstrup, Commissioner of Corrections to Kim Pate Executive Director of the Canadian Association of Elizabeth Fry Societies.

<sup>20</sup> *Toronto Star* “Focusing on Female Prisoners” - November 28, 1996 - A15.

contesting political claims”, that it is an “idiom in which political conflict is played out and through which inequalities are symbolically elaborated and challenged”, and finally that “in welfare state societies, needs-talk has been institutionalized as a major vocabulary of political discourse”. Rather than adopting a more conventional approach to the analysis of needs that would examine and identify the needs of a given population, and assessing the ability of certain organizational structures to satisfy these needs, Fraser (1989) focuses her inquiry on discourses about needs and the politics of needs interpretation. This approach is a useful method of illustrating “the contextual and contested character of needs claims”(Fraser, 1989:160). Fraser’s observations are useful: most criminological needs analyses have concentrated on the necessary tasks of identifying prisoners’ needs, and the more controversial project of determining whether or not predefined needs have been met. Less common are critical discussions about the ways in which these needs are interpreted, who interprets prisoner’s needs, from what perspective, and in light of what interests. In correctional settings there are indeed multiple discourses of need. There are therapeutic, administrative, feminist and actuarial vocabularies for the discussion of women prisoners’ needs. These vocabularies are interwoven into a complex needs-talk which is mobilized to accommodate a variety of contradictory political ends. There is great distance between certain feminist interpretations of women's needs as they are identified and outlined in the report of the Task Force on Federally Women - (*Creating Choices*) as opposed to recent operational interpretations of needs within a broader context of actuarial penalty. To understand the dynamics of women’s penal governance, it is important to acknowledge the plurality of vocabularies about needs / risks. These vocabularies are linked to feminist, psychiatric and actuarial modes of governing. And there is even a hybrid, “feminist-psychiatric-actuarial governance”, a normative strategy with very real disciplinary implications.

Historically, correctional systems have been denounced for their unresponsiveness to women's needs, and only recently have there been serious attempts to redress this neglect. While discussions about women prisoners’ needs and the lack of response to these needs have traditionally operated as a critique to challenge existing institutions of government and more specifically women's corrections, it is now an accepted technique through which women can be governed. Recent bureaucratic interpretations of women prisoner’s needs have been heavily influenced by feminist (and

therapeutic) analysis of the experiences of criminal women, and women more generally. While the members of the Task Force initially supported the concept of “woman-based criteria for classification”, they ultimately came to the conclusion that “assessments to gain better understanding of a woman’s needs and experiences are more appropriate than classification” (TFFSW, 1990:92). This conclusion was based on the perception that classification was based on security, while needs assessment “looks at the whole spectrum of women's needs from a holistic perspective, including the needs relating to programming, spirituality, mental and physical health, family, culture and release plans”, which allows staff to respond to “the constellation of needs by appropriate support and intervention strategies which also consider the protection of society and the reduction of risk” (TFFSW, 1990:92). But in the correctional politic in the new women's prisons, the concept of “need” shifts from a vindication of a claim for resources (the feminist view) to a calculation of criminal potential designed to control the very women who have the needs.

The emphasis on needs in the new security management system arises out of two assumptions in women's corrections: the woman prisoner is not a risk to society, and thus, her correctional management should not stress risk, and secondly, the woman prisoner has a multiplicity of needs which must be addressed holistically during her incarceration (TFFSW, 1990: 89-90). These two assumptions resulted in members of the Task Force on Federally Sentenced Women (1990) posing the following question: what are the security needs of women? The term *security needs* presents an interesting paradox. It combines two quite different elements: traditional security concerns which are generally associated with danger and the prevention of harm to others, and a more recent emphasis on needs which by contrast implies being without something and entitled to resources

