



*Canadian Association of Elizabeth Fry Societies™
Association canadienne des sociétés Elizabeth Fry
190 Bronson Avenue, 3rd Floor, Ottawa, Ontario K1R 6H4
Telephone : (613) 238-2422
Facsimile : (613) 232-7130
Home Page : www.caefs.ca*

Parole Board of Canada

Special focus: The need for a Gender Specific Process for Women

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Abstract

This report has been produced at the request of the National Parole Board of Canada. The report is focused on a need for gender specific services for women within the current parole board system.

Prepared by:
Kassandra Churcher,
Executive Director CAEFS
Kchurcher@caefs.ca

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Introduction

The Correctional Service of Canada has established separate and distinct models of corrections for men and women yet the parole board system in Canada makes no distinction between men and women who are criminalized.¹ For the purpose of this background document we will be focusing on the need for gender-specific service in the parole process for women to ensure their successful reintegration into the community. CAEFS will be applying a feminist approach to this report including contextualizing the factors that contribute to women's criminalization which will lead to a critical analysis of the parole system and services that require an intersectional approach based on the need for substantive equality for women.

Throughout this report, we use language that reflects CAEFS' values and commitments. In recognition of the systemic and social factors involved we refer to the criminalization of women and to the women as criminalized rather than the terms offenders or accused. This is a critical component of our report and the work at the heart of the Parole Board of Canada. When a woman is being evaluated for release, the members must be working from the basis of re-entry which is a return to community as a citizen, and not as an offender.

Historical context for gender-specific approaches

The core of Canada's equality law is based on section 15 of the Canadian Charter of Rights and Freedoms with its strong equality guarantee.² Canadian courts have developed an approach to equality that recognizes the complexity and impact of factors that create conditions of inequality. This approach, known as substantive equality, is a crucial principle informing Canadian law and policy. Given the complex matrix of factors that lead to women's criminalization, substantive equality should serve as the foundation for any approach which intends to address women. Unlike the traditional approach to equality, which holds that people who are considered to be alike should be treated in the same way (formal equality), substantive equality focuses on the impact on the individual. In many cases, treating those considered different in the same way as the dominant group will not necessarily alleviate inequality and may, in fact, serve to entrench it further.

As noted by the court, substantive equality takes into consideration context and history, including membership in a group that has been historically disadvantaged and experienced discrimination.³ These groups are based on social categories such as race, gender, (dis)ability, age, Indigeneity, sexuality and economic status that have historically and continue to be the

¹ Correctional Service of Canada (2010). *Revised National Community Strategy for Women Offenders*. Government of Canada.

² *Canadian Charter of Rights and Freedoms, Part 1 of the Constitution Act, 1982, being Schedule B to the Canada Act 1982 (UK), 1982, c 11.* (n.d.).

³ *Canadian Charter of Rights and Freedoms, Part 1 of the Constitution Act, 1982, being Schedule B to the Canada Act 1982 (UK), 1982, c 11.* (n.d.).

basis for discrimination and inequality. These group-based factors are not mutually exclusive and different combinations will result in different experiences with discrimination. The social categories are interconnected and overlapping and cannot be understood in isolation from each other. An intersectional analysis takes into consideration the interdependent systems of discrimination that impact a person, situation or program or the application of a rule. Such a review is a critical component of substantive equality.

While substantive equality is a more nuanced and multifaceted approach and thereby will be more complicated to apply and implement than formal equality, it is the approach that is more likely to be effective in creating the fundamental change necessary to address the parole board process. As such, the basis of our recommendations will be that the parole process for women must be reconceived upon the foundation of substantive equality.

Gender as the basis for a distinct parole process

Historically, factors relating to the criminalization of women were researched from a “gender neutral perspective,” that is gender was not considered relevant. The criminalization factors that applied to men were assumed to apply equally and in the same ways to women. There is ongoing debate between gender-neutral theorists and gender responsive/ feminist theorists:

