



Canadian Association of Elizabeth Fry Societies
Annual General Report
Ottawa, 2019

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AGM Agenda 2019

9:00 – 12:30

Annual General Meeting

1. Identification of Delegates
2. Convention Rules and Mission of CAEFS
3. Approval of Agenda
4. Approval of Minutes of 2018 AGM
5. Business Arising from Minutes
6. Annual Report 2018-2019
 - a) President's Report

10:30 – 10:45

Break

- b) Treasurer's Report
 - i) Confirmation and Approval of Financial Decisions and Payments over the Past Fiscal Year
 - ii) Approval of 2018-2019 Audited Financial Statements
 - iii) Appointment of Auditors
- c) Executive Director's Report
- d) Director of Advocacy and Legal Issues Report
 - i) Pacific Region
 - ii) Prairie Region
 - iii) Ontario Region
 - iv) Quebec Region
Atlantic Region

12:30 – 1:30

Lunch

3:30-4:00

Committee Reports

- e) Social Action Report

- f) Diversity Report
 - g) Bursary Report
 - h) Housing Report
 - i) Governance Report
7. Resolutions
 8. Announcement of Ten Years+ Awards for Volunteers and Staff
 9. Date and Location of 2020 Annual General Meeting
 10. Other Business
 11. Adjournment @ approximately 15h00

President's Report

Fiscal Year: April 1, 2018 – March 31, 2019

Elizabeth Fry Sisters, Friends and Allies:

I am at the end of my term as president of this amazing organization. I have found the role challenging, rewarding, exhausting and inspiring. I have spent much of my time as president preparing for and assisting in the transition from Kim Pate's long term role as our Executive Director to our new Executive Director, Cassandra Churcher. I am deeply saddened that Cassandra is also leaving the organization at this time but I am sympathetic to her reasons and I wish her all the best in her new position in her chosen field of education. Cassandra has had a significant impact on CAEFS; she will be sorely missed.

The work that we do at CAEFS is demanding and hard. I so admire the staff at the Elizabeth Frys across the country who work tirelessly and passionately to support and advocate for and with marginalized, victimized, criminalized and institutionalized women and girls. The values of collaboration, mutual respect, equality and trust, along with the commitment to prison abolition, that inform our work are not always easy to adhere to but they are the core of who we are as CAEFS; they are what makes CAEFS the strong, indomitable feminist organization that it is.

Thank you for giving me the honour of being your president.

With love and esteem,
Diana

Treasurer's Report

Fiscal Year: April 1, 2018 – March 31, 2019

It is with pleasure that I am able to report to our membership that the Canadian Association of Elizabeth Fry Societies (CAEFS) remains fiscally stable through our transition year.

A detailed accounting of our expenditures is available in our audited financial statements. All financial commitments have been met and CAEFS has operated in accordance with the direction of the Board and membership throughout the past year. On behalf of the Board of Directors, I thank all of the membership for your continued efforts to maintain CAEFS' fiscal stability and for their support through this transition year.

A handwritten signature in blue ink, appearing to read "Diane Bergeron". The signature is fluid and cursive, with a large initial "D" and "B".

Diane Bergeron
Treasurer
Canadian Association of Elizabeth Fry Societies

Executive Director's Report

1. Introduction

It is my pleasure to present the Executive Director's Report for the fiscal period of April 1, 2018 to March 31, 2019. The past year has provided CAEFS with many opportunities to continue to work towards the abolition of prison by documenting human rights violations and widening our scope of work to integrate the work of our local societies in their preventative and reintegration efforts. CAEFS continues to be solicited for papers, presentations, and consultation as the expert organization in all issues impacting the criminalization of girls and women in Canada.

The purpose of this report is to provide an overview to the Board of Directors and membership to inform, raise issues, ignite questions and evoke pride. The intention of this report is to ensure that all of CAEFS members feel up-to-date on relevant, strategic-level activities; prepared to raise issues, ask questions and make decisions; and feel confident and enthusiastic about our organization and its work.

2. Risk and Compliance Update

Update on Risk and Compliance Management

Brief update on any significant outcomes from the ongoing work on risk and compliance.

Legislation	Date of Report Submission	Comments
T3010 Annual Charity Return	September 30, 2018	CAEFS submitted its annual charity return on time and in compliance with Canada Revenue Agency
Canada Not For Profit Act	November 15, 2019	Board of Directors information updated
Occupational Health & Safety Act	Monthly	Updated profile August 15, 2018. Monthly payments to Workplace Safety and Insurance Board.

2. Risk and Compliance Updates or Incidents

CAEFS has been in compliance with all requirements under the Canada Not For Profit Act, the Occupational Health & Safety Act and Canada Revenue Agency. Updates to report include activities to maintain CAEFS' compliance with the legislation and there are no anticipated incidents in the foreseeable future if CAEFS continues to maintain its obligations in a timely manner.

3. Funder Obligations

Confirmations and updates on budget, program plan and/or report submissions.

Funder	Date	Details & Comments
Public Safety	April 1, 2017- March 31, 2020	<ul style="list-style-type: none"> Public Safety NVO Sustaining Grant provides core operating funding for CAEFS. The AGM report must be sent by September 30, 2019. The new funding cycle application will be released summer 2019 for completion by CAEFS to maintain its national capacity. This funding is provided on a 3 year cycle.
Status of Women Canada	April 1, 2019- March 31, 2023	<ul style="list-style-type: none"> Interim progress report due for the fall of 2019. Year 1 final activity report due March 2020.
Carleton University	Quarterly	<ul style="list-style-type: none"> Carleton University provides funding through the Carleton University Accessible Experiential Learning (CUAEL) Project It is on-going based on employer commitment each semester.

3. Update on Operational Activities

Information, within this section in particular, will contribute to assessment of progress based on CAEFS' strategic directions outlined in the 2017-2022 plan. Highlights of these operational activities are included in section 4 under *Key Achievements*.

A. Fewer women in prison.

CAEFS continues to work tirelessly to advocate and work towards the decarceration of women. CAEFS has released several publications and participated in testimonies to document the need to pro-actively use sections of the Corrections and Conditional Release Act for this purpose. In addition, CAEFS partnered with several local societies to fund housing options to support section 81, 84, and 29 releases. Unfortunately, according to the Office of the Correctional Investigator the rate of Indigenous women in prison has increased in the last fiscal year from 37.6% to 40% in the past year. With the establishment of the CAEFS Housing Network, the strategic plan in place moving forward is to provide more residential in-community options to facilitate the decarceration of women at a higher rate. Fostering partnerships with Indigenous communities and organizations to support these efforts is critical to reducing the number of Indigenous women who are incarcerated. Future efforts should include inviting Indigenous partners to a Truth and Reconciliation meeting around issues impacting criminalized women with the hopes of developing a National Decarceration Strategy complete with actions and performance indicators.

B. More extensive community services and options with and for women.

In the past year CAEFS has increased its efforts in the areas of homelessness, mental health, addictions and housing to establish support for our local member societies and for extended services that are gender-specific. Supporting women-specific programs and services in the community is an essential component towards ensuring that prison abolition is possible. The importance of preventative services, diversion programs, housing and employment support including accessing mental health are all

necessary to keeping girls and women out of jail and prison. In addition, working as a network to invest in women's housing options becomes critical to their safe and successful long-term re-entry post jail and prison.

C. Unified and interconnected CAEFS network.

CAEFS has focused on developing a strong network of communication and messaging between its member societies and the regional advocates. Practical steps have been the press release templates, key messaging, exchanging funding opportunities, and fostering a sense of support and resource exchange that is necessary to supporting girls and women across the country. The issues are systemic and so working as a unified system is critical to making concrete advances in CAEFS priority areas.