The collapsing of needs with risks has an important consequence for risk theory. Typically, risk theorists have suggested that in the shift towards a society governed through technologies of risk there has been less emphasis placed on earlier individualised and therapeutic technologies. By collapsing need and risk categories, hybrid management techniques emerge. The emergent needs-talk which informs women's correctional management does not rely on feminist interpretations of women's needs or their claims to entitlement; rather, it depends on correctional interpretations of women's needs as potential or modified risk factors central to the efficient management of

incarcerated women. The Correctional Service of Canada's adoption of the premise that federally sentenced women are generally "high need" and not "high risk", their claims that these prisoners do not require the same level and type of security measures as are required for male offenders (TFFSW, 1990) and the subsequent development of a unique security management model to address these qualities illustrates an organizational commitment to serving women's needs as they define them. This tactic co-opts and distorts the feminist critique of correctional practises. However, the fact that women are now constructed as "high need" as opposed to "high risk" makes little substantive difference in their correctional management. Increasingly, needs are being treated in the same manner as risk in term of defining carceral responses to women. Women prisoners are responsible for the management of their own risk and needs.

#### **4. Conclusion**

This chapter has outlined some of the main arguments of risk theory and the new penology thesis, and highlighted some of the limitations of these theories through an empirical evaluation of a new system of risk management in women's prisons. This analysis demonstrates that the models that have been developed to describe and analyse risk (in particular risk in corrections) need to be modified. I have shown that risk is a normative concept able to mobilize culturally specific constructions of gender, and that its use in women's corrections is not representative of more efficient and objective actuarial technologies of governing; that the moral agent has not been replaced by an actuarial subject; and finally, that a language of risk is intimately linked to and dependent on a corresponding discussion of women's needs. The process of being identified as "a risk" or "in need", and the development of managerial strategies to minimize these risks and needs are not simply the outcome of actuarial forms of power.

I suggest that rather than using risk to understand changes in women's corrections and penalty more generally, we can use these sites to further theorize the concept of risk and certain techniques of actuarial governance. In doing this, it is necessary to reflect on how actuarial techniques of governance are used in conjunction with, and in some cases, dependent upon alternative and pre-existing conditions and technologies of governing which are not actuarial-based. Recent new

penology theories, which could be reframed as theories about actuarial penalty, are indeed applicable to women's corrections to some extent. However, there are some important qualitative differences in the understanding of risk when applied to the governance of women as opposed to that of men. Further studies will likely demonstrate that these differences are not particular to gender, and that actuarial governing is affected by race, class and other variables depending on the social, political, cultural and historical conditions of governing. For example, in Canada there have been similar challenges to the inadequacy and discriminatory nature of white classification systems which are being used to govern Aboriginal prisoners. Recently, there have been attempts to modify our understanding of risk in order to reflect the reality of Aboriginal prisoners' experiences. In conclusion, assessments of risk and the application of technologies for the management of risk are integrally linked to and enabled through the exercise of non-actuarial forms of power discussed in previous chapters.

Figure 16. Security Classification Assessment  
 Courtesy of Correctional Services of Canada - Federally Sentenced Women Program.

## SECURITY CLASSIFICATION ASSESSMENT

<b>COMPLETING OPERATIONAL UNIT:</b>		
<b>REPORT: INITIAL</b>	<b>Error! Reference source not found.</b>	<b>FPS:</b>
<b>REVISED</b>	<b>Error! Reference source not found.</b>	
<b>FAMILY NAME:</b>		
<b>GIVEN NAME:</b>		
<b>DATE OF BIRTH:</b>		

### PART I - INSTITUTIONAL ADJUSTMENT FACTORS

Consider, then evaluate the seriousness, frequency and recency of each factor, as well as any progress made to mitigate concerns in that area.

#### 1. Violent incidents:

Degree of violence; consider personal life situation; victim of abuse; harm caused; use of weapon; offender's role in the incident (leader or follower).

#### 2. Disciplinary convictions

Nature and circumstance of disciplinary convictions; any noted pattern of occurrences.

#### 3. Continuation of criminal activity

Preventative security information; Security Reports; police information which suggests that the FSW continues to be involved in criminal activities (e.g., drugs, other contraband, conspiracy, etc. ).