Gender neutral theorists maintain that theories of criminal conduct transcend gender lines. Equally relevant to males and females, pathways to delinquency are said to be comprised mostly of individual-level factors empirically linked to antisocial outcome. . . -- antisocial cognitions, antisocial peers, personality deficits (e.g. impulsivity), family/marital dysfunction, substance abuse, educational/vocational obstacles, and misguided use of leisure time. In contrast, feminist theorists maintain that the pathways to female offending are uniquely tied to specific sociological factors deemed to contribute to the oppression of women and girls—namely economic marginalization, systemic poverty, lack of access to state capital/government funding, and lack of access to community resources. Importantly, feminist theorists fervently maintain that society’s patriarchal structure plays a pivotal role in the subjugation of girls and women in the criminalization of their survival strategies.”⁴

These gender issues carry through the whole criminal justice process and inform the foundation of women’s corrections. As described in the Revised National Community Strategy for Women (2010):

Women offenders have unique needs, which must be considered in formulating the most effective response to their reintegration requirements. The necessity for a gender-informed approach is noted in both legislation and in CSC’s Mission, and has been reinforced in several correctional reviews and reports. The following three aspects need to be considered in determining the best measures to facilitate a woman offender's successful transition into the community: the diverse profile of women offenders; their relatively small numbers; and their geographic dispersion upon release.⁵

⁴ Jones, N., K Wananmaker, and L. Greiner. 2014. "A Quantitative Exploration of Gendered Pathways to Crime in a Sample of Male and Female Juvenile Offenders." *Feminist Criminology* (9). Abstract at p. 113.

⁵ Correctional Service of Canada (2010). *Revised National Community Strategy for Women Offenders*. Government of Canada.

Gender as a systemic factor and potential gendered impact needs to be taken into consideration in all parole programs, training, design and implementation. Support for a gender-informed approach that is sensitive to the unique needs of women can also be found in the research of Dr. Kelley Blanchette, the Deputy Commissioner for Women in Canada.⁶ It is time for the National Parole Board of Canada to also apply a gender lens to their work in supporting a women's return to their community.

How factors of women's criminalization must inform the parole process

The social categories that underpin a substantive equality analysis are critically important factors contributing to the criminalization of women. The inequalities, racism and colonialism experienced by racialized and Indigenous women, in conjunction with the heightened surveillance of these vulnerable populations, render them at increased risk of being criminalized even when on parole. Disabled women, particularly those with mental health issues, face barriers and marginalization, as do lesbian, gay, bisexual and transgender women. All of these women are more likely to experience poverty which is also significantly correlated with criminalization. Other related factors such as abuse, homelessness, and addictions also figure prominently as issues contributing to the criminalization of women.⁷

All of the factors creating needs and vulnerabilities in women must be responded to at every stage in the pre-release planning and community-based support services for criminalized women. In addition, those working as members of the parole board need to be trained and prepared to deconstruct their own stereotypes and assumptions to ensure they are not contributing to women's marginalization and vulnerability when it comes to deciding conditions and supporting their release.

Given the dominance of the individual-level factor approach to why women are in prison, none of the systemic or social factors have been adequately studied or considered in supporting release and re-entry approaches by the Parole Board of Canada. The lack of a gender-specific approach to parole process does not accommodate for the need to address that fact that the vast majority of criminalized women represent the impoverished, the marginalized, and the lowest-status of vulnerable populations in our society. Thus, understanding these factors provides crucial guidance on strategies that can more successfully prepare a woman for release, implementing a hearing process that is gender-specific, and training parole board members to incorporate each of the factors that will be discussed in how they interconnect, reinforce and influence each other in supporting the woman successfully in community.

⁶ Blanchette, K., Gobeil, R., & Stewart, L. (2016, January 301-322). Gender-neutral vs. Gender-informed approaches. *Criminal Justice and Behaviour*, 43(3).

⁷ CAEFS *Fact Sheets*. (2017, October 18). Retrieved from CAEFS: <http://www.caefs.ca/feature/fact-sheets/>

Race

Indigenous and racialized women are significantly overrepresented among federally sentenced women.⁸ Racist assumptions and stereotypes need to be acknowledged and addressed within the parole board system so that the members across the country are a diverse reflection of cultures and lived experience. For the best likelihood of success, criminalized women from Indigenous and racialized communities need to be served by those who are representative of their own communities. Race and culturally specific inclusions need to be incorporated into the release planning and hearing to ensure that the women are grounded by a sense of community during the process.