D. Stable and sufficient funding base.

This past year CAEFS applied for 4 sources of funding and was successful on 1 application with the Status of Women of Canada department of the federal government. The funding will provide funds to build CAEFS capacity and that of our local members to support women in accessing legal support and identifying resources for successful re-entry following jail and prison. This project will also allow CAEFS to hire a consultant for fundraising and grant writing in the second year which has the potential to bring even more funding into the national network for the benefit of CAEFS and our members.

4. Key Accomplishments

1. **Missing and Murdered Indigenous Women and Girls Inquiry**

In September 2018 CAEFS was invited to testify before the National Missing and Murdered Indigenous Women and Girls Inquiry. With less than two weeks' notice, a team was assembled to represent lived experience, historical knowledge, current systemic issues, and the broad interconnections between the missing, murdered, and incarcerated. CAEFS went on record to note the importance of the commissioners conducting a part of the inquiry inside prisons directly with the Indigenous women we were invited to represent. During the period of January-March of 2019 the inquiry did in fact visit several federal prisons for women.

2. **Executive Director Housing meeting**

October 2019 brought together the executive directors from our local member societies to discuss housing for women in Canada. The meeting shared several models of housing or leasing on behalf of women including exposing those members without housing to the critical steps needed to begin to provide housing in their region. The meeting ended by establishing the CAEFS Transitional Housing Network to encourage our members to advocate for women-specific transitional housing to help build our capacity towards providing community-based alternatives to prison. The CTHN also successfully prepared a proposal towards beds in community to support incarcerated women with mental health needs which they proposed to CSC's Health division in May 2019.

3. **Canadian Association to End Homelessness**

CAEFS in partnership with Residence Manager of EFry Barrie Meaghan Chambers, was the only organization active in criminal justice to present on the interconnections of homelessness and criminalization at the Canadian Association to End Homelessness conference in November 2018.

There were over 50 presentations and panels with 1300 participants present. The importance of affordable housing, including housing with wrap around services is important to prevent criminalization for women and support them in their reintegration post prison.

4. **Parole Board of Canada**

In February 2019, CAEFS was invited to submit recommendations and participate in a two-day think tank on the parole process in Canada. The recommendations were based on feedback and experiences drawn from our member societies’ including conversations with formerly incarcerated women who had participated in the parole process. As a result of our involvement, Chairperson Oades has established a dedicated group to improve the parole process for women. The Parole Board of Canada is also working in collaboration with CAEFS to conduct on-site consultations with incarcerated women which was one of CAEFS’ recommendations.

5. **Social Media**

CAEFS has actively been growing our social media presence as direct effort to engage in public education around our core values and current issues. Our presence has grown by over 1000 followers and our average social media engagement reached 5k-10k users with a top post reaching over 100k Facebook users. Our successful social media campaign on ending strip searching lead by our Director of Advocacy and Legal Issues reached over 20k users in a one week period. Social media is an important platform for CAEFS messaging to educate on conditions of confinement, women’s issues and advocate for prison abolition.

6. **Canadian Mental Health Conference**

CAEFS was invited to provide a keynote address at the Canadian Mental Health Conference in March 2019. In collaboration with Kiray Jones-Mollerup, Regional Advocate Prairies, CAEFS was also responsible for facilitating a workshop on the incompatibility of providing mental health services in the environment of a prison. The impacts of segregation on mental health was a specific focus for both the keynote and the workshop. The objective of our participation was a call to action for mental health professionals to join our goal of abolition due to the compromising of their own professional code of ethics by the corrections system.

7. **Status of Women**

Sisters Inside is a CAEFS project that will allow for the hiring of regional coordinators across the country. The coordinators will work in partnership with our local societies and their local partners to develop a handbook for women re-entering community following jail or prison. In addition the coordinators will build a resource bank of pro bono legal representation that our members and women across Canada can access to help them negotiate the justice system and hopefully avoid criminalization. The project will run for 4 years and includes funding for a grant writer, fundraiser, and updating the CAEFS website.

8. **Supporting Local Societies**

A large part of the work as Executive Director has been to support our local member societies through facilitating public events, speaking at AGMs, conducting community consultations, or simply visiting

the staff and board. This work is necessary to provide our local societies with national level support, build consistency in our messaging, and also inform our national priorities particularly around community programs and services for women and girls at risk of criminalization. Apart from the work with criminalized women, it is the most important part of the work I accomplished while I was at CAEFS.

9. **Section 81 house**

In the summer of 2018, CAEFS was invited by EFry Cape Breton to be a part of a working group with Mi'kmaw Legal Support Network towards an in-community housing option for Indigenous women to access through sections 81 and 84 of the CCRA. The working group took 9 months to produce a proposal that was submitted to the Correctional Service of Canada for review and consideration. Following discussions with CSC's Aboriginal Initiatives and the Regional Deputy Commissioner for the Atlantic, we are hopeful that an in-community option for Indigenous women will be achieved in the next year.

5. **Matters to note**

The following upcoming events, activities, and opportunities should be considered as priorities for follow up by the board of directors for the 2019-2020 upcoming year.

- NVO Sustaining Grant application
- Registered Charity Reporting 2019
- Special Advocacy Project on Reproductive Justice
- Parole Board of Canada partnership
- IPV Research Grant decision
- Status of Women Grant
- Social Media communications
- Prisoner's Justice Day
- AGM and Conference 2020 preparation

6. **Moving forward**

CAEFS has an endless amount of potential based on the sheer needs of girls and women in this country. While we work towards prison abolition, we must recognize that many women are incarcerated in their own communities through poverty, abuse, mental health, and addictions. Our efforts as a network must align to translate our abolitionist efforts into the prevention of women entering prison, the efforts to release them from prison, and the necessary supports in community to ensure that they do not become criminalized again.

Moving forward, the additional funding from Status of Women provides CAEFS a significant opportunity to build capacity to grow its role in all of the aforementioned areas which in turn holds a multitude of possibilities to support our local society members and in turn girls and women across the country both inside and outside of prison.

Director of Advocacy and Legal Issues Report

Regional Advocacy: Includes prison visits, regional advocacy letter review, meetings, trainings, tools and resources, onboarding procedures

Legal Issues: Informed by regional advocacy and includes interventions in cases that have a bearing on the rights of federally incarcerated women, human rights complaints, and other strategic litigation

Year in Review, June 2018 – June 2019

This report will provide an overview of CAEFS' work to promote the rights and entitlements of women with the lived experience of marginalization, victimization, criminalization and/or institutionalization.

Segregation

We have been closely following and advocating in respect of a number of critical developments regarding the use of segregation in the prisons for women.

BCCLA v Canada – Charter Challenge of segregation, July 2018

CAEFS intervened in *BCCLA v Canada* because the trial decision lacked essential information regarding the specific needs and circumstances of women prisoners. CSC responds to the different needs and circumstances of women, the unique ways segregation harms women were not sufficiently addressed. As the only organization that regularly visits and documents the conditions of confinement in all areas of the federal prisons for women, CAEFS has an obligation to ensure the experiences of the incarcerated women we work alongside are accounted for. Unfortunately, we are limited in that capacity because the Court of Appeal has decided it will not hear oral submissions from all but one intervener.

There was a total absence of contextual factors that impact women prisoners, including the fact that the majority have experienced lifetimes of physical, sexual, or traumatic abuse and are identified as having mental health issues at higher rates than men. In prison, women's trauma and mental health needs are translated into risks to be managed and punished, rather than supported with culturally and therapeutically appropriate treatment. Segregating or isolating a woman, in any way, recreates patterns of control and abuse that further place their lives at risk of self-injury or suicide.

