The cover art, entitled CHILCOT MOON, is by Bryant Ross. Bryant Ross was born in Manitoba in 1951 and is of Scottish Canadian ancestry. He grew up on the west coast of British Columbia. His friendship with the Canadian Native artist Norval Morrisseau reawakened his need for creativity and led him to open the Coghlan Art Studio, in Aldergrove, British Columbia in 1988. His work draws inspiration from his respect for traditional aboriginal culture and his love of primitive and contemporary aboriginal art. His work has been exhibited in galleries in Canada and the United States.

CHILCOT MOON is 20 inches in diameter and is carved from yellow cedar.
In November of 1993 voters in Washington state passed Initiative 593 which mandates life without parole for defendants convicted of one of 42 qualifying felonies for the third time. The first attempt, in 1992, failed to get the necessary 182,000 voters' signatures for the initiative to qualify for the ballot. It appeared that the 1993 effort would meet the same fate until within the last few weeks before the July deadline by which initiatives must be filed with the secretary of state with the required signatures, the National Rifle Association (NRQ) pumped $90,000 into the campaign (out of a total $170,000 raised). This allowed for a massive direct mailing to citizens across the state as well as paying professional companies to gather signatures.

Washington voters passed Initiative 593 "Three Strikes You're Out" by a three to one margin. Since then California has passed a similar measure, about 30 states are considering some form of it and it is the centerpiece of Clinton's vaunted "anti-crime bill". The proponents of three strikes claim it will keep "career criminals" off the streets and in prison. Within what passes for mainstream American politics today no one is seriously opposed to such measures (it should be noted that the American Correctional Association (ACA) and the Judicial Conference of the United States, which represents federal judges, have gone on record opposing three strikes legislation). The only dispute is how wide the net should be cast, i.e. all third time felons or just "violent" ones, life without parole or at least 25 years without parole. This is hardly a debate.

Little noticed by the mainstream media are other effects these laws have had. The Washington three strikes law eliminated good time or other time reductions for several offenses, including murder, rape, and robbery. It also forbids placing wide categories of prisoners in any kind of work release, home detention, or similar type of facility. The California law requires sentences be served consecutively, restricts good time credits for California prisoners and limits prosecutors' ability to strike prior felonies in reaching plea bargains.

It seems that no one has pointed out that these laws have already been tried in the past. Until 1984 Washington had a "habitual offender" statute which mandated a life sentence for a defendant convicted of a felony for the third time. Most states have some version of this law on the books. Its main purpose is to avoid trials whereby defendants will plea bargain to other charges in exchange for prosecutors agreeing not to "bitch" them. Occasionally the media reports the hapless defendant, usually in Texas who gets a life sentence for stealing a carton of cigarettes after being charged as a "habitual criminal".

Just who are these "career criminals" that are the focus of "three strikes" legislation? Fred Markham once told me that prisoners reminded him of the Wizard of Oz. The Wizard said he was not a bad man, just a bad wizard. Likewise, the vast majority of prisoners are not bad men, just bad criminals. Anyone who has done time in prison will

tell you that they are not filled with rocket scientists. Most of the people in prison are not evil nor professional criminals, they tend to be poor people with emotional, drug or alcohol problems who are caught doing something stupid. The "professional career criminal" tends to be a media myth, unless we count savings and loan bankers, fortune 500 companies, ... .

About nine hours after California's three strikes law went into effect on March 7, 1994, Charles Bentley was arrested in Los Angeles and charged with the crime that could send him to prison for 25 Years without parole: a 50 cent robbery. Donnell Dorsey, 37, is also looking at his third strike, for sitting in a stolen truck. The California law also doubles presumptive sentences for second time offenders.

In March, 1994, Samuel Page became the first person in the US convicted and sentenced under a "three strikes" law. He pleaded guilty in Seattle. In total, by mid-1994, about 15 people in Washington state, mainly armed robbers and sex offenders, have been charged with a qualifying third strike. According to the latest report by the Washington Sentencing Guidelines Commission, in fiscal year 1993, there were 204 defendants who would have qualified as three strikes defendants had the statute been in effect at the time (the law took effect December 2, 1993).

On April 15, 1994, Larry Fisher, 35, was convicted of his third strike in Snohomish county Superior court in Washington. He will be sent to prison for the rest of his life. Fisher was convicted of putting his finger in his pocket pretending it was a gun and robbing a sandwich shop of $151 dollars. An hour later police arrested him at a bar a block away while he was drinking a beer. Fisher's two prior strikes involved stealing $360 from his grandfather in 1986 and then robbing a pizza parlor of $100. All told the take from Fisher's criminal career totals $611 dollars; he has never harmed anyone.

How much will society pay to protect itself from this $611 loss? On average it costs $54,209 to build one prison bed space, and $20,000-$30,000 per year to house one prisoner. The costs are higher if financing and related costs are factored into the equation. If Larry Fisher lives to be age 70, the total cost will be approximately one million dollars. Is society really getting its money's worth?

Using the Sentencing Commission's figures as a base to assume that 200 defendants a year will be third striked in Washington state alone, allows us to calculate a need for that many prison beds a year. Because they will never get out this will continue to grow; within ten years they will occupy at least 2,000 prison beds. The average prison in Washington holds about 800 prisoners. At the same time that Washington voters passed I-593 they passed I-601 which limited the ability of the legislature and governor to raise taxes. All tax increases are now tied to population growth and must be approved by voters. This will present something of a contradiction in coming years; voters want to lock everyone up for the rest of their lives but do they want to pay for it? More importantly, can they pay for it? Stagnant economic growth (itself a leading cause of crime) results in a smaller tax base for which to pay for more prisons.
There is a lot wrong with these three strikes laws. Aside from the fact that only poor people will bear their brunt there is the matter of proportionality. Everyone has heard the term "an eye for an eye". The original meaning of this was that punishment should be proportionate to the offense. If someone's cow wandered into your pasture this meant your village did not destroy the village of the cow's owner. Does stealing $151 dollars merit life in prison? Is 50 cents worth 25 years?

There are already numerous laws which mandate life without parole for certain first time or repeat offenses. The federal Armed Career Criminal Act, passed in 1988, mandates 25 years without parole for a three time felon found in possession (not using mind you, just possession) of a firearm. Michigan and the federal government also mandate life without parole for possession of more than 650 grams of heroin or cocaine for a first time offender. The only other offense in Washington state which carries a life without parole penalty is aggravated murder.

When the laws make no distinction in punishment between killing five people, having a gun, having 650 grams of drugs or stealing $151 dollars there is something wrong. Washington and California police have reported that since the 'three strikes' laws went into effect suspects have become more violent in resisting arrest. A suspect knowing that if convicted for a $151 dollar robbery he will spend his life in prison has, quite literally, nothing to lose if he has to kill a few people to avoid arrest. The result of this, I suspect, will eventually be the broadening of the death penalty. Seattle Police Sgt Eric Barden was quoted in the New York Times saying "It now looks like some of these three strike cases might try to get away or shoot their way out. Believe me, that's not lost on us. We're thinking about it."