For example, currently in the parole process an Indigenous women can request a hearing using a traditional circle however this is conducted within a CSC facility, not in their community. It is clear from the Parole Board's own efforts that a healing circle is a better and more humane way to address the factors that brought the women into conflict with the law including mental health, family problems and poverty. It is structured as a supportive process that centers on a woman's narrative as the central element of the hearing process as opposed to formal hearings which replicate the formal structure that reinforces a separation between PBC members and the women and recreates the colonial division of authority and subject which our government has committed to deconstructing.

Recommendations:

1. Increase diversity of experience and culture among the parole board of Canada committee members.
2. Prioritize training on deconstructing privilege and the impacts of intergenerational trauma on Indigenous and racialized women in Canada.
3. Make parole circles which incorporate cultural elements the standard model for all women. Focus on conducting hearing in person, in a community setting.

Mental Health

As many as 75% of women in custody have some form of mental health diagnosis.⁹ Mental health issues among women, often related to other systemic factors, frequently go unrecognized and/or untreated prior to their incarceration and post-incarceration. The consequences of jailing women with mental disabilities cannot be overstated; they are at significant risk of being victimized while in prison, they have difficulty comprehending or following institutional rules and are labelled defiant, and they are more susceptible to higher risk classifications and segregation which can result in self-injurious behaviour.¹⁰

The unique and complex needs of women with mental health issues must be considered a priority when it comes to not only the role of the assistant in providing information and

⁸ Office of the Correctional Investigator. (2017). *Annual Report 2017*. Ottawa: Government of Canada.

⁹ Canadian Institute for Health Information. (2008). *Improving the Health of Canadians: Mental Health, Delinquency and Criminal Activity*. Ottawa: CIHI.

¹⁰ CAEFS *Fact Sheets*. (2017, October 18). Retrieved from CAEFS: <http://www.caefs.ca/feature/fact-sheets/>

guidance but also the residential in community options that can offer specialized wrap around services.¹¹ CAEFS is concerned that due to the lack of women-centric residential facilities that currently exist with wrap around services, many women who have complex mental health needs are being over-classified due to behaviour related to their illness and delayed release due to lack of in community appropriate services.

Recommendations:

1. A mandatory parole independent assistant must be available for pre-release planning and parole hearing for all women but in particular those with mental health issues.
2. Parole Board of Canada must use its mandate with the government to emphasize the need for community based residential facilities with mental health services to support these women in community.
3. The Parole Board must ensure that the risk-assessment and security concerns do not conflict with the need for treatment and medication to support rehabilitation and re-entry.

Poverty and Homelessness

The inequality of poverty and homelessness contributes to survival activities that are increasingly likely to cause women to be criminalized.¹² Poverty attaches to other systemic factors (race, gender, disability) and severely aggravates the inequalities that inhere in those identities. Homeless women, who must rely on selling their bodies to survive, as well as those who panhandle, or gather in groups, are at significantly increased risk of being criminalized. Criminalized women have indicated that housing is their most pressing need and that a lack of housing was their primary reason for recommitting offences.¹³ As poverty is a factor that renders women vulnerable to criminalization, it is important to invest in community supports including affordable housing and childcare at the community level to improve the quality of life of those children who, by virtue of their circumstances, are most vulnerable to high risk and illegal activities.

In assessing a woman for release there often is a residency clause incorporated into their return to community. This can be challenging when there exists no assistant support in the pre-release planning to help identify and source housing options for women who were previously homeless or in precarious living situations prior to their incarceration. Furthermore, due to their criminalization, all their other identities are now further compromised. Many shelters and transitional homes will not accept those with criminal records and as such they are often left to return to poverty and homelessness post-incarceration which contributes to recidivism.

¹¹ Mueser, K., Goodman, L., Trubetta, S., Rosenberg, F., Auciello, P., & Foy, D. (1996). Trauma and post-traumatic stress disorder in severe mental illness. *Journal of Consulting and Clinical Psychology*, 493-499.

¹² Briere, J., Agee, E., & Dietrich, A. (2016). Cumulative trauma and current posttraumatic stress disorder status in general population and inmate samples. *Psychological Trauma: Theory, Research, Practice and Policy*, 439-446

¹³ Canadian Association of Elizabeth Fry Societies (2015). *Housing Situations of Women Prior and Post Incarceration in Canada*. Ottawa, Canada.