**4. Administrative interventions**

Pattern of disruptive behavior; history of transfer or admission to administrative segregation for protective reasons; history of transfer to higher management level.

**5. Behavior and program participation**

Ability to adapt to open living situations; effect on the good order of the institution; level of cooperation in addressing the criminogenic factors identified in her correctional plan; consider positive results of current or previous programming; ability to deal with anger; level of participation in institutional work or personal development programs; consider mental health concerns, are they causing adjustment problems (e.g. non compliance with medications, etc.); physical health concerns causing adjustment problems: social/cultural identity indicating a requirement for special intervention on an on-going basis any other special needs that should be considered (such as protection, suicidal tendencies, self mutilation, etc.).

Based on above, assign a rating of low, moderate, high, using the rating guide.

**ADAPTATION TO FACILITY**

LOW	MODERATE	HIGH

## INSTITUTIONAL ADJUSTMENT RATING GUIDE

Based on the institutional adjustment factors, and any other relevant considerations, assign a rating that is consistent with the following rating guide:

### LOW

The offender has demonstrated:

- a pattern of satisfactory institutional adjustment; no special management intervention is required;
- the ability and motivation to interact effectively and responsibly with others, individually and in groups, with little to no supervision;
- motivation towards self improvement by actively participating in correctional plan design to meet her criminogenic needs, particularly those relating to facilitating her reintegration into the community.

### MODERATE

The offender has demonstrated:

- some difficulties causing moderate institutional adjustment problems and requiring some management intervention;
- the potential to interact effectively with others, individually and in moderately structured groups but needs regular supervision;
- an interest and active participation in a correctional plan designed to meet her criminogenic needs, particularly those which would lead to reassignment to a less structured environment and ultimately to her reintegration into the community.

### HIGH

The offender has demonstrated:

- frequent or major difficulties causing serious institutional adjustment problems and requiring significant or constant management intervention
- a requirement for a highly structured environment in which individual or group interaction is subject to constant and direct supervision;
- an uncooperative attitude towards institutional programs and staff and presents a potentially serious management problem within the institution

## **PART II ESCAPE RISK FACTORS**

**Consider, then evaluate the seriousness, frequency and recency of each factor, as well as any progress made to mitigate concerns in that area.**

### **1. Escape or attempted escape**

Escape from a closed perimeter institution; from an open perimeter institution; from an escorted temporary absence or work release or fence clearance; was actual or threatened violence used in any of the escapes or attempts; previous breaches of trust including failure or late return from UTA, failure to respect CRF/CCC curfew, failure to report on parole or statutory release.

### **2. Sentence status**

Consider length of sentence, outstanding charges, (do they have the potential to increase the probability of escape); is the offender deportable; is there a crown appeal outstanding or is the FSW appealing ; consider the time to be served before eligibility for UTA's.

### **3. Other concerns**

Consider any unusual circumstances having the potential to increase the FSW escape risk (e.g. is she involved in a custody battle; is she concerned about the placement of her children; outstanding problems with spouse; gambling or drug debts; incompatibles within the facility and her ability to adjust to open security). Consider any circumstances having the potential of decreasing her Escape Risk (e.g. program involvement; peer support; positive relationships with family and in the community).

Based on above, assign a rating of low, moderate, high, using the rating guide.

**ESCAPE RISK**

<b>LOW</b>	<b>MODERATE</b>	<b>HIGH</b>

## ESCAPE RISK RATING GUIDE

Based on the escape risk factors and any other relevant considerations, assign a rating that is consistent with the following rating guide:

### LOW

The offender;

- has no recent escape and there are no current indicators of escape potential
- has no significant history of breaches of trust

### MODERATE

The offender;

- has a recent history of escape and/or attempted escape or there are current indicators of escape potential;
- is unlikely to make active efforts to escape but may do so if the opportunity presents itself;
- presents a potential to escape from an institution

### HIGH

The offender:

- has demonstrated a pattern of escapes and/or attempted escapes or there are current indicators of significant potential to escape.