It is perverse logic where the proponents of these type of laws cite with approval the increasing numbers of people receiving such sentences, be it life without parole or the death penalty, claiming they are a deterrent. If such laws were effective the numbers would decline. Neither the mainstream media nor the politicians have any interest in using logic or common sense in formulating public policy. All these laws will achieve are an increasing number of poor people in prison, more violence, more state repression and eventually, greater use of the death penalty.

No laws will be passed making corruption by public officials, endangering public health by corporations, a "three strikes" offense. In 1989 the Federal Sentencing Guidelines Commission was going to increase the penalties and punishment for corporations convicted of crimes, including making its executives criminally liable. Corporate America promptly lobbied the Commission and Congress and these amendments never materialized. Unfortunately, poor people affected by three strikes laws don't command a voice that Congress or the media will listen to: the rich get richer, the poor get prison.

Karl Marx wrote that history repeats itself, first as tragedy, then as farce. In 19th century England people were hanged for offenses like pick pocketing and poaching. In this country many mandatory minimum sentences were repealed in the 1960s and 1970s as people realized they did not work and their only effect was to destroy what chances
prisoners had to rebuild a life. Unfortunately, this repetition of history will not be farcical for those swept up by baseball slogans masquerading as social policy.

These three strikes laws give the impression that most defendants had a chance to hit the ball the first few times. In reality, by the time most defendants step into a courtroom for the first time they already have a couple of strikes against them: their class, alcohol and/or drug problems, illiteracy, joblessness, poverty and oftentimes their race or a history of abuse. They've been striking out a long time before they got up to the plate.

Assuming a three strikes defendant has been to prison twice before he gets his third strike it would seem that its only fair to receive a decent chance to get a hit or a home run. Instead, most prisoners go back to the same neighborhoods with the same poverty, joblessness, illiteracy and other problems with which they left, compounded by the brutalization and dehumanization inherent in the American prison experience of the 20th century. Right now legislators and DOC's are endeavoring to "make prisons tougher" by eliminating what token vocational and rehabilitational programs now exist. Combined with idleness, overcrowding, endemic violence etc., a self fulfilling prophecy is being created: more third strikers. Its hard to get any wood on the ball under these conditions.

Will things get any better? Georgia's governor is proposing "two strikes you're out". California governor Pete Wilson, hot on the heels of signing "three strikes" into law declared that California needs a "one strike" law for child molesters, arsonists and rapists. He called for a mandatory death penalty for murders committed during drive-by shootings or carjackings. It won't be long now before they dispense with the wimpy one strike stuff and just go for the death penalty.
Recently, *The Nation* columnist, Alexander Cockburn (1994A), resurrected the socially archaic phrase the "dangerous classes" as a comprehensive term dusted off and used to describe the focus of the hardening "fascist" attitudes of some towards immigrants, toward the desperately struggling welfare dependent poor, and toward, in many cases, the resultant criminal. Ironically, at nearly the same time, conservative columnist George Will (1994), writing for *Newsweek*, noted that "Fascism flourishes as a doctrine of vengence ..." and is a philosophy favoring "... the visceral over the cerebral."

Concomittantly, Dr. Jeffery S. Adler (1994), associate professor of history and criminology at the University of Florida, explored not only the American origins of the term "dangerous classes", but also the birth of the concept of deviance in the United States and the policies enacted to combat the then newly "publicly" identified social threat. These definitions and prescriptions today sound all-too-familiar in the debate over immigration policy, welfare reform and criminal justice legislation.

The development of the concept of the dangerous classes extends back nearly two hundred years, originating after the social disarray of the Napoleonic Wars in Britain and continental Europe (Gaucher, 1987). The first use of the phrase "dangerous classes" was by Miss Mary Carpenter, a well-known English writer on criminal matters in 1851. She noted those branded (literally) by imprisonment or "... if the mark has not yet been visibly set upon them, are notoriously living by plunder -- who unblushingly acknowledge that they can gain more for the support of themselves and their parents by stealing than by work ... form the dangerous classes" (Carpenter, 1851). Then in 1859, the *Oxford English Dictionary* encoded the term in the official lexicon of that society (Tobias, 1967).

Adler (1994:34) explains that between 1850 and 1880 Americans 'discovered' the "dangerous classes". Newspapers, paradoxically, borrowed the phrase from the French and molded it to fit American conditions. The New York City Draft Riots of 1863 (in response to the life-threatening conditions and economic hardships imposed by the Union's newly enacted conscription law that also allowed the wealthy to "buy" stand-ins) gave impetus to the concept of this class that the era's experts explained was composed mainly of immigrants and tramps. The apparently (from the perspective of the monied class) irrational, unfocused, and wide spread violent destruction of property and random assaults on by-standers and authority figures (over 100 people died during the five-day riot) "... haunted intellectuals and reformers for years to come" (Adler, 1994:35). The great national railroad strike of 1877 (caused by draconian management, repeated wage cuts, dangerous working conditions, and little job security) rekindled the memories of the Draft Riots and reinforced in the country's conscience the existence of the dangerous classes. By 1882, the term "dangerous class" was in wide use in the United States.

The mainstream exponents of this new theory claimed that large numbers of immigrants formed this class, but they disagreed about why this was so. The rationales ranged from immigrants being wretches
kicked out of their own societies, to the traumatic experience of immigration, to the separation from their old community mores compounded by the influence of the evils of the big city. A social worker of the time wrote of immigrants that "... they go to pieces and become drunken, vagrant, criminal, diseased and suppliant" (Hunter, 1904). From the bourgeois viewpoint, those who avoided work were believed to have rejected the bonds of society and scorned the established social order. Edward Devine (1994) of Columbia University observed that "... the mere act of obtaining gainful employment indicated that a person sought to participate in orderly society." Such gainful participation, however, was hard to find and hold onto for many due to the perpetual economic dislocations (i.e. recessions and depressions) resulting from the evolving and self-obsoleting unrestrained capitalistic industrialization of the late 19th and early 20th centuries. Moreover, for the foreign born and colored, discrimination such as "No Irish Need Apply" and "Whites Only" employment policies, and blatant labor exploitation, such as the Chinese building the Union Pacific Railroad, was rampant and socially acceptable.