The lower court recognized the often devastating impact of segregation on prisoners, yet stopped short of calling all forms of segregation unlawful. We are hopeful that the Court of Appeal will understand that the harm of segregation resides not in the name, but in the isolated and punitive conditions associated with segregated units, which includes maximum security and clinical seclusion in prisons for women.

Recognizing the harmful impact of all forms of segregation, along with the contextual factors already discussed, should assist the Court in extending the finding that segregation discriminates against Indigenous women to women as a group.

On November 13 and 14, 2018, I attended the hearing at the British Columbia Court of Appeal. Updates were tweeted as the court heard evidence from the lawyers for CSC, the BCCLA and one

intervener. The court has not yet issued its decision in this case, but has issued conditions that CSC must meet to mitigate the harms of segregation while Bill C-83, the governments proposed “solution” to segregation, is moving through Parliament.

In the meantime, the Ontario Court of Appeal issued its decision condemning the use of segregation and criticizing Bill C-83 for not going far enough.

Bill C-83

Over the course of the year, CAEFS has testified before multiple committees regarding the potential impacts of Bill C-83 on women in prison. Outgoing President, Diana Majury, recently testified before the Senate and brilliantly represented CAEFS’ positions on Bill C-83. Her testimony is excerpted below for your benefit. A big thank you to Diana for her commitment to CAEFS and best of luck in her future endeavors.

I am the president of the Canadian Association of Elizabeth Fry Societies (CAEFS). We are an umbrella organization that brings together 24 Elizabeth Fry societies from across Canada. We work with marginalized, victimized, criminalized and institutionalized women and girls. A very important part of our work at CAEFS is our Human Rights in Action program under which we have teams of regional advocates who visit each of the federal prisons that incarcerate women to examine the conditions of confinement and to check for human rights abuses.

CAEFS has for some time been raising serious concerns regarding the use of segregation in the prisons for women across Canada. When Bill C-83 was introduced, in October 2018, and described as ending the practice of segregation, CAEFS was cautiously optimistic. Since its introduction, however, we have grown concerned that the “structured intervention units” (SIUs) proposed by the Bill will rely on male-driven approaches that will result in conditions of confinement much the same as those we see now under the current administrative segregation regime, only with less procedural safeguards. Without significant amendments, CAEFS cannot support this Bill.

We urge this committee to scrutinize the Bill keeping in mind the conditions some of you have witnessed throughout your study of human rights in prisons. According to the government’s own legislative summary (30 October 2018 – Library of Parliament), the Bill has altered very little in terms of the legislative segregation provisions. The Bill does even less to change the culture of CSC, or the dehumanizing infrastructure of the prisons.

...

The Parliamentary Budget Officer recently released a report, comparing Bill C-83’s proposed SIUs to four more humane and cost-effective alternatives, including CAEFS’ 2016 proposal. We would be happy to work to explore amendments to the Bill that will achieve meaningful alternatives to the practice of isolating women prisoners for any period of time.

...

The 2016-2017 Annual Report of the Correctional Investigator of Canada focuses heavily on the secure units in federal prisons for women, highlighting severe, restrictive and repressive conditions that worsen women’s mental health and create barriers to the supports they need. The OCI anticipates that the number of prisoners held in these segregated conditions will likely go up under Bill C-83 and we concur. It is difficult to fathom how the SIUs, implemented within the same inhumane and restricting infrastructure of the secure units, will diverge in any significant way from the harmful conditions we see currently.

...

While I have focused on the proposed SIUs, much has to be amended elsewhere in the Bill to achieve transformational change. Strengthening community-based options, such as s. 81, incorporating the Honourable Louise Arbour’s 1996 recommendation for judicial oversight, giving healthcare staff full clinical and professional independence, and eliminating the practice of routine strip searching in women’s prisons would provide a good start.

CAEFS v CSC, 2011 and ongoing

CAEFS has an ongoing human rights complaint against CSC, alleging CSC discriminates against federally sentenced women on the grounds of sex, race, and mental health. The complaint specifically challenges CSC’s classification system, its use of segregation, and the lack of access to Indigenous programming and spirituality. Myself and lawyer, Morgan Rowe of Raven Law, will be representing CAEFS in this complaint.

Over the course of the past several months, it has become apparent just how much Bill C-83 is a litigation strategy for CSC. In several instances, CSC has argued the bill represents fundamental shifts to way corrections operates and has leveraged the bill to try to seek an adjournment of our complaint.

We are confident that the complaint will move forward, but the form it takes may change as a result. We are currently awaiting a decision by the Tribunal member.

Institutional Violence Against Women

Over the past year, CAEFS continued to make concerted efforts to highlight and challenge institutional violence against women.

Campaign to End Strip Searching - #HearMeToo, May 2019

Strip Searches
Sexual assault by the state

Strip searches are humiliating and degrading searches done after family visits and trips to community to attend church, programs, and cultural ceremonies.

Strip searches turn up little to no contraband in prisons for women (McCulloch and George, 2009).

90% of Indigenous women and 85% of non-Indigenous women in prison have been sexually and/or physically abused in their lifetime (OCI, 2011-2012; CHRC, 2003).

Strip searching mirrors the abuse most women experience prior to incarceration and functions to (re)traumatize women (Hutchison, 2019).

#EndStripSearching



#HearMeToo



This campaign came about as a result of past efforts to challenge the practice of strip searching. In the Fall of 2017, CAEFS wrote to CSC Headquarters to underscore that strip searches, which cause serious harm to women, turn up minimal contraband and as such do not serve their legislative purpose. The Commissioner at the time along with the Deputy Commissioner for Women responded, stating they understood our concerns

regarding the intrusive nature of strip searching, especially in light of the high prevalence of trauma among women prisoners, but fell back on s. 38 of the CCRA which grants CSC the discretionary power to engage

in strip searches. Nevertheless, they committed to conducting a review. We have yet to receive the results of this review, but the regional advocates have since documented the implementation of 'T9', a program meant to bring "consistency" to "random" strip searches. In other words, they acted to address inconsistencies in the way "random" was operationalized, but did not encourage wardens to exercise their discretion to reduce or end the practice. An Access to Information Request regarding strip searching is outstanding since 2017.

This past year, the Minister of Public Safety exercised his authority to implement new CSC policy that further restricted women's access to healing lodges, following intense media pressure regarding the placement of a woman at the Okimaw Ochi Healing Lodge. It was a politically expedient move, that came following statements by the Minister's office that he did not have any real authority over CSC.

And so, it was decided if CSC was not going to play ball, we would encourage Minister Goodale to take action to end the practice by running a social media, post card and letter writing campaign. Building on the momentum of the

#MeToo movement, our aim was to amplify the voices of women who have experienced state sanctioned sexual assaults at the hands of CSC.

Leading up to the event, an op-ed piece was ran in VICE making the case for [Why We Must End Strip Searches in Canada's Prisons for Women](#). [Multiple media stories](#) covered the campaign across the country, including National coverage of events in Vancouver, Ottawa, and Toronto. Tools, including fact sheets, postcards, and template letters were provided to the membership to support their efforts. A huge thank you to all members who participated by hosting an event or doing acts of advocacy throughout the week and on the National Day of Action! Your hard work and enthusiasm ensured the success of this campaign. While the campaign week has passed, efforts are ongoing, and an open letter to the Minister calling on him to exercise his authority to end the practice, signed onto by multiple National women's organizations is in the works.