## **PART III - PUBLIC SAFETY FACTORS**

**Consider, then evaluate the seriousness and frequency and recency of each factor, as well as any progress made to mitigate concerns in that area.**

### **1. Violent incidents**

Does the FSW have a history of violent behaviour in the community; consider what has triggered these incidents; were the violent incidents considered in the context in which the events occurred; consider the degree of violence and the harm caused; use of a weapon; the FSW's role in the incident.

### **2. Program participation**

Consider the level and benefit of program involvement (to what extent has the FSW's progress in the correctional plan reduced the likelihood of the commission of the violent offense). Consider previous program participation (e.g. during prior sentences or in community).

### **3. Mental illness or disorder**

Consider all information such as psychological and psychiatric assessments; has the illness or disorder been adequately addressed; is the FSW complying with medication prescribed to control the illness or disorder.

**4. Other public safety concerns**

Consider third party or other information suggesting that the FSW will likely commit a serious offense upon release; consider detention or potential detention issues; consider level of need in any of the primary need areas; (e.g. employment, family, social interaction, associates, substance abuse, community functioning, attitude or personal emotional stability; notoriety likely to invoke a negative reaction from the public or victims or police and/or to receive significant media coverage(sensational crime, major drug or sexual offense, organized crime affiliation, etc.)

Based on above, assign a rating of low, moderate, high, using the rating guide.

**RISK TO SAFETY OF PUBLIC**

LOW	MODERATE	- HIGH

## **PUBLIC SAFETY RATING GUIDE**

Based on the public safety factors and any other relevant considerations, assign a rating that is consistent with the following rating guide:

### LOW

The offenders:

- criminal history does not involve violence;
- criminal history involves violence but the offender has demonstrated significant progress in addressing the criminogenic factors which contributed to the criminal behavior and/or there are no signs of the high risk situation - offense pre-cursors identified as part of the offense cycle (where it is known);
- criminal history involves violence but the circumstances of the offense are such that the likelihood of reoffending violently is assessed as improbable.

### MODERATE

The offenders:

- criminal history involves violence but the offender has demonstrated some progress in addressing these criminogenic factors which contributed to the violent behavior;
- the offender's criminal history involves violence but the offender has demonstrated a willingness to address her criminogenic factors which contributed to the violent behaviour;
- there are current indicators of moderate risk - concern.

### HIGH

The offenders:

- criminal history involves violence, and the offender has not demonstrated progress in addressing these criminogenic factors which contributed to her violent behavior ;
- criminal history involves violence and the offender has not demonstrated a willingness to address the criminogenic factors which contributed to the violent behavior;
- there are current indicators of high risk - concern.

**SUMMARY OF SECURITY CLASSIFICATION ASSESSMENT**

**ADAPTATION TO FACILITY**

**ESCAPE RISK**

**RISK TO SAFETY  
OF PUBLIC**

<b>LOW</b>	<b>MODERATE</b>	<b>HIGH</b>	<b>LOW</b>	<b>MODERATE</b>	<b>HIGH</b>	<b>LOW</b>	<b>MODERATE</b>	<b>HIGH</b>

## Conclusion

*Despite the fact that Canada has touted the Task Force report internationally as an example of progressive correctional reform, the principles and approaches envisioned by the Task Force on Federally Sentenced Women are in serious danger of never being implemented.<sup>1</sup>*

On January 17, 1997 the Correctional Service of Canada announced the transfer of twenty-three women classified as maximum security, as well as some prisoners identified as having “high” mental health needs, to maximum security men’s penitentiaries across the country.<sup>2</sup> In light of recent events at the new Edmonton Facility for Women in 1996 (including escapes, an assault on staff, a murder, an attempted suicide, and a rash of self mutilations), only those women designated by the Correctional Service of Canada as medium to low risk will be sent to the five new woman-centred regional facilities.<sup>3</sup> The recent push to close the Prison for Women thus has resulted in the transfer of some women prisoners to “a separate building on the grounds of the (male) Kingston Penitentiary,” the original location of Canada’s first and only federal female prison.<sup>4</sup> It was reformers’ and bureaucrats’ concerns about the inadequacies of the Female Prison at Kingston and its dismal conditions that led to eventual the construction of the Prison for Women in the 1930 (see chapter three). In turn, the same types of criticisms were used by reformers, feminists and femocrats of a new generation to demand the closure of the Prison for Women and the construction of new women-centred regional facilities in 1990 (see chapter five).