The resulting domestic social controls imposed on the dangerous class focused on the tramp and the vagrant, or, in other words, on surplus and/or undisciplined labor. Policies championed by the papers of the time are exemplified by the New York Times editorializing that the "... tramp is at war in a lazy kind of way with society and rejoices at being able to prey upon it." To combat the purportedly dangerous social deviants, legislatures approved anti-tramping statutes. Between 1876 and 1893, 21 states enacted tramping laws. City and county officials also passed vagrancy laws and tightened disorderly conduct and pauper statutes. As Adler (1994:40) notes, "... the hysteria surrounding the dangerous class profoundly affected the criminal justice system." Public officials anxious to visibly address this problem resorted to older practices. Some of these efforts included auctioning arrested tramps off for six-month terms to the highest bidder, posting rewards for the apprehension of beggars, and giving officials bounties for tramp arrests. Some states mandated solitary confinement and other even re-imposed whipping. Altogether, Gaucher (1982) reports that in the northern United States from 1800 onward, the criminalized population were largely composed of immigrants and blacks, the mainstays of surplus labour.

These reactionary practices included the expansion of police powers to "... preserve the social order over the need to protect individual liberty" (Adler, 1994:41), even to the point of arresting "dangerous characters" before the commission of any crime. Thus, police forces employed a "trawling" strategy in attempts to snare as many tramps at one time as possible. The Tampa Morning Tribune editorialized that it was "... better that two innocent ones be arrested than one guilty creature should escape" (City Brieflets, 1895). These law enforcement tactics were backed up by reformers who argued that the dangerous classes needed to be controlled through immigration restrictions, more aggressive child saving efforts (orphanages), vice suppression (blue laws and censorship), and temperance legislation (prohibition and drug laws). Officials also increasingly made poor relief more punitive.
Worrying that such would sustain or even promote expansion of the dangerous class, reformers strove to separate the "worthy poor" from the "unworthy". Thus, workhouses replaced soup kitchens and strict ordinances controlled "indiscriminate giving". Experts even cautioned city officials to halt the practice of allowing the homeless to shelter in municipal buildings' basements during inclement weather.

All of this action and effort by the criminal justice system to control the "dangerous classes" was, as Gaucher (1987:169) comments, to "...mask the needs of capital -- needs such as surplus labour, a stable social order and a disciplined workforce -- particularly in times of high unemployment." By shifting the focus of the problem from economic manipulation and exploitation to law enforcement, social capital is spent on symptoms instead of invested in treating the causes. Thomas Mathiesen (1974), in The Politics of Abolition, proposes that imprisonment fulfils four critical social functions integral to bourgeois legitimation activities: the expurgatory function (removing the incarcerated from social participation); the power-draining function (reducing if not eliminating the socio-economic influence of the incarcerated), the diverting function (the shifting of attention from the society to the individual), and the symbolic function (that action has been taken and progress made in combating social disorder). Thus the dangerous classes were controlled by legislatures essentially outlawing unemployed poverty, truncheon wielding cops pummelling the out of work, and the chain gang performing labor that society did not then have to pay for -- at least not directly.

If we fast forward one hundred years, the tune may have changed but the lyrics are resoundingly similar. For example, many of the proposals for welfare reform, sound suspiciously familiar. The GOP plan would cap the alleged spending growth in six major means tested programs ranging from Aid to Families with Dependent Children to Supplemental Security Income, while ending support after two years. As Republican Representative John Myers (IN) ~explains, "... our current welfare system penalizes the working poor and rewards the indolent." Proposals for reform range from fingerprinting welfare recipients before allowing them to receive assistance (New York Times, 1994) to denying aid to non-naturalized immigrants (Hudson, 1995) and any new unwed mothers under the age of 21 (Tribune Media Services, 1994), to norplant insertions conditional for social benefits (Cockburn, 1994B). And, who could forget, the Speaker of the House, Newt Gingrich's call to mandate orphanages for the children of the unemployed poor. All measures designed to combat, as Representative E. Clay Shaw (R-FL) ludicrously claims, "... abuses by teenagers who have babies simply to receive more benefits" (Dunham, 1994).

Other efforts to combat the newly rediscovered dangerous class include cracking down on indiscriminate giving to the homeless. In San Francisco, Food Not Bombs volunteers have been arrested 720 times for giving homeless people sandwiches. Keith McHenry, a founder of the group, has been arrested 92 times, and now instead of misdemeanor permit violations (you have to have a myriad of permits to give food to the homeless in the city by the bay), he is being charged with felony assault (Cockburn, 1994C). If convicted three times, McHenry faces
life imprisonment without possibility of parole under the golden state's recently adopted "three strikes, you're out" legislation -- another measure to combat and control the dangerous class. Cockburn (1994C:18) observes "... that the way many cities and states are confronting social misery is to criminalize poverty."

The criminal justice system plays a major part today as it did a century ago in thwarting the dangerous class. The Omnibus Crime Bill of 1994 requires the Attorney General to study ways in which anti-loitering laws can be used to fight crime and to prepare a model act for states to implement (ACLU, 1994). More disturbing, though, is the "anti-gang" provision, which penalizes any group of two or more people who, either individually or as a group, commit two defined crimes within ten years. This provision defines as "gangs" any group "... that exhibit at least five of the following characteristics: formal membership with required initiation or rules for members; a recognized leader; common clothing, language, tattoos, turf where the group is known; and a group name" (Bryan, 1993).

The fact that aggressive and ambitious prosecutors have historically expanded legislations' parameters far beyond the lawmakers' initial intent (just look at the scope of RICO prosecutions) does not mean that they would use the anti-gang provision's vague and general criteria to violate the constitutional guarantee of due process. Under these guidelines, however, the Kansas City Chiefs football franchise, or any sports, fraternal or social organization for that matter, could find its entire organization under arrest if two members were arrested, for let's say, felony drunk driving (we won't suggest cocaine possession). Don't laugh; formal membership with rules for members (team players and NFL game Rule Book); recognized leader (coach Shottenheimer and quarterback Steve Bond); common clothing, languages and tattoos (red and white jersey with arrowhead symbol, "hut-hut-hut", and would a red and yellow bandaid horizontally placed across the bridge of one's nose count as a tattoo?); turf where the group is known (Arrowhead Stadium); and a group name (the Kansas City Chiefs). Then again, such mainstream, power-connected organizations like the Chiefs, Shriners and Jaycees, really would have nothing to fear, but would groups like the Nation of Islam, the Black Panther Party; the United Farm Workers Union or even the National Organization of Women feel as secure?

Already in Los Angeles County more than 105,000 young black men are considered "gang members" and listed in the GREAT (Gang Reporting, Evaluation and Tracking System) computer file (L.A. Times, 1992). Nearly half of those listed, however, have no previous arrest record, but instead were so tagged because they were identified in block, even neighborhood sweeps conducted by the police and sheriff departments' gang task forces. Shades of the 19th century and Depression Era "tramp trawling"! These individuals were literally in the wrong place at the wrong time -- though its hard to imagine why being in one's neighborhood is the wrong place -- and now face possible federal prosecution if any other "gang member" they are matched with in a computer record search is accused of two or more crimes. Moreover, the labelling ceaselessly continues. In Compton,
California, there are more names in police gang files than young males in the city (Cockburn, 1994C). And once a gang member, always a gang member as far as the police are concerned (GAO/T-GGD-92-52 at 16).