Sexual Assault Disclosure Consult / Policy Development

Since the disclosure of several [sexual assaults at the Nova prison for women](#), and requests for guidance during the February 2019 RA meeting, I have endeavoured to put together a policy that will support RAs dealing with sexual assault disclosures. The goal is to develop a framework for responding to sexual assault disclosures while maintaining boundaries, ethics and upholding our mandate and obligations as advocates. The project should be completed and available to the Regional Advocates for final feedback by August 2019.

Missing and Murdered Indigenous Women and Girls Inquiry, September 19, 2019

After several meetings with Inquiry Commissioner, Qajaq Robinson, facilitated largely by CAEFS honorary prison adviser, Senator Kim Pate, the Inquiry invited CAEFS to testify. While the goal was to get the Inquiry into the prison to meet with women, to hear directly from them regarding their experiences, the denial of the Inquiries extension made prison visits difficult. Collaborative efforts between CAEFS ED, Director of Advocacy and Legal Issues and Board President, Diana Majury, resulted in the development of a team that would testify regarding the situation for Indigenous women in prison. The team was comprised of Diane Serre, an Indigenous woman with lived prison experience, Patti Tait, CAEFS Indigenous representative, Kassandra Churcher, CAEFS ED and myself as CAEFS Director. What followed was a powerful and moving day of testimony, which can be watched [here](#).

Each member provided key testimony which painted a bleak picture of Canada's prisons and their devastating impact on Indigenous women. Excerpted below are pieces from my testimony:

The prison industrial complex, like residential schools, is representative of our broader societal beliefs about the poor, those with mental health issues, and especially Indigenous peoples and Indigenous women in particular. Our prejudicial ideas shape these institutions. Prejudices put on display by what our government chooses to fund or not fund. Pipelines, prisons, but not educations, water, housing, or community-based options. Our society cares very little for poor women and children. Even less so if they are Indigenous. Less still if they are prisoners.

The discrimination and abuse Indigenous women experience in society are continued, even amplified in Canada's prisons, which are inherently colonialist, sexist and homophobic institutions focused on punishment to the exclusion of health and healing.

As a group, Federally sentenced women, particularly Indigenous women, are, and have historically been, subject to more disadvantaged treatment and more restrictive conditions of confinement than men. For example, due to the smaller population of women prisoners, all women were initially imprisoned in one high

security prison, regardless of the relative low risk to public safety of most federally sentenced women. In fact, relative to men, women have lower rates of recidivism and pose far less risk to community safety.¹ At the same time, the majority of women who are imprisoned have experienced lifetimes of physical and/or sexual abuse; 91% of federally sentenced Indigenous women have experienced such abuse.²

The multiplier effect of race and sex creates a distinct discriminatory impact on federally sentenced Indigenous women that affects their experience of incarceration from beginning to end. More than half of all women in prison are identified as having mental health needs, compared to 26% of men.³ And the nature of women's mental health needs is impacted by the lasting effects of past abuse.⁴ For instance, the Canadian Human Rights Commission reports that women use self-injury as a coping mechanism to survive the "emotional pain...rooted in traumatic childhood and adult experiences of abuse and violence."⁵ Corresponding to the higher levels of abuse experienced by women prisoners, the rates of self-injury and attempted suicide are significantly higher among women in prison as compared to men.⁶

In the 1990s, a commission of inquiry, led by the honourable Lousie Arbour, was tasked with investigating events leading to a prison riot and the subsequent stripping and shackling of women prisoners by an all -male emergency response team at that one high security prison—P4W in Kingston. Eventually, in 2000, P4W was closed due to inhumane conditions and egregious human rights violations which lead to the deaths and assaults of several women, most of whom were Indigenous, some whom remain imprisoned to this day.

In an attempt at collaborative reform involving FSW, prison staff, and community organizations like CAEFS, the report *Creating Choices* was developed by the Task Force on Federally Sentenced Women. In response to this report, the prisons for women were regionalized in the late 1990's/early 2000s, leading to the development of five multi-level prisons and 1 healing lodge. This was a mistake. One that CAEFS has been learning from ever since.

The intentions of regionalization were good – get women closer to their communities and families, get communities involved. Guided by the 5 principles of *Creating Choices*—Empowerment, meaningful and responsible choices, respect and dignity, supportive environment, and shared responsibility—it appeared to some that women's corrections could be done in a way that was responsive to women's differing experiences and needs. Today, you can still find those 5 principles painted on the gym wall of the FVI. But as the OCI has pointed out repeatedly for a number of years, those principles have been completely eroded by CSC's policies and practices.

Following this regionalization, and despite declining crime rates⁷, the number of women in prison ballooned; today women are Canada's fastest growing prison population. Unlike the men's multi-level sites, of which

¹ Canadian Centre for Justice Statistics, *Female Offenders in Canada* (Ottawa, ON: Statistics Canada, 2008), online: Statistics Canada < <http://www.statcan.gc.ca/pub/85-002-x/2008001/article/10509-eng.htm>>.

² *Protecting Their Rights*, *supra* note 2, at p. 7; Canada, The Correctional Investigator Canada, [Annual Report of the Office of the Correctional Investigator 2014-2015](#), (2015: Her Majesty the Queen in Right of Canada) [Annual Report of the Correctional Investigator 2014-2015].

³ Annual Report of the Correctional Investigator 2015-2016, *supra* note 9, at page 8. ⁴ *Protecting Their Rights*, *supra* note 2, at p. 39.

⁵ *Protecting Their Rights*, *supra* note 2, at p. 39.

⁶ *Ibid*, *Protecting Their Rights*, at p. 39.

⁷ <https://www150.statcan.gc.ca/n1/pub/11-630-x/11-630-x2015001-eng.htm>

there are an exceptional few, the prisons for women incarcerate women of all security levels—from minimum to maximum—resulting in continued heightened levels of security overall for women and more restrictive segregated conditions in the Secure Units in particular. The reform didn't work, because it did not go far enough, in fact it expanded CSC's capacity; this is why CAEFS board voted in favour of adopting a position of abolition.

Currently, the prisons for women are comprised of a general population, mostly those with medium security and some minimum security designations, who are kept in living units with up to 10- 11 women. The vast majority of programming, employment, healthcare, and mental health services take place in the GP. More recently, minimum security units were developed, which are positioned outside of the barbed wire fence, although somewhat ironically are based on a blueprint for maximum security units. The women I know in and from prison adeptly refer to the minimum security units as "max lite", and many resist being moved there for reasons I will discuss later on. (time permitting)

Finally there are the Secure Units, which are isolated, cut off from the general population; they contain maximum security cells as well as solitary confinement cells; the only difference between the two being that the max cells have access to a larger yard area 1 hour a day and a small common area shared with a few other women. Women classified as maximum security are confined to those cells and that small common area, which contains a tv, couch, table, fridge, and washing machine, often for 23 hours a day. When there is a lockdown, often a monthly occurrence, max security women are confined entirely to their cells and are denied access to programs, school, mental health supports and sometimes even showers. Often the women do not know when the lockdown will end.

The environment in the Secure Units is highly punitive, repressive and controlling. This was documented heavily in the most recent Annual report of the Correctional Investigator. Everything from the time women eat to the programs they access to whether they will be invasively strip searched is controlled to a large degree by the max Correctional Manager, a concentration of power which women commonly report is abused.

Women in maximum security, unlike men, are subject to a further classification system, known as the levels system and described by the OCI as a sex-based discriminatory restriction that punishes or rewards women, on the basis of a set of expected or compliant behaviours. In other words, women must earn their way out of the oppressive conditions of the max to the general population through 3 graduated levels, each with differing restrictions and "privileges". As an example, women who score as a "1" or "2" on the levels system may be shackled, including with leg irons and handcuffs, to visit with their families and children. Due to this policy, at the Grand Valley Prison for Women, the number of women allowed to visit family at one time has been restricted to just 2. In addition, a number of women have reported cancelling visits because they did not want their children to see them shackled in this way.