How is it that a strategy of reform that began as an attempt to create a more meaningful women-centred correctional alternative based on the pervasive assumption that women were not a risk to the public is now being compromised by a claim that some women are too “risky” to be managed in a women-centred environment? This question and similar other concerns prompted my

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<sup>1</sup> Press release, Canadian Association of Elizabeth Fry Societies, January 20, 1997.

<sup>2</sup> Press release, Canadian Association of Elizabeth Fry Societies, January 20, 1997.

<sup>3</sup> Dianne Wood “Prison Worries Fade Slowly”; “Kitchener - Waterloo Record January 16, 1997: B1. Author not listed “First Inmates Arrive at the New Prison” Kitchener - Waterloo Record January 17, 1997: B1.

<sup>4</sup> Andrew Duffy “Men’s Jail May Hold Homolka” Toronto Star January 25, 1997.

interest in the governance of women's prisons. Combining historical and contemporary analyses of governance, this thesis has shown how patterns of governing women's prisons in the past as well as in the present rely on multiple and inter-related relations of productive and repressive power. I highlighted five strategies of reform and punishment evident in women's penalty: pastoral, maternal, disciplinary, actuarial and empowering / responsabilizing. At any given historical moment, there are multiple rationalities and technologies available to reformers and state agents. What I call *strategies*, particular amalgamations of political rationalities and governmental technologies, are flexible and enabling diagrams of action. My analysis of a number of strategies of reform (pastoral, maternal, rehabilitative, empowerment, and risk management) has shown how processes of governance incorporate a variety of possibly contradictory rationalities and mobilise several different techniques for the purpose of governing a known object in a particular way. Strategies of reform can appear to satisfy reformers' demands for changes while simultaneously accommodating the often contradictory demands on correctional administrators for the discipline and responsabilization of prisoners. Emphasis on these shifting processes of governing can be used to help us to understand how penalty has evolved and how reformers involvement in these processes have contributed to present strategies of correctional management.

Discussions about which women are amenable to "kinder", "gentler" women-specific techniques and which women are "risky" and even beyond the pale of womanhood, are not new to the contemporary Canadian debate on regional facilities. The plan to transfer some women to federal penitentiaries for men because of their potential "risk" rekindles a debate about the "reformable" versus "unreformable" prisoner. Although the current concerns about women's risk are shaped by an actuarial logic of governance (see chapter six), I have argued that correctional definitions of risk are not based on precise statistical calculations, but rather on gendered moral criteria. While the criteria used to evaluate the prisoner's potential for reform or ability to function in a new women-centred prison in 1997 are different from the criteria used by correctional personnel at the Mercer Reformatory in the late 1800s (discussed in chapter two), there are common concerns about prisoner resistance and their unwillingness to comply with regimes that are supposed to be in their "best interests".

At the centre of both of these "women-centred" correctional developments - the Mercer and

today's woman-centred facilities - there is an effort to develop programs designed to meet the gender-specific needs of women. Both regimes rely on notions of difference and a certain ethic of care to create a feminised social control that is ultimately undermined by the problems associated with governing an involuntary population of prisoners. Chapter two discussed the importance of maternal, pastoral, and disciplinary techniques at Canada's first separate prison for women, the Andrew Mercer Reformatory. Reformers' ideal vision of separate spheres led to the construction of separate institutions for women, and women reformers, by virtue of their sex, were in many respects regarded as "authorized knowers" with respect to the ills of society, and in particular, deviant women. Women's knowledges and experiences played a key role in the governance of women prisoners. My examination of this instance of governance revealed the productive characteristics of penal power and the relations of power which exist among women.