The Senate crime bill's anti-gang provision allocates $100 million for additional U.S. attorneys, new mandatory minimum sentences, and the lengthening of already long sentences; allows serious juvenile drug offenses to be considered the same as serious adult felonies; and allows juveniles to be tried as adults (ACLU, 1994). With the vast majority of "identified" gang membership composed of minorities and/or immigrants (93 percent of Denver Police gang listings are, for example, of Black or Hispanic origins), the ACLU comments that these statistics indicate that race, class, neighborhood and clothes, not conduct, often characterize a person as a gang member. In hundred-year-old terminology, vis-a-vis members of the dangerous class, it is better for social order "that two innocent ones be arrested than one guilty creature should escape."

In keeping with the retrograde strategems and theorems to deal with this once again newly identified social threat, some states, like Washington and three others, have imposed "civil commitment" (indefinite incarceration) programs for some offenders after they have completed their prison terms, because of what they "might do" in the future (Wright, 1995), while other states, like Alabama and Arizona, have re instituted chain gangs (Leland and Smith, 1995). Even more outrageous, the Mississippi legislature is considering bringing back corporal punishment to its prisons (Nossiter, 1994). So today one might not be guilty of any crime, except that of being labelled among the dangerous classes, arrested anyway, be whipped while in the joint, and then held after the end of your bit because of what you might do in the future -- all for the good of social order, of course.

The myth of the dangerous class a century ago slowly faded into obscurity as reformers began to understand the influence of social structural forces. These second generation social experts began instead to focus on the economic and environmental roots of social problems. Slowly more refined, though, really no less accusatory, explanations such as race ("Coloreds"), intelligence (imbecility), economics (poverty) and social conditions (alcoholism) were seen as causes of social deviance. A "class", as such, was no longer openly labelled. Adler (1994:46) explains, and recent commentators remind us, "... the idea of a dangerous class has proved more resilient than the label." As Rothman (1994) has observed, the underclass, from which the dangerous class predominantly originates, has served as the scapegoat for deteriorating social conditions, instead of being defined as the victims of the deterioration itself.

As the economy expanded and the Progressive Era produced more equitable living standards and governmental protections, and as the expansion of the social safety net through the New Deal and War on Poverty programs softened the structural inequities inherent in capitalism, the dangerous class became nearly extinct in the social conscience. However, as the economic conditions of the post-industrial/information-service era become leaner, meaner and starker
(not "kinder and gentler") for more and more of the population, social deviance in the guise of family dysfunction, drug abuse, and crime seems to grow.

As structural and social forces made the label of dangerous classes politically incorrect after the turn of the century, changes in these same forces are now coming full circle. America's working poor, those earning less than $14,764 a year for a family of four, have risen in numbers a shocking fifty percent in the last decade and now compose 15 percent of the national population according to the latest Department of Commerce figures (St. Louis Post-Dispatch, 1994). All the while, the IRS now calculates low income as a single taxpayer earning less than $23,500 (Librach, 1994). Yet as the poor grow in number, the federal government allocates less than two-thirds of the budget in constant dollars (now approximately one percent or $14 billion) for welfare than it allocated in 1970 (Bernstein, 1994A). According to the Washington based Center on Budget and Policy Priorities, subsidized housing program allocations -- adjusted for inflation -- have been cut by 62%, employment and training by 59%, community-development block grants by 29%, energy assistance by 54%, and legal services by 29% (Foust, 1994). As adjusted wages have stayed flat or declined since the 1970s (Stanglin, 1995), the gap between rich and poor is now at Depression Era dimensions (Bernstein, 1994B).

Political commentator William Greider (1991), writing for Rolling Stone, comments on the bankrupt strategy emanating from Washington, labelling it as "scapegoating". This he explains, is a way to change the subject from what is really hurting people and panders to an impulse that is ingrained in American politics and canonized by Machiavelli. As Greider (1991) writes, "... whenever things are going badly, whenever people are losing their jobs and social decline is visible, it's easier to blame the troubles on minority segments who seem to be getting more than their share."

The modern version of the tramp and vagrant are the homeless, the panhandlers, and those who "will work for food". The present day dangerous class equivalents are those isolated and alienated souls left behind in our headlong quest for the elusive American dream and are concentrated in the inner cities -- primarily people of color, people of other languages and cultures, and the expanding number of people suffering from poverty. "Whether or not the dangerous class existed in industrial America", Adler concludes (1994:45), "the idea of such a class encouraged middle-class Americans to view the poor as a threat to society and persuaded policy makers to rely on the criminal justice system to address the effects of poverty".

Sociologists Emile Durkheim and Kai T. Erikson (1966) postulate that society needs crime (as defined by the powers that be) to tighten bonds of cultural solidarity and thus have developed institutions whose purpose (even if unannounced) are to maintain a steady supply of deviants. Jeffrey Reiman (1984), in The Rich Get Richer and the Poor Get Prison, advances what he calls the Pyrrhic Defeat Theory, in which he believes the failure of the criminal justice system, and in
essence the socio-political structure itself, to reduce crime, serves the interests of the rich and powerful in the United States by fulfilling a controlling function to mop up the messy and potentially destabilizing by-product of capitalism, surplus labor and poverty. Reiman (1984:39) notes "The fact is that the label 'crime' is not used in America to name all or the worst actions that cause misery and suffering to Americans. It is primarily reserved for the dangerous actions of the poor."

Today it is the policymakers who have persuaded the bourgeoisie that the resurrected dangerous class exists and threatens their diminishing standards of living. From highly publicized, though rarely documented, cases of welfare fraud and dependency, (one-third of all adults leave the assistance rolls within two years) (Bernstein, 1994A), to the myth of exploding crime rates (overall per capita property and violent crime rates are lower today than in 1973), (Corrections Compendium, 1993), the single preferred solution is to continue reducing social programs while generously providing for the poor in federal spending for new prison construction. This conservative (dare one say neo-Fascist) ideology mirrors that of the British ruling class of a century and a half ago, as illustrated in A Just Measure of Pain:

The persistent support for the penitentiary is inexplicable so long as we assume that its appeal rested on its functional capacity to control crime. Instead, its support rested on a larger social need. It had appeal because the reformers succeeded in presenting it as a response, not merely to crime, but to the social crisis of a period, and as part of a larger strategy of political, social and legal reform designed to re-establish order on a new foundation. As a result, while criticized for its functional shortcomings, the penitentiary continued to command support because it was seen as an element of a larger vision of order that by the 1840's commanded the reflexive assent of the propertied and powerful (Ignatieff, 1978:210).