Of course the conditions in max, the prevalence of trauma and mental health issues, and the arbitrary expectations mean women are set up to fail. Because the levels system exists outside the law, and the rules are applied arbitrarily, women often feel helpless, unable to "earn" a level which will enable them access to the general population where most programming takes place; women

commonly report the ease with which they “lose levels” and accompanying “privileges” and the great difficulty they experience in trying to “earn” their return to less restrictive prison conditions. Women rewarded with the highest level often report being treated in the same way as those with lower levels and fail to accrue the apparent benefits of this higher designation.

The levels system provides another good example of how CSC responds to efforts of reform. Several years ago, after much work on the part of the OCI and CAEFS, CSC rescinded a practice known as the Management Protocol, which held women in segregated conditions forcing them to earn certain privileges (things for which they were, in fact, legally entitled to). This past year, following an extensive review of the secure units, the OCI stated the levels system is tantamount to the illegal former Management Protocol and called for the practice to be ended. CSC conducted its own review and determined that it would not be able to “safely” manage women classified as max, the women themselves would not be able to access services in the GP, and that there would be little incentive for prisoners to transition to medium security without the levels system, and on this basis decided it was needed; these conclusions are deserving of interrogation.

Who ends up in the Secure Unit and why? Of the women isolated in the oppressive conditions of max and seg, 50% are Indigenous. During an advocacy visit to FVI this past May, our advocacy team observed that 100% of the women in the Secure Unit were Indigenous. Women with mental health issues are also seriously overrepresented.

Why? To start, the tool used by CSC to assess women’s security levels when they first enter the prison, The Custody Rating Scale, was developed over 25 years ago on a sample of white male prisoners. CSC’s own research has documented that the CRS does not accurately assess the so-called risks posed by women prisoners. In 2003, the CHRC confirmed in its report, “Protecting Their Rights”, that the classification scheme discriminated against women on the basis of sex, race and disability and that most Indigenous women were over classified and therefore unable to access programming, recreational and other services and conditional release. When the healing lodge was opened, no Indigenous women qualified for a transfer because CSC policy restricted access to minimum and in rare cases medium security women. To date, CSC has made no changes to the tool or the way it is used on women and women, particularly Indigenous women, continue to be overclassified. A recent report of the Auditor General, found that CSC frequently overrode the results of this faulty tool. Rather than override in order to lower women’s security, however, staff placed twice as many women prisoners in higher levels of security than recommended by the tool. Given this information, it is not simply a matter of reforming CSC’s classification tools.

What is the impact of these Secure Unit placements on Indigenous women prisoners, whether in max or solitary? The Superior Court of British Columbia recently accepted that the “permanent harm” of segregation, “prevents the [prisoner] from successfully readjusting to the broader social environment of general population in prison and...often severely impairs the [prisoner’s] capacity to reintegrate into the broader community.”⁸ Women in segregated maximum security units similarly struggle in adjusting to the general population and the broader community after being kept in the isolated conditions of maximum security for months or years. It is not uncommon for a woman to be released to the general population only to be returned to maximum security, sometimes first through segregation, due to difficulties in adjusting.

Despite the positive obligation, set out in s. 4 (g) of the CCRA, to consider and be sensitive to the unique needs of Indigenous peoples, women, and those with mental health issues, CSC has a long

history of applying the same practices, such as classification and strip searching, to both men and women thereby exacerbating the disadvantage and harm to Indigenous women.

⁸ *British Columbia Civil Liberties Association v. Canada (Attorney General)*, 2018 BCSC 62.

CSC's policy⁹ on SS does not once ask the decision maker to consider Indigenous women's often severe histories of trauma nor does it require any just or reasonable suspicion that might create some semblance of "cause". At GVI, women going on work release or to programs either in community or in the General Population are strip searched upon return.

Kassandra will be making some recommendations at the end of our presentation. Due to the conditions I have highlighted, which no doubt Diane and Patti will explore further, as well as CSC's resistance or inability to change, the overall theme of those recommendations will involve a divestment from the prisons in order to invest in communities.

I just want to finish by saying that while I am humbled and grateful to be here to discuss the issues facing Indigenous women in prison, there are so many women inside whose stories deserve to be heard, and they are not mine to tell. I do hope I have managed to convey the seriousness with which these issues have been conveyed to me through those stories.

Gynecological healthcare – Special Advocacy Project, ongoing

In January 2019, Senator Boyer's office reached out to CAEFS about our advocates gathering data related to women's experiences with forced sterilization. Senator Boyer's work has been instrumental in bringing to light atrocities related to the forced sterilization of Indigenous women in Canada. Learning from the MMIWG Inquiry, CAEFS felt it was important to ensure women in prison's voices were heard on this issue and made a proposal to Senator Boyer for funding so we could give the project more time and resources. Our proposal was accepted and Senator Boyer providing funding to CAEFS for the project.

Discussions have since been undertaken with NWAC, the RAs, Senator Boyer, and others about the project. Some valid concerns have been raised about the project and time has been taken to develop a process for the visits that feels appropriately sensitive and supportive of the women.

The visits will be broken down into two days. Day 1 will consist of an evening gathering style with a workshop and discussions about reproductive healthcare, informed consent and human rights. The next day will be similar to a regular advocacy visit. Visits will be made to EIFW, OOHL, RPC, Nova, and GVI. The goal of the project is to provide women in prison with the opportunity to learn about their rights related to gynecological healthcare and reflect on and share (optionally and anonymously) their experiences with the medical industry. Kassandra reached out to Martha Paynter, a registered nurse and PhD student, to develop background materials to support and structure the visits. I have recently been in contact with elder Mary who assisted Senator Boyer in her study of forced sterilization. She has agreed to accompany us on our visits.

The project is timely as the Senate is currently studying the extent of forced sterilization across Canada. The stories and data compiled into our final report will serve as evidence to be presented before the Senate Committee in January 2020.

⁹⁹ See CD 566-7 and 577- the latter talks about working with women “to ensure the dignity and privacy of incarcerated women”

Regional Advocacy

To assist us in fulfilling our mandate, CAEFS has a team of over 20 volunteer regional advocates who regularly visit each of the federal prisons where women are incarcerated. Whenever possible during these visits, our advocates encourage women prisoners to use the internal complaint and grievance procedures, to seek the assistance of legal counsel and to report their concerns to the Office of the Correctional Investigator (OCI). Following each visit, our advocates identify to prison management, in a debrief meeting and a follow-up letter, issues observed or reported over the course of the visit. The following is a summary of the key issues documented by CAEFS RAs over the course of the past year.

Discrimination

For the past year, RAs documented both subtle and overt forms of racism, sexism, and homophobia in CSC decision-making and policies. The following examples provide a snapshot of the larger systemic discrimination faced by women prisoners.

African, Black and Caribbean women reported feeling discouraged by staff from gathering in both formal and informal ways; this feeling was informed by multiple instances of being subjected to surveillance and comments by staff while gathering, which explicitly targeted their race. In another case, a black woman who applied to be a caregiver for another black woman's child, a requirement of the mother-child program, was denied on the basis that she was black. Prison management confirmed in a meeting that her application was denied because caregivers must reside in the same pod as the mother and they did not want it to appear that they were segregating black women to a particular pod.

Two-thirds of federally sentenced women are mothers and have primary childcare responsibilities.¹⁰ Separation from their children and the inability to deal with problems surrounding this separation are major anxieties for women in prison.¹¹ Over the past year, as in previous years, these anxieties were compounded for a number of mothers in prison who reported being pressured by CSC staff to give up custody of their children. At one prison, a memo was circulated to the women stating that visitor applications must provide proof of guardianship, which "typically entails an offender [*sic*] signing legal guardianship of her children over to a family member or friend..."¹² In other words, women are being told they must sign over their custody rights in order to secure visits with their children.