Recommendations:

1. Parole Board of Canada must consider that 65% of federally sentenced women are primary care givers and should returned to community as soon as possible as to not further compromise their children.¹⁴
2. Committee members who are responsible for assessment and decision must be trained to acknowledge and understand the in community barriers that exists to a woman's long-term success including poverty.

Addictions

The connections between addictions, mental health issues, and income-generating activities that place a woman at risk of criminalization are well documented.¹⁵ Many women turn to addictions to help cope with the traumatic effects of abuse or poverty. The use of drugs as an anesthetic to deal with trauma begins a cycle of criminalization as women start to engage in high- risk income activities to fund an addiction. For women addictions often become a determining factor related to suspensions and revocations post-release.¹⁶ When faced with the PBC again, the committee members must use their influence to ensure that community parole officers have exhausted every option to seek support services for those suffering from addictions issues. Due to the lack of mental health support in community, high rates of intimate partner violence and histories of abuse women are highly susceptible to relying on drugs and alcohol to self-medicate.¹⁷

Recommendations:

1. Parole Board of Canada should be funding independent re-entry specialists who are trained in intersectional approaches to substantive equality to assist with the sourcing of in community resources for all women especially those seeking to continue treatment.
2. Parole boards must accept that relapse is a part of the recovery process during revocation hearings. If there are in-community supports who will navigate the addiction process with the woman they should not be suspended or revoked while they are in their healing process which is why a recommendation of release maintained in community contributes to a woman's ability to continue her re-entry without interruption.

¹⁴ CAEFS *Fact Sheets*. (2017, October 18). Retrieved from CAEFS: <http://www.caefs.ca/feature/fact-sheets/>

¹⁵ Coates, J., & Hetherington, T. (2016). *Decolonizing social work*. New York: Routledge.

¹⁶Public Safety Canada Portfolio Corrections Statistics Committee. *2017 Corrections and Conditional Release Statistical Overview*. Ottawa: Government of Canada.

¹⁷ Mullen, P., & Fleming, J. (1998). Long-term Effects of Child Sexual Abuse. *Issues in Child Abuse Prevention*, 7-21.

Abuse

Childhood physical, emotional and sexual abuse lays the broken foundation for a lifetime of potential trauma and challenges. The link between childhood abuse and mental health issues has been established through multiple research studies.¹⁸ We know that 80% of the current adult female population in Canadian federal prisons have reported a history of childhood abuse.¹⁹ Those rates are even higher among Indigenous women, sitting at 95%.²⁰ The process of being criminalized and moved through the corrections system is an additional level of trauma on women who have a high likelihood of having already been exposed to abuse.²¹

Criminalized women need access to anti-violence organizations that offer support and counselling appropriate to survivors of abuse. When examining the framing of a women-centric parole system, the paradigm must shift from a retributive, evaluative system to one that is transformative and healing and based in community. If this is not done, the parole process then has the potential to be another experience in the women's story of trauma and dehumanization.

Recommendations:

1. All Parole Board members must be appropriately trained in trauma-informed approaches prior to conducting parole board hearings.
2. A paid Independent Re-Entry Specialist should be provided as an option to every woman who must present before the parole board to assist with the planning and hearing process.

¹⁸ Mullen, P., & Fleming, J. (1998). Long-term Effects of Child Sexual Abuse. *Issues in Child Abuse Prevention*, 7-21.

¹⁹ CAEFS *Fact Sheets*. (2017, October 18). Retrieved from CAEFS: <http://www.caefs.ca/feature/fact-sheets/>

²⁰ CAEFS *Fact Sheets*. (2017, October 18). Retrieved from CAEFS: <http://www.caefs.ca/feature/fact-sheets/>

²¹ Briere, J., Agee, E., & Dietrich, A. (2016). Cumulative trauma and current posttraumatic stress disorder status in general population and inmate samples. *Psychological Trauma: Theory, Research, Practice and Policy*, 439-446.

The Correctional Plan vs. The Release Plan

The priority for the Correctional Service of Canada is the correctional plan. It is the central document that provides an action plan complete with required programs, treatments, educational goals and it governs a woman's entire incarceration. While this addresses one part of the mandate to rehabilitate, it leaves out the critical importance of the release planning process. The current corrections system in Canada is founded on the premise that most women who are incarcerated will, eventually, return to community. Due to the importance of reintegration to the corrections system's mandate, release planning must be made a priority to support the parole process.