The dangerous class, though, has never left us. In fact, they have always been with us, existing under varying chameleon like labels. They are not, however, the tramp and the homeless or the immigrant and the unwed mother, but rather they are the policy wonks and law makers who, in the parlance of the street, "make book" on the inequities perpetuated by unrepentant capitalism, overt and covert racism, and cultural xenophobia. Cockburn "called money" when he labelled such perpetrators fascists, for their "rap" today differs little from the rhetoric of the past. Or as Adler (1994:46) summarizes, "... popular and even scholarly descriptions of the modern urban underclass often bear striking similarities to late nineteenth century descriptions of the "dangerous class". As Gaucher (1982) pointed out fifteen years ago, "... rather than accepting the ruling class and its petit-bourgeois ideologues' depiction of the working class as degenerate, one must come to terms with the fact that it is 'lower class' life and social relations that are under attack in a most general way."

The right, led by the Gingrich, continues to redefine America in more and more exclusive and down right mean terms. Wall Street Journal editor David Frumm (1994), in his new book Dead Right, observes that the republican philosophy is moving toward a new kind of isolationist "nationalism". He foresees an aggressive GOP bashing immigrants, decrying affirmative action, and more vengeful in military
and criminal justice spending. To be forthright then in their intentions, they, as well, should openly resurrect the term of the dangerous class. At least then we will all be using the same terminology, if viewing it from different perspectives. This would be better and more honest than using the current round of code words for classicism and racism, such as criminal and gang member, welfare cheat and unwed mother, and illegal alien and foreigner.

All we need now is for Rush Limbaugh to slap his desk and in the same breath lament the predations of feminazis and the dangerous class, as he plops his oversized and underworked rump into his overstuffed and overworked chair -- all to the sycophantic applause of a largely white ("I've got mine"), conservative ("and I'm going to keep it"), applause-metered studio audience.

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Many people have the mistaken impression that slavery was outlawed or abolished in the United States after the civil war by the passage of the 13th amendment. Unfortunately, that was not the case. The 13th amendment reads: "Neither slavery nor involuntary servitude, except as punishment for crimes whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction." The effect of the 13th amendment was not to abolish slavery but to limit it to those who had been convicted of a crime.

The reality was made apparent in the aftermath of the civil war when large numbers of newly freed black slaves found themselves "duly convicted" of crimes and in state prisons where, once again, they laboured without pay. Until the last 20 years it was common practice for state prisons to "rent" prison labor out to private contractors in a modern form of chattel slavery. This situation led the Virginia Supreme Court to remark in an 1871 case, Ruffin v. Commonwealth, that prisoners were "slaves of the state". All that has changed since then is that the state is less honest about its slave holding practices.

Until the 1930's most state and federal prisons were largely self sufficient, producing most of the goods and food they consumed and even produced for sale a surplus of food and some industrial products. In many states prisoners even served as armed guards (until the mid-1970s the state of Arkansas held some 3000 prisoners with only 27 civilian employees) and many other functions which required minimal investment by the state. Prison self sufficiency and excess production for profit largely ended during the mid-1930's when the US was in the midst of the depression and both unions and manufacturers complained about competing against prison made products on the open market. In most manufactured products the labor cost is the most expensive component. Cut the labor cost and the resulting profit margin increases. With a prison labor force working at no cost the state and federal prisons could easily compete against any private manufacturer and workers. One of the laws passed was the Ashhurst-Summers Act which prohibited the transport in interstate commerce of prison made goods unless the prisoners were paid at least minimum wage.

Prison labor did not start to become a major issue again until the 1980's. Until then most prison produced goods were either for use within the prison system or sale to other state agencies, license plates being the most famous example. This began to change when the US's massive prison building and incarceration binge began to gather steam. In a 1986 study designed to reduce the cost to the government of its prison policies, former Supreme Court Justice Warren Burger issued the call for transforming prisons into "factories with fences". In essence, prisons should once again become self sustaining even profit producing entities requiring minimal financial input from the state. The "factories with fences" proponents seek to turn the clock back to the time when prisoners were merely slaves of the state.
While some think that slavery, i.e. unpaid, forced labor, offers enormous profit potential for the slave owner, there are historical reasons slavery is no longer the dominant mode of economic production. First, the slave owner has a capital investment in his slave, regardless of whether the slave is working or producing profit he must be fed and housed in minimal conditions, to ensure the slave’s value as a labor producer remains. With the rise of industrial capitalism in the 18th and 19th century capitalists discovered that capitalism has its boom and bust cycles characterized by over-production. Thus idle slaves would become a drain on the owner’s finance because they would still require feeding and housing, regardless of whether they were working. However if the slave was "free" he could be employed at low wages and then laid off when not producing profit for the employer. The wage slave was free to starve, free to be homeless, etc. with no consequences for the owner.

Another reason slavery was inefficient compared to wage slavery was that the slaves would occasionally revolt destroying the means of production and killing the slave owner. More common and less dramatic were the acts of sabotage and destruction that made machinery with its attendant capital investment, impractical for use by slaves. So by the middle of the 19th century wage slaves employing machines could outproduce, at greater profit for the factory owner, chattel slaves using less easily damaged more primitive machinery.

The problem slave owners of old faced was what to do with non-producing slaves. Today’s slave owners (i.e. the state), face the opposite problem of having idle slaves who must be fed, clothed and housed whether or not they produce anything of value. The current thinking argues that any potential profit produced by prison slaves is better than none.

Some of the proponents of prison slavery try to disguise it as a "rehabilitation" or "vocational" program designed to give prisoners job skills or a trade which can be used upon their release. This is not the case. First, almost without exception, the jobs available in prison industries are labor intensive, menial low skill jobs which tend to be performed by exploited workers in three places: third world dictatorships, by illegal immigrants in the US, or by prisoners. Clothes and textile manufacturing is the biggest and most obvious example of this. Second, because the jobs don’t exist in the first place, the job skills acquired are hardly useful. Does anyone expect a released prisoner to go to Guatemala or El Salvador to get a job sewing clothes for the US market at a dollar a day? Third, if its rehabilitational then why not pay the prisoner at least minimum wage for his/her work? Fourth, it ignores the reality that the US has at least 8 or 9 million unemployed workers at any given time, many of them highly skilled, who cannot find jobs that pay a meaningful wage to support themselves. So called "job retraining" programs are a failure because all the training in the world won’t create jobs with decent wages. In pursuit of higher profits (i.e. lower salaries) US and multinational corporations have transferred virtually all labor intensive production jobs to Third World countries. If prisoners are going to be exploited as slave labor it should be called what it is.
The US has little problem condemning the export of prison made goods from China. What makes this rank hypocrisy is the fact that the same criticisms levelled by the US government against Chinese prison made goods can be levelled at US prison made goods. According to a March 18, 1994, story in the Seattle Times, prison made goods from California and Oregon are being exported for retail sales. In a supreme irony, the California DOC is marketing its clothing lines in Asia competing against the sweatshops of Indonesia, Hong Kong, Thailand and of course, the Chinese. The "Prison Blues" brand of clothes, made by prisoners in the Oregon DOC, has a projected sales of over $1.2 million in export revenues. US State department officials were quoted saying they wished prison made goods were not exported by state DOC's because it is being raised as an issue by other governments, namely the Chinese, which have cited US practices in response to criticisms. For their part the Chinese have announced a ban on the export of prison made goods while the US is stepping up such exports.