A number of lesbian couplings reported being placed into separate living units when their relationship was discovered or disclosed to CSC and receiving charges for visiting in one another's living units. Some women filed requests to live in the same unit to alleviate the issue with charges, but many reported those requests were denied based on prison rules. Following a grievance won in 2017 by a lesbian couple and a human rights complaint settled in 2018, some prisons removed a rule in the prisoner's handbook which prevented same-sex couples from living together and developed a process to enable couples to apply to live together. In practice, however, women have reported lengthy delays, as long as 5 months, in the processing of these applications.

¹⁰ Canadian Human Rights Commission, *Protecting Their Rights: A Systematic Review of Human Rights in Correctional Services for Federally Sentenced Women* (Ottawa: Minister of Public Works and Government Services Canada, 2003) at 7, online: CHRC <<https://www.chrc-ccdp.gc.ca/eng/content/protecting-their-rights-systemic-review-human-rights-correctional-services-federally>>.

¹¹ *Ibid.*, at 6.

¹² Memorandum, Visits and Correspondence Department, Grand Valley Institution for Women. Original with author.

Further, reports of homophobic comments such as “God made Adam and Eve, not Adam and Steve,” and informal refusals to allow couples to live in the same unit, continue to be reported.

Overall, discrimination within the federal prisons for women is systemic, expressed through CSC policy and culture. The multiplier effect of race and sex creates a distinct discriminatory impact on federally sentenced Indigenous, black, and lesbian women that affects their experience of incarceration from beginning to end, including through the issues summarized below.

Segregation and Maximum Security

The environment in the Secure Units, comprised of the segregation range and the maximum security pods, is highly punitive, repressive and controlling. This was documented heavily in the 2017- 2018 Annual report of the Correctional Investigator as well as by RAs throughout the past year. Specifically, RAs documented, contrary to international minimum standards¹³ and Canadian caselaw¹⁴,

- that segregation was repeatedly used to ‘manage’ incidents of self-harm;
- that this prohibited use of segregation was enabled, in part, by its rebranding in policy or institutional rules as ‘pod c’, mental health monitoring, or modified watch, to name a few;
- that maximum security, despite its similarly isolating, punitive, and repressive conditions, was frequently used by CSC as an ‘alternative’ to segregation and, finally;
- that the circumventing of legislative safeguards associated with administrative segregation by using maximum security was enabled by CSC’s policy and security classification regime.

Segregation

Over the past year, RAs received and verified several reports of women being moved to segregation after they had self-harmed. In one example, a woman was placed in segregation directly from outside hospital following a suicide attempt. Although the prison labeled her placement in segregation ‘mental health monitoring’, she was in a cell down the segregation range, and experienced her placement as segregation. RAs worked tirelessly to get her out of segregation, connecting her with a lawyer and the OCI. For weeks they witnessed her deteriorate in segregation, making additional trips between visits to check in on her. After a visit from her lawyer, she was finally moved from segregation. In another prison, the entire segregation range was renamed ‘pod c’. Some women were held in the segregation range under CD 843 following incidences of self-harm, while others were placed there under disciplinary segregation. RAs observed that the women on disciplinary segregation were rotated out of segregation much more quickly than those on administrative segregation or CD 843, likely due to the more robust procedural safeguards attached to disciplinary segregation. Each of the women held in so-called ‘pod c’ reported they were not receiving adequate mental health supports and were experiencing acute psychological distress.

In the recent case of *BCCLA v Canada*, Justice Leask rejected ‘mental health observation’ as an adequate safeguard for prisoners who experience mental health issues while in segregation.¹⁵ Not only is mental health

¹³ See Rule 45, The Mandela Rules; See also Rule 41, The Bangkok Rules.
¹⁴ *BCCLA and JHSC v. Attorney General of Canada*, 2018 BCSC 62
¹⁵ at para 303 of decision.

monitoring not a safeguard to segregation, it *is itself* a form of segregation. Justice Leask acknowledged the harm caused by “isolated,” “solitary confinement type units,”¹⁶ stating:

Many—including some who do not become overtly psychiatrically ill during their confinement in solitary—will likely suffer permanent harm as a result of such confinement. This harm is most commonly manifested by a continued intolerance of social interaction, a handicap which often prevents the [prisoner] from successfully readjusting to the broader social environment of general population in prison and, perhaps more significantly, often severely impairs the [prisoner’s] capacity to reintegrate into the broader community upon release from imprisonment.¹⁷

Calling segregated conditions of confinement something other than segregation does not change the detrimental experience or impact of those conditions on women. Given that a majority of the women subjected to the harmful conditions of segregation are either Indigenous or have mental health needs, strengthening sections 29 and 81 of the *CCRA* and reducing barriers to their application should be a priority.

Maximum Security

As pressure on CSC increases to avoid the use of segregation—rather than committing resources to s. 29 or to supporting women in the general population—RAs have documented the increased use of maximum security as an ‘alternative’ to segregation. At some prisons, management has confirmed to RAs that they are, in fact, using maximum security as an alternative. In one Indigenous woman’s case, maximum security was recorded in her paperwork as a ‘culturally-appropriate alternative’ to segregation.

Not only is maximum security not an alternative to segregation, but the already inadequate procedural safeguards associated with a segregation placement do not extend to women who are ‘maxed out’. Once a woman’s classification is escalated, it may not be revisited for a period of 6 months to two years.¹⁸ The isolation of the maximum security units from the general population means women classified as maximum have restricted access to cultural programming, ceremony, education, employment, and conditional releases; all of which would contribute to the cascading down of their classification.

It appears, based on the instances documented in 2018-2019, that CSC typically relies on CD 710-2-4 to move women to maximum security, despite those women having lower security ratings. While in maximum security an OSL review, or security reclassification, is conducted in order to justify the maximum security placement. In a number of incidences reported by RAs, women were moved without paperwork to indicate why they were being moved and had little information about how to challenge these placements. No 5-day reviews were conducted on these maximum security placements, because none are required according to CSC’s policy. In addition, the practice of overriding security ratings from medium to high in these circumstances was prevalent. The 2017 Auditor General’s report challenges the use of overrides (to higher classifications) as a standard of practice because they are less reliable and the stakes are high: a prisoner’s “initial security

classification and subsequent reviews affect the potential for parole and for successful reintegration into the

¹⁶*BCCLA v Canada*, 2018 BCSC 62 at paras 186.

¹⁷*BCCLA v Canada*, 2018 BCSC 62 at para 172.

¹⁸Commissioner's Directive 710-6

community.”¹⁹ A number of the women impacted by these overrides were approaching their parole eligibility dates.

This trend is concerning as women in maximum security experience difficulty, similar to that seen of segregation placements, in readjusting to the general population and broader community after prolonged confinement in maximum security.

Unfortunately, CAEFS assesses that these issues will not be prevented by Bill C-83 in its current form. At best, the changes Bill C-83 will bring about may result in women being transferred to ‘structured intervention units’ rather than segregation or maximum security. However, according to a roundtable with CSC on January 17, 2019, these ‘SIUs’ will be built within existing infrastructure. Given the clear security focus CSC demonstrated regarding Bill C-83 at that roundtable, we expect to see the existing segregation ranges renamed ‘structured intervention units’, only with fewer procedural safe guards than segregation and less time for meaningful human contact than maximum security.