Unfortunately, because release planning is often deemed 'offender-driven', women are often not given the appropriate amount of information and support in ensuring that they come before the PBC committee prepared to present their plan upon release. To date, this work often falls to EFry workers who, voluntarily, will help connect with residential options, in community support services, addiction services and build a release plan with the woman to help prepare her for the hearing.

To support a women-centric approach to the parole process, we need to consider the preparation required so that a woman is properly supported through the release planning and hearing process. Despite the CSC affirming that this is the role of the institutional parole officer, the Parole Board of Canada should invest in Independent Re-Entry Specialists who are community-based and can work on facilitating the preparation and reintegration of women. Ideally these specialist would be women with lived experience from community-based organizations who have the appropriate feminist analysis to partner with a woman in developing her release plan and sit as an assistant in the hearing process.

It is not enough to base re-entry on completing the correctional plan. This plan does not include the woman's needs nor does it take into consideration her family's needs. This is where we often confuse risk and need. The priority is that the woman must address their own needs and concerns in their release plan which often is not in line with the risk-framed language put forward by the institution. The completed correctional plan is a separate and distinct document that should not conflict with a woman's own assessment of her progress and future needs. Those needs can be supported by programs that do not need a clinical basis. The feminist model we have emphasized in our report does not require 'experts' to solve women's problems but rather a community that will accept and offer a sense of belonging and support.

Despite the report of the TaskForce on Federally Sentenced Women, which was implemented in the 1990s, women are still being treated more harshly than men in the prison and are often left alone to prepare for their release and present to their hearing. The five principles the TaskForce articulated (empowerment; meaningful and responsible choices; respect and dignity; supportive environment; and shared responsibility) have been divested of their feminist and collective meanings and used by the system to demand from women a level of accountability for their

crimes not expected of men.²² When the Parole Board members sit with a woman to evaluate her for release, this concept of hyper responsibility must be dismantled to ensure that she is being assessed based on her readiness and not on her ability to assume accountability to a level that is counter-productive to the process and the end goal of re-entry. Below is a sample release plan developed by a woman with the support of a local EFry worker to demonstrate the extensive work and effort it requires.

An example of an Elizabeth Fry Release Plan:

The Elizabeth Fry Society of Simcoe County

Transition House

Tentative Release Plan

Assessment Date: July 18th, 2018

The Elizabeth Fry Society of Simcoe County works for the advancement of justice by ensuring fair treatment of women whom are, or at risk of, being criminalized. We accomplish our objectives of creating a more humane justice system through advocacy, prevention and direct service. Our Community Based Residential Facility provides housing for women who are in need of a structured living environment as they complete legal processes and who are experiencing a transition in their lives. We have a 24 hour-awake staffing model to provide support and assistance to women as they participate and work towards the reintegration process.

A Preliminary Assessment has been completed with Ms. G over the phone. Ms. G is currently at Grand Valley Institute for Women serving her second federal sentence.

Ms. G. has no addiction or violent issues in her file. We feel that Ms. G. poses no threat to public safety.

Ms. G. has shown interest in participating in several programs that Elizabeth Fry Society of Simcoe County has to offer. These programs will help her develop a foundation and gain skills in order to follow her release plan. Ms. G. is deeply committed to humanitarian work and has expressed an interest in volunteering in the local food bank program or with the youth homeless shelter in Barrie. Ms. G. is also committed to completing work with her editor on her humanitarian writing and her music. Ms. G. has taken and successfully completed several programs while in prison.

The Elizabeth Fry Society of Simcoe County Transition House

²² Hannah-Moffat, Kelly. "Prisons that Empower: Neo-Liberal Governance in Canadian Women's Prisons." *British Journal of Criminology* 40 (2000): 510-531.

The Orientation Program: A three-day program designed to assist women reintegrating into the community.

The Building on Women's Strengths Program: designed to assist women to develop objectives; this will address individual and long-term goal.

Additional Programs and Services

The following items are additional resources that will be entered into the applicants plan (if applicable) as dates and times become available.

- 2 Doctor appointments
- 2 Employability Partnership

Additional Information

Upon arrival at the house each resident will be assigned a counselor who will begin an Individual Program Plan. This plan shall be coordinated with the Parole Officer's overall plan of supervision for the resident.

A written Individual Plan shall be completed within 30 days after the resident's arrival.