Contemporary women's penalty has come to rely on femininity and common oppression as techniques of reform. Although this strategy has some benefits, it also has the capacity to obscure wider differences and power imbalances among women. This limitation is revealed in chapter five. Chapter five and six showed that the logic of woman-centredness is not able to fundamentally alter penal governance: women's needs and feminist visions of change are redefined and in some cases appropriated by the correctional bureaucracy. This same pattern of governing and process of redefinition is also apparent in maternal reformers efforts to create home-like prisons based on the "woman-centred" principle of maternal guidance. The discussion of the Andrew Mercer Reformatory and earlier initiatives at the Prison for Women illustrate this point.

Chapter five focused on "difference", and the importance of feminist "difference politics" in the governing of women's prisons. The feminist logic of difference that emerged in the 1970s and 1980s redefined the logic of "separate spheres" promoted by earlier maternal reformers. Women reformers' ideas about the governance of other women changed to reflect a feminist rather than maternal logic of governance. Feminist criticism of and disappointment with liberal equality strategies contributed to the resurgence of difference strategies that emphasized women's common status as women. The 1990 Report of the Task Force on Federally Sentenced Women, *Creating Choices*, was pivotal in the process by which feminist reformers came to support neoliberal techniques of penal disciplines stressing "responsibilization" and the production of self-governing prisoners.

Flexible techniques such as “empowerment” and “choice” are being used by a new generation of reformers to advocate an alternative feminist vision of penality, and by the state to modernize existing disciplinary techniques.

These analyses show that liberal and neoliberal strategies of rule are limited when applied to prison settings because they take for granted liberal ideals of autonomy, protection, equality, and choice. The recent report of the Arbour Commission about the gross violations of human rights at the Prison for Women reminds us that “empowerment” can hardly be implemented in a population that never enjoyed the most basic liberal legal rights. The “woman-centred prison” is a manifestation of this paradox. Although the woman-centred model acknowledges that women suffer injustices because of their sex, it fails to see that a feminist vision of justice can unwittingly reproduce different kinds of injustices by denying the specific experience of incarceration and by viewing women as a homogeneous group. These underlying assumptions creates a climate of reform that fails to recognize relations of power among women in different social sites. The governance of women by women can be as problematic as the governance of women by men, particularly when the relations among the “keepers” and the “kept” are shaped by the institutional dynamics of imprisonment. In short, both of these initiatives raise questions about the ability of well-intentioned reformers to fundamentally alter the uneven relations of power that shape the governance of an involuntary population such as prisoners. Further, they raise a critical point about the relations of power which exist between women.

This thesis makes a contribution to four general areas of scholarship: Governmentality, risk theory, sociology of punishment / criminology and feminist theory / criminology. It adds to the literature on governmentality by showing how multiple forms of governing coexist in a single institution and how strategies change over time. Governmentality literature tends to offer a top-down analysis of governing, and there is a tendency to compartmentalise modes of governing. Instead of a top-down analyses, I used observations of a specific site to generate theoretical observations about how specific strategies of governing operate. I argued that penal reform strategies intersect and evolve into more complex patterns of governing. I have also shown how governing is always gendered, and how expert, non-expert and hybrid forms of knowledge all inform penal strategies, in contrast to the governmentality literature’s emphasis on experts.

Secondly, this thesis, in particular chapter six, contributes to debates on the emergent risk

society, more specifically the importance of actuarial modes of penal governing. Here I showed that actuarial governing co-exists with other forms of governing and that the definition of risk and its management are gendered. Central to this inquiry was an attempt to trace the movement of certain concepts and strategies, such as “risk”, “needs”, and “empowerment” over time.