We applaud Public Safety for introducing legislation with the intention of ending the practice of segregation. CAEFS remains committed to that objective and welcomes any opportunity to discuss how Bill C-83 could be amended to facilitate section 29 transfers for those with mental health issues or help ensure the use of de-escalation strategies and intervention efforts to avoid individual isolation for any period of time.

Involuntary Transfers

As scrutiny of CSC’s reliance on segregation intensifies, CAEFS’ advocates have documented a pattern of prisons substituting involuntary transfers for segregation placements, particularly at the Edmonton Institution for Women (EIFW) This practice is contrary to the objective of regionalizing the prisons for women, namely to ensure that women had better access to their home communities to assist with future re- entry, in part, by maintaining familial and community ties. Given the significance family contact can play in women’s successful reintegration, we question how involuntarily transferring women away from their family supports accords with the purpose and principles of Corrections as per sections 3 and 4 of the *CCRA*.

In December 2018, seven women from one prison alone were involuntarily transferred. Each of these women were first placed in maximum security, and then moved to a local jail for a period, before finally being transferred to various prisons across the country. The instability created for these women on its own is significant. Worse still, in many instances, the decision-making and process followed appear to lack procedural fairness and violate section 28 of the *CCRA*.

Of further concern is the total lack of external oversight to the transfer process. CSC staff act as the decision-maker as well as the source, in many cases, for information regarding women’s right to rebuttal, grievance, and habeas corpus. Women typically have just 48 hours to submit a rebuttal to the decision to transfer and, given barriers to access to justice (discussed in detail below), this timeline is quite challenging.

19 Report 5: Preparing Women Offenders [sic] For Release – Correctional Service of Canada
(2017)(http://www.oag-bvg.gc.ca/internet/English/parl_oag_201711_05_e_42670.html)

Health and Mental Health Care

In the past year, CAEFS has documented medical negligence with respect to both physical and mental health care in the federal prisons for women across Canada. This neglect has at times resulted in medical complications that arguably could have been avoided. The neglect takes a number of forms, including long wait times to see a doctor or mental health professionals, inappropriate triaging by non-medical staff, barriers to accessing external healthcare and specialists, and a tendency to dismiss women's medical concerns as attention-seeking manipulations or exaggerations. As outlined in the examples provided below, women in every region are experiencing a level of healthcare that is not in keeping with the community standards required by the *CCRA*.

CAEFS' advocates documented a number of examples from across the country that indicate that security staff—not medical professionals—are often assessing and prioritizing medical concerns for women in their care. A prime example relates to our earlier section on segregation: decisions regarding a woman's placement in segregation following self-injury or attempted suicide are often made by security personnel rather than healthcare staff, even when healthcare staff are present in the prison.²⁰ Over 2018-2019, women commonly reported their medical concerns not being taken seriously by security staff. In one specific example documented by RAs, an Indigenous woman in maximum security, who has a history of trauma and being institutionalized, actively attempted suicide. Despite security staff being aware of her suicide attempt the same day that it occurred, she did not receive medical attention and was kept in her cell overnight. The next day medical staff sent her out to hospital where she was kept for observation for several hours.

Due to increasing mental health concerns among the women and CSC's limited capacity to provide quality, consistent, and individualized mental health care, CAEFS has repeatedly asked for a national mental health plan to address these concerns. We have been advised that RPC and Pinel, each dually designated as a prison and hospital, will continue to be the only alternatives for women who have debilitating mental health issues. In addition to the limited availability of beds at these sites, significant human rights abuses, uses of force, and egregious conditions of confinement prevail at both Pinel and RPC. We encourage Public Safety to review our advocacy letters from RPC. The issues have been so numerous that our Prairie advocates have committed at the beginning of 2019 to more frequent visits to RPC to monitor conditions. The only acceptable 'treatment plan' for prisoners with mental health concerns is treatment that is not secondary to security and corrections.

CSC's mental health strategy (Toward a Continuum of Care) states that, "collaboration with provincial and territorial partners is a key component to the mental health strategy." We have requested documentation of what actions CSC has taken to collaborate locally and regionally to meet the particular needs of women without response. In addition, we know women with mental health concerns continue to be overrepresented in maximum security. The most recent report of the Correctional Investigator examined living conditions in the secure units (maximum security), and described them as harsh, punitive environments that are inappropriate for women with serious mental health issues, some of whom engage in chronic self-injurious behaviour. The practice of temporarily transferring women with acute mental health issues on an emergency basis to all-male treatment

centres where they are separated and held in complete isolation is entirely inappropriate, unacceptable, and contrary to international human rights standards.

²⁰Risky Business, page 20; CD 843; Auditor General (FEWO report)

Strip Searching

In the Fall of 2017, CAEFS sent a letter to CSC's national headquarters documenting concerns about the practice of "routine strip searches"²¹—that is invasive searches without individualized cause or suspicion—and urging an end to this harmful practice in all federal prisons incarcerating women. In doing so, we were operating in the context that women prisoners have high rates of sexual and physical victimization; that routine strip searches turn up minimal serious contraband; that such searches create barriers to accessing community through both escorted temporary absences and in-prison family visits, and; that women were reporting inconsistencies in the practice both across the country and within a given prison. In a response letter, dated November 2, 2017, then Commissioner for Corrections, Don Head, committed to conducting a review of the "current practice and the relative benefits."

While we have yet to receive official news on that review, we do know, through our advocacy visits this past year, that CSC found inconsistencies across the country in the methods employed to "randomly" select women to be routinely strip searched. A computer program, called "T9", has now been implemented at all Federal prisons for women, which provides a one in three chance that a woman will be strip searched. The results of an access to information request regarding strip searches, submitted in 2017, are still outstanding.

As you know, a routine strip search is done at the instruction of a uniformed guard who requires the woman prisoner to remove her shirt, bra, lift her breasts open her mouth and then remove her pants and underwear, to squat, bend over, and remove her tampon if she is menstruating. According to the OCI, in nearly 30% of cases, the established procedures are not followed.²² In a number of prison visits, women reported that guards commented on their bodies in derogatory terms during the strip search. Others reported that, contrary to policy, they were disallowed from putting their tops back on before having to remove their bottoms.

This past year, CAEFS' regional advocates commonly documented women foregoing escorted temporary absences to programs, church, and Indigenous events in community because of the retraumatizing effect of strip searches. In September 2018, CAEFS documented the troubling report of a urinalysis that turned into a strip search. In this instance, staff crouched down at toilet bowl level and observed a woman's vulva as she urinated. When the woman raised this problem to her Parole Officer, she was told it was common practice. Another woman at the Okimaw Ohci Healing Lodge grieved the policy enabling strip searches without individualized suspicion following cultural ETAs. In her grievance, dated October 15, 2018, she states that she is a sexual abuse survivor and is refusing to go on ETAs to church, especially when she is on her moon time, because strip searches are traumatizing to her. Her grievance was denied by OOHL staff.

The degrading and dehumanizing nature of these searches is readily apparent and acknowledged by international minimum standards. The UN Nelson Mandela Rules, for instance, state that "intrusive...strip searches, should be undertaken only if absolutely necessary. Prison administrations shall be encouraged to

²¹ *Corrections and Conditional Release Act* (S.C. 1992, c. 20), s. 48; *Corrections and Conditional Release Regulations* (SOR/92-620), s 47.