Within a week staff will arrange appointments with outside agencies, as well as with the Elizabeth Fry Society for programs and appointments. Such appointments will be plotted into the monthly schedule.

The plan shall incorporate the house programs and the correctional plan as developed by CSC and NPB. The plan will also include services within the community, which are deemed appropriate.

A progress plan will be written up monthly that will explain where the resident is with her goal achievement and to evaluate her progress. It will critique what is working and what is not with regards to her goals.

There is some free time scheduled into this tentative plan. We leave these spaces blank so that appointment times for any additional programs to be incorporated. Appointments cannot be made until the woman calls for support herself. Also, we believe that the client needs some free time so she can practice and prepare healthy pro-social activities and daily routines for her "down time".

THIS RELEASE PLAN IS FOR INFORMATION PURPOSES ONLY. ACCEPTANCE FOR RESIDENCY IS DEPENDENT ON A COMMUNITY ASSESSMENT TEAM DECISION, AND RELEASE FROM PRISON IS DEPENDENT ON DECISIONS MADE BY THE

Tentative Schedule for C. G.

(All items with an asterisk (*) are mandatory. House programs and meetings you must attend unless you were given permission by Senior Staff to be absent)

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
			1 AM/ 9:00 -Breakfast -Chores PM/ 12:00 -Lunch 1:00 Programs 5:00 -Supper 6:00	2 AM/ 9:00 -Breakfast 11:00 Programs PM/ 12:00 -Lunch -Chores 4:30 *-Resident Meeting 5:00 -Supper	3 AM/ 9:00 -Breakfast -Chores PM/ 12:00 -Lunch -Chores 5:00 -Supper 8:00 -Movie Night	4 AM/ 9:30 -Breakfast -Chores PM/ 12:00 -Lunch 5:00 -Supper
5 AM/ 9:30 -Breakfast -Daily Chores PM/ 12:00 -Lunch 5:00 -Supper	6 AM/ 9:00 -Breakfast -Chores PM/ 12:00 -Lunch 5:00 -Supper	7 AM/ 9:00 -Breakfast -Daily Chore 9:30 Programs PM/ 12:00 -Lunch 5:00 -Supper	8 AM/ 9:00 -Breakfast -Chores PM/ 12:00 -Lunch 1:00 Programs 5:00 -Supper 6:00	9 AM/ 9:00 -Breakfast 11:00 Programs PM/ 12:00 -Lunch -Chores 4:30 *-Resident Meeting 5:00 -Supper	10 AM/ 9:00 -Breakfast -Chores PM/ 12:00 -Lunch 5:00 -Supper 8:00 -Movie Night	11 AM/ 9:30 -Breakfast -Chores PM/ 12:00 -Lunch 5:00 -Supper

Conclusion

When considering the parole board process, our first questions must focus on what brought them to this place: what in their social context and life experience contributed to their criminalization? It is only by recognizing the contributing factors to their criminalization that the Parole Board of Canada can best support the successful reintegration into their communities post-incarceration.

The most successful interventions for women are guided by those very questions in a manner that is based on the individual and informed by an intersectional substantive equality approach. The unique factors that contributed to their criminalization must also be factored into the development of release plans and support models to address their needs and experiences.

Any solutions that will address the issue of women's criminalization must be developed within the context of gender-specific services. Males and females might be charged with the same offences but the factors that lead them to that point are very different. Initiatives that are successful for women take into the account the specific needs of their groups so as to better offer them support in the long term. Women require parole planning and supportive assistants that will empower and educate them to use their agency to protect against the systematic barriers and institutional disadvantages that exist in their world once they leave prison. Unlike men, women have already entered the cycle of criminality at a disadvantage and as such must be processed through that system with an intersectional approach to allow for an opportunity to achieve substantive equality in the parole system.

The Parole Board of Canada has the responsibility to train committee members, and should have an active role in training community parole officers on how to support criminalized women in their homes and communities. The parole board must provide criminalized women support as they face challenges to access to the resources they often lack in their personal lives which initially lead to their criminalization. The goal of corrections and the parole board is to guide them through this period of growth towards making healthy and positive choices post-incarceration. The more planning and support resources that can be made available early on in their incarceration to address the systemic and social factors contributing to their criminalization, the more successful we will be in significantly supporting women in exiting prison and returning home.

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