The California prisoners making clothes for export are paid between 35 cents and $1 an hour. The Oregon prisoners are paid between $6 to $8 an hour but have to pay back up to 80% of that to cover the cost of their captivity. As they are employed by a DOC owned company this is essentially an accounting exercise where the prisoners' real wages are between $1.20 to $1.80 an hour. Still competitive with the wages paid to illegal immigrant sweatshop workers here in the US and wages paid to garment workers in the Far East and Central America.

Fred Nichols, the administrator of Unigroup, the Oregon DOC prison industries was quoted saying: "We want them to work in the same environment as on the outside ..." in terms of hiring interviews and such. Yet obviously this does not include the right to collective bargaining and union representation which are, of course, common to the labor process outside prisons and would teach important rehabilitational values such as collective dispute resolution, and the principle of a fair wage for work.

Companion articles to this one detail conditions in the federal prison system's Unicor Washington state industries. While the particulars may change the trend continues towards increased exploitation of prison slave labor. Some states, especially those in the south such as Texas, Arkansas and Louisiana still have unpaid prisoners laboring in fields supervised by armed guards on horseback, with no pretense of "rehabilitation" or "job training". In those states the labor is mandatory, refusal to work brings harsh punishment and increases prison sentences served.

In 1977 the Supreme Court decided Jones v. North Carolina Prisoner's Labor Union which removed the notion that the courts will offer any protection for the idea of prisoner union organizing. In the past, Prison Legal News has reported on efforts and court cases to seek a minimum wage for prison laborers. For the most part such efforts through the courts have been unsuccessful with courts bending over backwards to read exemptions (which are not written) into the federal Fair Labor and Standards Act (FLSA). Still, the litigation should continue to chip away on that front.
On the political front we must expose prison slavery for what it is and at the same time seek collective bargaining for safe working conditions, fair pay etc. It took workers in this country nearly 160 years to obtain this in 1934 and it has since been whittled away. So it will be neither easy nor quick. The problem that slave owners of old faced is still faced by modern slavers, namely resistance by the slaves. To the extent that private business run slave operations in prisons, there is the massive state subsidy that they receive and for state run enterprises there are the hidden costs. Under guise of "security" go the enormous expenses associated with guards, checkpoints, controls, etc., that are otherwise not present with wage slaves on the outside. The occasional mutiny by irate slaves with concomitant loss of production, capital investment in machinery, etc. is likely to occur and deter private ventures.

In Washington the state offers a lot of incentives for private businesses to employ prison slaves. Class I venture industries pay no rent, electricity, water or similar costs. They are exempt from state and federal workplace safety standards, pay no medical, unemployment or vacation/sick leave to slaves who have no right to collective organizing or bargaining. In a case like this we are seeing welfare capitalism where private business is getting a handout from the state at taxpayer expense. One which, I suspect, will largely swallow the profit paid back to the state under guise of taxes, room and board, etc. by the prisoner. To the extent that prison slaves are forced to pay state and federal taxes there arises the question, linked to the right to vote, of taxation without representation. If forced to pay taxes like any other citizen under guise of rehabilitative or vocational employment, then why not the right to vote given other taxpayers?

Workers on the outside should also be aware of the consequences that prison slave labor has for their jobs. Ironically, as unemployment on the outside increases, crime and the concomitant incarceration rates increase. It may be that before too long people can only find menial labor intensive production jobs in prisons or third world countries where people labor under similar conditions. The factory with fences meets the prison without walls.
The American Correctional Association: A Conspiracy of Silence

Little Rock Reed & Ivan Denisovich

As a member of the American Correctional Association (ACA), I believe I have a responsibility to uphold the principles set forth in the ACA’s Code of Ethics. In particular, the Code of Ethics requires that as a member of the ACA I must "respect and protect the civil rights of all clients," I must "report without reservation any corrupt or unethical behavior which could affect either a client or the integrity of the organization," and I must "respect the public’s right to know, and will share information with the public with openness and candor."

To this end, I am duty-bound to disclose the information contained in this article, as it reveals what I believe constitutes rampant human rights abuses against all of the ACA’s clients, as well as a colossal fraud against the people of America.

My colleague and co-author who has assisted me in preparing this article also firmly believes in the ACA’s Code of Ethics, but is precluded from the ACA’s membership due to his status as a prisoner and unwilling "client" of the ACA.

Little Rock Reed

The American Correctional Association (ACA) is the largest accrediting agency for juvenile and adult prisons in the United States. Many citizens and organizations believe that the ACA, rather than promoting professionalism within the correctional field and protecting prisoners' rights as it claims, is in the practice of promoting the correctional-industrial complex and assisting prison officials in covering up pervasive human rights abuses against prisoners and their families.

The purpose of this article is to examine the ACA’s true practices and motives.

The ACA is a not-for-profit corporation formed in the state of New York in 1954. Its constitution lists twenty-two purposes and objectives, amongst which are:

#8) "To promote the improvement of laws governing the criminal justice and correctional process for adult offenders...."

#9) "... to safeguard the constitutional and other rights of personnel and offenders in the criminal justice and juvenile justice correctional process."

#10) "To foster a code of ethics applicable to... [everyone]... throughout the correctional field."

#11) "To devise, implement and promote a program of accreditation for correctional departments, agencies, institutions, programs and services."

#12) "To develop and promote effective standards for the care, custody, training and treatment of offenders in all age groups and all areas of the correctional field...."

#13) "To publicize and interpret correctional standards to the public in order to obtain the understanding and participation of citizens."

These are purposes and objectives that all citizens, even prisoners, would concur with as noble, practical and fair if achieved and adhered to. However, these purposes and objectives have been subjectively interpreted (and in fact entirely ignored when convenient) when the interests of the ACA take precedence over the just and humane treatment of the men, women and children caught in the jaws of a
voracious and ever-expanding high-profit industry called "corrections" in the United States.

As in all cases of organizational growth in a capitalistic system, money is the bottomline factor in survival. The ACA has built a profitable niche for itself on the backs of prisoners and taxpayers, priding itself as the accrediting body that safeguards the constitutional rights of prisoners and on the promotion of effective standards for the care and treatment of offenders of all ages. A standard criminal investigatory technique is to "follow the money," and as we do, it becomes glaringly obvious where the true interests of the ACA lie.