²² Office of the Correctional Investigator, Annual Report 2013-2014.

develop and use appropriate alternatives.”²³ The law governing corrections in Canada, which enables *routine* strip searches, is arguably out of step with these international standards. Even so, the *CCRA* does confer discretionary powers on CSC to not engage in routine strip searches.²⁴ Despite this discretionary power, the federal prisons for women continue to engage in routine strip searches on a ‘random’ basis. While many wardens encourage us to continue challenging the practice with CSC national headquarters, none have been willing or able to take a lead by ending the practice at their regional sites. We encourage Public Safety to strengthen Bill C-83 by eliminating routine strip searches at the federal prisons for women in order to avoid their harmful psychological impact and to comply with international minimum standards.²⁵

Temporary Absences

In response to frequent reports of repeated cancellations or delays of ETAs, CAEFS submitted an Access to Information and Privacy Request (ATIP) in May 2018 to study the issue. A response is still outstanding and a complaint has been filed with the Privacy Commissioner. Over the course of 2018-2019, CAEFS’ advocates were advised that these cancellations and delays were due to a large number staff leaves, a shortage of female staff, and a lack of volunteers. We have reported on this issue for several years with no notable improvements.

It was not uncommon for women to learn of cancelled ETAs on the morning set for the escort. Women have been told that because the prison must have a certain ratio of female staff present to comply with law and policy (in terms of searches and other matters) and female staff are also required to escort prisoners for ETAs, when there are fewer female staff on a given shift, the ETAs are cancelled. A number of staff leaves across the country appear to have exacerbated the issue. In addition, CSC policy sets the expectation that, regardless of security level, a prisoner’s first ETA will be done with security escort, rather than a citizen escort.²⁶ While it is possible to deviate from this standard if reasons are provided, the option is seldom used. As such, and as a result of the above mentioned issues, this policy further contributes to ETA cancellations and delays.

In a number of cases, these cancelled or delayed ETAs have been for medical purposes. A number of women reported in 2018-2019 that they found out about multiple cancelled appointments from their medical specialist only once they had finally gone out to see that doctor. These cancellations are especially concerning in light of the concerns raised regarding medical negligence inside of prisons. We have significant concerns that these cancellations are interfering with women’s right to essential healthcare and that CSC is not meeting the legislative requirement set out in section 86 of the *Corrections and Conditional Release Act* [“*CCRA*”].²⁷

23 The United Nations Standard Minimum Rules for the Treatment of Prisoners Rule 52, available online at < https://www.unodc.org/documents/justice-and-prison-reform/GA-RESOLUTION/E_ebook.pdf>. [Nelson Mandela Rules].

²⁴The “may” used in s. 48 of the *CCRA* and s. 47 of the *Corrections and Conditional Release Regulations* is *permissive*, not obligatory.

25 United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (The Bangkok Rules), Rule 20, available at: <https://s16889.pcdn.co/wp-content/uploads/2016/07/BangkokRules-Updated-2016-with-renumbering-SMR.pdf>.

²⁶ Commissioner's Directive 710-3, at section 44.

²⁷ *Corrections and Conditional Release Act*, SC 1992, c 20 ["CCRA"].

An additional barrier to women accessing community is financial. Women indicated to CAEFS that they are required to pay for the cost of transportation, food, and other expenses involved in participating in Unescorted Temporary Absences, or temporary absences to get a second opinion from a doctor regarding a medical condition. Despite repeated requests, CAEFS has yet to receive the policy and reasons for the decision to make women pay for these costs. For most women, given the limited funds available to them, and prisoner pay levels that top out at \$6.90 a day, these costs are prohibitive.

In the past year CAEFS has documented a lack of consistency in message across all institutions. In the case of temporary absences women reported that they were told by their parole officers that going on Temporary Absences was unnecessary. There are numerous women at various women's prisons who have been minimum security for a considerable period of time and yet had not been on an ETA. It is a breach of CSC's obligation regarding reintegration, not to facilitate ETAs for women who are eligible. While we know that some women are able to access some programming in community on ETAs, it is disheartening to learn that many other women are eligible and yet have never been afforded that opportunity. CAEFS is concerned that women are being discouraged from going on ETAs, given the importance placed on this type of gradual release, by the Parole Board of Canada.

Access to Justice

Over the past year, women have reported issues accessing written decisions, grievance and complaint forms, their correctional paperwork, their mail containing legal documentation, as well as their legal counsel. Because prisoners do not have access to internet—though we advocate for this to change—they rely solely on mail and telephone access; this access is completely dependent upon CSC staff. In some instances, prisoners with human rights complaints must rely entirely on the respondent in their complaints, CSC, to participate fully in the legal process.

Barriers to accessing legal documents and legal counsel were also not uncommon. In one example, a woman in maximum security reported waiting several weeks for her lawyer to be added to her PIN list. In the meantime, requests to staff to facilitate a call were continuously ignored or put off. CAEFS' advocates have reported on this issue, and issues like it, for several years. These delays and access issues are concerning as they can have serious consequences for women's liberty; delays can forestall women from seeking certain legal remedies, participating in their appeals, and cause legal aid certificates to expire. In one case, a woman had to begin the arduous process of obtaining a legal aid certificate anew due to delays in accessing paperwork and her lawyer.

Even internal procedures for seeking remedies are ineffective and inaccessible. The grievance, complaint and request process is fraught with inefficiencies and interferences. For example, on multiple occasions, RAs have observed a lack of grievance and request forms in the Secure Unit, leaving women to request forms from staff, which acted as a deterrent for some. In 2018, as with previous years, women commonly reported a fear of repercussions if they grieve; women frequently reported being approached by staff about withdrawing their grievance or they report incurring multiple charges and feeling targeted after submitting grievances.

Reliability Clearance

In January 2018, changes were made to policy which resulted in heightened security checks on volunteers. The amendments to CD 564-5, which delineates the security clearance process, were not prompted by any security incidents or concerns, but rather by an administrative change coming from the treasury board. The new

process is invasive, intimidating, and lengthy. Where volunteers could previously submit a one page clearance form, they are now required to fill out multiple lengthy forms, undergo finger printing, a credit check, and an interview, which some have described as an interrogation. As expected, CAEFS heard from multiple volunteer organizations that they have lost current volunteers and are finding it difficult to recruit new volunteers.

Volunteer shortages have long been an issue for CSC and some staff have complained to RAs about the impact of this policy change on their ability to retain volunteers for escorted temporary absences and the like.

The process has also affected RAs, some of whom have had been prevented from going into the prison for weeks or months or have had their access to certain areas restricted. For several months, we were denied access to the Living Units (LUs) in the general population, the pods in the minimum unit, the pods in maximum security and the segregation range at one prison. This restricted access has impeded our ability to fulfill our mandate; specifically, to monitor conditions of confinement and provide advocacy to the women that is consistent to the level provided elsewhere in the country. The escorted tours of the prison offered as an alternative in some instances are not a meaningful alternative, as women often express fear sharing with us in the presence of security staff. Further, they interfere with the *independent* monitoring and documenting that CAEFS has provided for over a decade. According to a letter from former Commissioner for Corrections, Don Head, "in keeping with security requirements...the broadest access possible to the site should be provided" to CAEFS.²⁸ For the majority of the past decade, his statement has been interpreted by the federal prisons to provide us access to the LUs, maximum security pods, and minimum security pods, except where a security incident or staff shortage has occurred. Even in those instances, RAs have typically been provided alternate times to access those locations.

CAEFS continues to pursue this issue to see a return to a less arduous process. We are encouraged, given the importance placed on community participation in the Commissioner's mandate letter, that we can work to eliminate these administrative barriers to access.

Closing Comments

We remain steadfast in our pursuit of substantive equality for women with the lived experience of marginalization, victimization, criminalization and/or institutionalization. Thank you for the energy and dedication you bring to these issues. It has been a privilege doing this work with and for all of you.

Sincerely,



Savannah Gentile

Director of Advocacy and Legal Issues

²⁸ Letter with author, available upon request.