Thirdly, this work advances criminology and the sociology of punishment by complicating the concept of penal power. The reduction of penalty to a functionalist role reveals little about the reform process, and it assumes a coherence in operations of power which has not been shown to exist. I argue that penal governance relies on multiple expressions and forms of power, and that these forms of power are both productive and repressive. A primary objective of this thesis was to show how penal power is a product of multiple and conflicting strategies of governing which rely on a diverse range of technologies and rationalities that are simultaneously conflicting and interdependent. Penal governance is not simply reducible to disciplinary power. Other forms of power, such as pastoral power, maternal power, and actuarialism also contribute to the definition and governance of women and probably also of men in prison. These forms of governing are always gendered. For example, I argue that maternal power is a specific form of governing that combines pastoral and disciplinary characteristics to govern women in prison in a particular way. Similarly I argue that actuarial strategies of governing women through risk-based technologies are intricately connected to gender-specific normative and moral criteria. This claim makes possible future analysis of penalty which go beyond documenting instances of disciplinary governance and instead stress the diversity, interdependence and co-existence of productive and repressive modes of power.

A less developed idea that could be expanded in future analyses of penalty concerns the role of non-expert forms of knowledge associated with non-professional and semi-professional women (chapters four and five). Foucault and others have maintained that power / knowledge relations are, in the modern era, developed largely by professionals and other experts. This thesis shows that modern penal strategies do not rely solely on expert knowledges. I argued that women reformers, most of whom were not “experts”, have played a central role in penal governing. Non-expert matrons and women reformers used their everyday knowledge of activities like mothering to devise specific technologies of reform. Expert-based penal techniques are of course important, but they co-exist and sometimes appropriate everyday techniques of governing. The near-absence of

experts, whether medical or psychiatric, in the reformation of federally sentenced women during the heyday of therapy in prisons (1950s - 1960s) is particularly significant.

In many ways, it was women reformers' knowledge claims regarding women prisoners that precipitated the development of contemporary women-centred regimes. Women reformers, however, were in some instances trained in lower-status, feminized professions, such as domestic science or social work. They often represented a hybrid of expert and every-day knowledges about women prisoners. Women like Phyllis Haslam of the Toronto Elizabeth Fry Society and Mrs. Hof, a domestic science instructor at the Prison for Women in Kingston, are good examples of this hybrid knowledge. These women were professionally trained in the female-dominated professions of social work and domestic science, respectively. These women and others used their professional knowledges and status in combination with everyday knowledges of maternalism to govern women in prison. There are wide range of knowledges which can not be dichotomised as either expert or non-expert. In future research, I will explore the possibility that the place of "expert" knowledge in relation to penalty must be critically assessed in the same way that I have questioned the idea of a homogeneous, repressive disciplinary power.

Finally, my analysis of penal powers and knowledges can be used to advance feminist criminology and feminist theory more generally by providing an alternative approach to analysing the governance of women by other women, men and more generally the state. I have emphasised the complexity of governance, avoiding universal and reductionist claims about women's oppression and about governance. Relations of power are complex and fractured, and feminists and others need to explore the specificity of institutional power relations. In light of feminist efforts to re-define women's corrections, decisions like the transfer of maximum security women to a male penitentiary raise wider concerns about feminist engagements with the state. Although correctional practises and logics may appear to incorporate feminist logics, pre-existing relations of power are not replaced or even completely displaced by feminist logics. The feminist logic of women-centred prisons co-exists with other, often contradictory, modes of disciplinary and actuarial governance. For this reason, the feminist principles and vision of the *Task Force on Federally Sentenced Women* alone can not result in a radical restructuring of women's penalty. This thesis has considered some of the limitations of a women-centred penalty and the flexibility of feminist ideals such as empowerment. The ongoing

feminist struggle to restructure women's penalty continues to raise concerns about the relations of power among women. Even if it were possible to replace current penal logics of governance with feminist logics of governance, the history of the Mercer Reformatory shows that the dynamics of women governing women in a custodial environment may disguise, but not fundamentally alter the repressive disciplinary qualities of imprisonment.