For instance, in 1989-90, the ACA reported that $1.1 million (or nearly 20%) of its income-producing activities came from accreditation fees it charged correctional agencies to evaluate and then, if "standards were met," to grant officials accreditation. With such a significant portion of its income dependent upon accreditation fees, it is in the best interests of the ACA to see its market expand in size, while also being malleable enough in its accreditation process to have the ACA's customers believe such "certification" is possible and in their own best interests as well. Public officials, as exemplified by the vast number of systems that seek certification, reason that the investment in accreditation by the ACA more than pays off as a type of "litigation insurance" when the conditions of their institutions are challenged in court. In such prison condition cases, the courts have used ACA standards and the fact that the institutions under litigation were previously "accredited" as a basis for their rulings (Prison Legal News, 1995). In every case in which an accredited prison was sued, the Attorney General's office prominently cited ACA accreditation in its defense of the institutional status quo.

The correctional-industrial complex is one of the fastest growing markets of the U.S. economy, and the ACA, as we shall see, has firmly established its presence in this money-making endeavor of concrete, barbed wire and misery.

Since 1980, the imprisoned population in the U.S. has grown over 300% to over 1 million in 1994 (Bureau of Justice Statistics, 1995). The national prison population is currently expanding at the rate of 1,300 prisoners per week, or an average of three new medium size prisons every seven days (Gillard & Beck, 1994). Correspondingly, the total national correctional budget to support this expansion has grown from $2.5 billion in 1972 (Halleck & Witte, 1977) to over $34 billion in 1992 (The Nation, 1994), one natural result of which has been the increase in the number of prisons from 694 in 1984 (Innes, 1986) nearly doubling by 1990 to 1,207 institutions (Stephan, 1992).³

Over the past decade, criminal justice spending has become the fastest growing budgetary item, expanding from 5.4 to 7.5 percent of public expenditures (Mandel, et al., 1993). This growth in an era of relatively shrinking treasuries must come at the expense of other programs and services.⁴ As criminal justice scholar Todd Clear explains, "the get-tough movement has made punishment the only growth industry in government today" (Cline, 1993). At the national level, for example, federal spending on education shrunk by 25 percent over a ten year period, while criminal justice spending increased by 29
percent (Chambliss, 1991). At the state level, California has repeatedly raised in-state tuition and cut back on post-secondary programs in order to fund its unprecedented prison expansion (Brown, 1995). In fact, states are now spending more on prisons to lock people up than on universities to educate them (Brazaitis, 1993). The hiring and training of correctional employees, observes Meredith DeHart of the U.S. Census Bureau, is "the fastest growing function ... out of everything government does" (Meddis & Sharp, 1994).

From this brief overview, we can see that the correctional industry is big and business is good. In 1995 at the 125th annual Congress of Correction -- the ACA's jamboree -- 500 "correctional professionals" of all stripes and 500 vendors gathered for what journalist Alan Prendergast (1995) called "a flag-waving, back patting, gladhanding tribute to the growing power and prestige of the booming prison industry." As Cathy Perry, the account manager for Access Catalogue Company, which sells approved personal items to prisoners, comments, "Business is great" (Prendergast, 1995). Supporting this industry as the central conduit between seller and buyer, in 1992 alone, the ACA made $1.4 million from the sale of advertising in its glossy bimonthly publication *Corrections Today*, from renting its mailing list, and from construction reports (source: ACA's 1992 IRS form 990), a sum representing one-fifth of the ACA's income producing activities for the year.

Another significant source of the ACA's revenue comes from its subsidiary, the Commission on Accreditation for Corrections. The Commission was formed in 1978 and by 1990 involved approximately 80% of all federal and state adult and juvenile correctional agencies. According to the Commission (1990), the ACA's accreditation process: ... offers [agencies] the opportunity to evaluate their operations against national standards, remedy deficiencies, and upgrade the quality of correctional programs and services. The recognized benefits from such a process include improved management, a defense against lawsuits through documentation and the demonstration of a 'good faith' effort to improve conditions of confinement, increased accountability and enhanced public credibility for administrative and line staff, a safer and more humane environment for personnel and offenders, and the establishment of measurable criteria for upgrading programs, personnel, and physical plant on a continuing basis.

The cost for the valuative seal of approval process is nearly $8,000 for accreditation and yearly reaccreditation for prisons with populations of 500 or less. For larger size institutions, the fees are determined on a "case by case basis" (Commission, 1990). This process resulted in the ACA generating in excess of $1.4 million for 1992 in the performance of 244 accreditation reviews, and in 1993 performing 236 accreditation reviews for some $1.7 million in fees, and $1.6 million in 1994 in accreditation fees (source: I.R.S. tax returns for those years). These sums represent approximately 20 percent of the ACA's yearly income-producing activities. By 1995, "... more than 1,200 jails and prisons have invested millions in training and renovation in an effort to meet ACA standards, in the belief that accreditation will improve security and staff morale, insulate them from lawsuits, and upgrade their image" (Prendergast, 1995).
With all this training, upgrading, standardization and accreditation, one would believe that the nation's correctional facilities were state of the art and the envy of penology the world over. However, as we shall see, such is not the case.

The public is constantly bombarded by propagandistic articles like "Must Our Prisons be Resorts?" in the "world's most widely read magazine" (Bidinotto, 1994), and well-reported political sloganeering like Senator Phil Gramm's (R-TX) bombastic lament of "... stop building prisons that are like Holiday Inns" (Corn, 1995), manipulating the citizenry to believe that life is good behind bars.

Criminologist Kevin Wright (1987), however, maintains that "the American prison system stands in sharp [contrast] against the ideals on which it was founded, often characterized by severe overcrowding, unsanitary and even dangerous conditions, violence, brutality, and corruption." Another criminologist, Harold Pepinsky (1995) states:

Nowhere on this continent is the battleground bloodier and more raw than in U.S. prisons, in 'control units' for activist prisoners in particular. Prison activists and jailhouse lawyers are routinely receiving extended imprisonment, getting beaten and assassinated in prisons across the United States and Canada for merely asserting their legitimate first amendment rights and attempting to expose the true nature of prisons.

Assistant Attorney General of Arizona, Andrew Payton Thomas who is hardly a "bleeding heart liberal," presents a view eerily similar to that of the criminologists: "We must wonder what the early prison reformers would say upon peering into our nation's prisons today," comments Thomas (1995), "and whether they would consider them an improvement over the houses of horror they frequented some two centuries ago."