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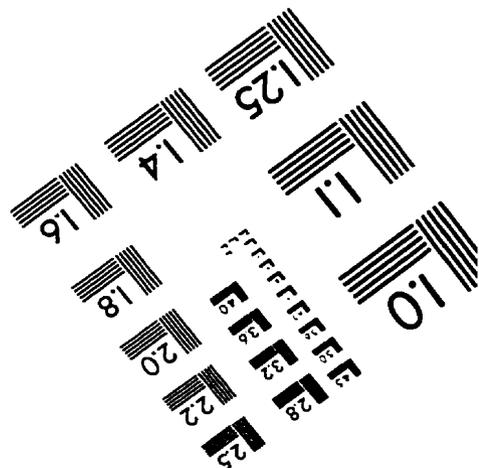
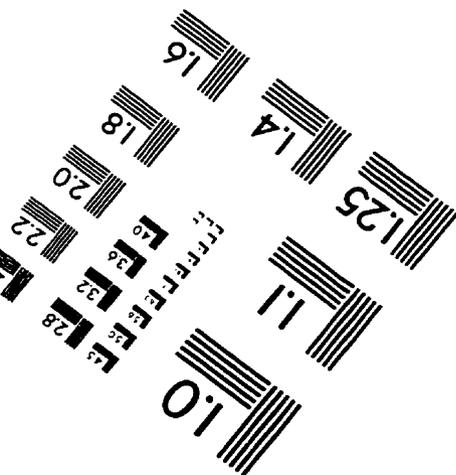
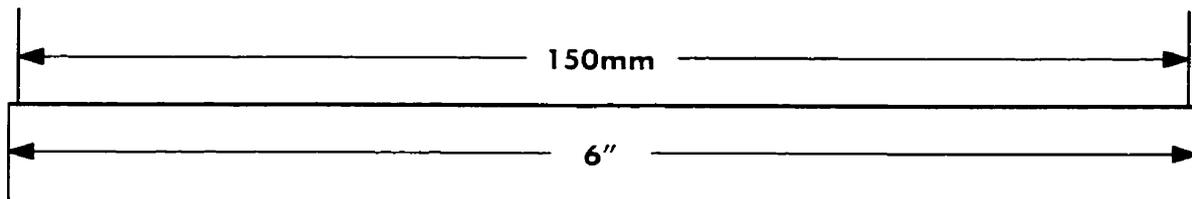
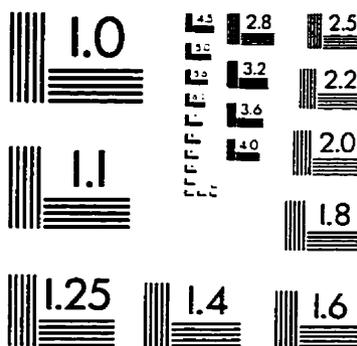
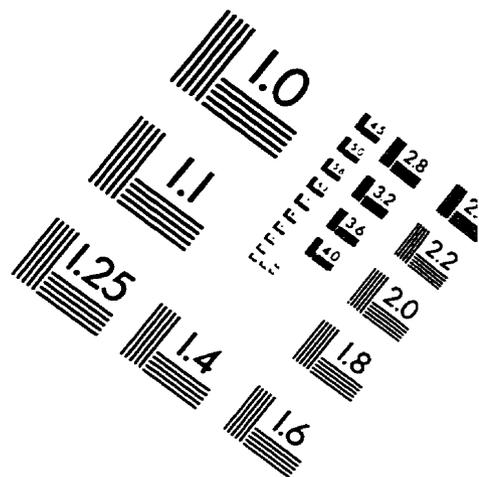
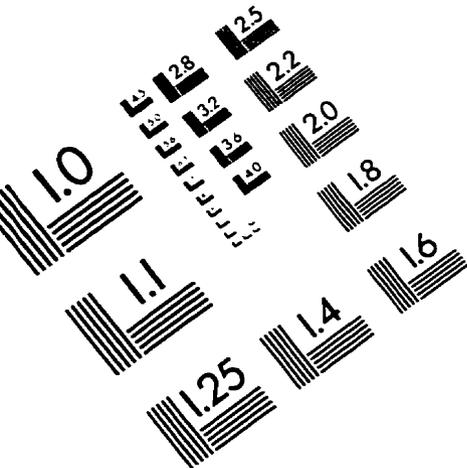
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