Meanwhile, according to organizations such as the ACLU's National Prison Project and the Center for Advocacy of Human Rights, the broad majority of prisons in the United States are in violation of the Universal Declaration of Human Rights, the International Covenant on Civil Political Rights, and the International Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Jones, 1993, and Reed, 1995). Additionally, a recent European commission found the American Prison system to be the "most barbarous" of the western industrialized nations (Vidal, 1994). It is of little wonder, then, but of major concern and marketing strategy for the ACA, that forty-two states, districts and protectorates are under court order or consent decree to limit populations and/or improve conditions (Koren, 1993/94).

Even after massive multi-billion dollar building booms, by 1990 with $11.5 billion spent on cell construction that year alone, state prisons were on average packed to 125 percent of capacity and the federal system over 136 percent of design, while California's 120,000 prisoners were serving their sentences wedged in prisons crammed beyond 190 percent of design capacity (Gillard & Beck, 1994). According to Alvin Bronstein, executive director of the ACLU's National Prison Project (1995), the prison populations in Texas and California alone will exceed that of all western European countries combined within three years. It is no wonder, then, that since 1990 the ACA has "adjusted" its touted standards, reducing the minimum
required cell space for prisoners "... from 70 unencumbered square feet of floor space per [prisoner] to 25 square feet, which can also include furniture -- an acknowledgement that many double-celled prisons couldn't meet the higher standards" (Prendergast, 1995). It is revealing to note that the reduced floor space approved by the revised ACA standards is less in square footage that the Humane Society requires for a large dog (Stuller, 1995).

On August 6, 1982, David Bazelon, Senior Circuit Judge for the U.S. Court of Appeals for the District of Columbia, resigned from the ACA's Board of Commissioners of the Commission on Accreditation for Corrections. In his Memorandum of Resignation, Judge Bazelon stated:

I will soon complete two years of my 5-year term in the Commission.... During my tenure, I have repeatedly called on the Commission to make some fundamental reforms in its fact-finding procedures and in its relationship with the corrections community. The Commission has repeatedly refused to take the meaningful steps to guarantee its independence and to insure the integrity of its decisions. The Commission therefore broke faith with the public and has betrayed the promise of accreditation (Bazelon, 1982).

In his Memorandum, Judge Bazelon stated that "... the history of corrections in America, I believe, is best characterized as a conspiracy of silence between corrections officials and the public." He pointed out that the federal courts "... have begun to back away from enforcing the eighth amendment's ban against cruel and inhumane prison conditions." In this climate, Bazelon continued, "... the concept of accreditation is especially vital, for it offers one of the few hopes for rational and humane reform in corrections. The real promise of accreditation is that the conspiracy of silence between corrections officials and the public can be replaced with a partnership for reform."

Bazelon pointed out that when he was asked to join the Commission, he believed that its accreditation program "... was fulfilling this noble promise," but that it was now apparent that it had no intention of fulfilling this promise. He explained that shortly after joining the Commission, he discovered that the ACA's Statement of Principles' promise of "public participation" in the accreditation process was not being kept. "The public is systematically excluded from every stage of the Commission's work," he noted. He went on to quote the ACA's executive director at the time, Anthony Travisono, who warned his colleagues at its annual meeting in 1982 that "... the Commission will fold in one year's time if this opening of the process is permitted to exist." Similarly, Commissioner B. James George warned that openness would be "sheer suicide" for the ACA. Judge Bazelon also cited Robert Fosen, the Commission's executive director, as arguing that if information about prison conditions is to be broadcast to the public, "... all kinds of persons will be critical" and this "will simply upset ... [our] integrity." Judge Bazelon (1982) correctly noted that the premise of these remarks, "... that either accreditation is run the way that prison officials want it run, or else, is an insult to the public."

In addition to criticizing the ACA's systematic exclusion of the public's scrutiny and participation in the accreditation process, Bazelon set forth detailed facts substantiating his claims that:
(1) The Commission's audit techniques and deliberative procedures are inherently unreliable;
(2) The Commission is unwilling to accommodate constructive criticism and the possibility of meaningful change;
(3) The Commission's priorities are fundamentally flawed;
(4) The Commission has pervasive conflicts of interest with the facilities it is charged with monitoring; and,
(5) The Commission has permitted the accreditation movement to be transformed into a propaganda vehicle for corrections authorities.

According to the facts set forth in Judge Bazelon's Memorandum, there are no actual audits conducted by the ACA of the facilities to whom it sells accreditation. The only evidence considered by the Commission is the self-evaluation of the applicant institutions and the report of an audit team that refuses to interview prisoners unless they are pre-selected by prison officials. Moreover, the Commission has stated that its first priority is not to insure that its minimum standards of accreditation are complied with by the facilities it sells accreditation to, but to simply "... encourage as many facilities to join the accreditation process as possible." The fact seems to be that if the prison has the money, it will have the ACA's accreditation, regardless of how brutal and/or substandard the prison's conditions. Judge Bazelon noted that in the words of the Commission's own former chairman and treasurer, Gary Blake, if a more active role in investigation were played, "I think we could kiss the whole process of accreditation goodbye."

Bazelon (1982) stated that time and time again he has seen or heard of instances in which corrections officials have used their accreditation by the ACA "... to deflect public criticism and scrutiny of their management, to boost their standing with governors and legislators, to ward off judges and lawsuits, and to pat themselves on the back. They have used it to paper over the crisis in corrections with certificates of 'excellence.' They have used it, in short, for their own propaganda purposes."

Little has changed since Judge Bazelon so ethically, indignantly and publicly resigned from the ACA's Board of Commissioners on Accreditation over a decade ago. It was the Southern Ohio Correctional Facility's (SOCF) accreditation process beginning in 1990, for example, that encouraged policies and conditions to become so brutal and repressive that on Easter Sunday 1993 the prison erupted in a riot -- the longest prison siege in American history, resulting in millions of dollars in damage, the serious injury of forty individuals, and the killing of ten people (Reed, 1995). By 1992, Lucasville managed to achieve accreditation on its third try (according to Commission [1990] standards, the ACA fee to accredit SOCF was then in excess of $25,000). In fact, the prison achieved 100% compliance with mandatory ACA standards (Prendergast, 1995). "Fourteen months later, in April of 1993, the Lucasville uprising claimed the lives of nine [prisoners] and one guard" (ibid).

While SOCF was undergoing the accreditation process, prisoners who attempted to approach the ACA inspectors with complaints of conditions violating ACA standards were threatened with solitary
confinement. "When the inspectors came," writes one SOCF prisoner (Freddie 1994), they were steered to areas where they would not come into contact with other than 'model inmates' [corroborators, informants and the like] dressed in new clothes, sanitized areas of the prison, and only the best 'politician guards' in view, rather than the Ninja Turtles -- or goon squads." This prisoner also noted that the very day of the inspection, the population was fed cereal containing dead and live roaches. Nevertheless, the prison received maximum scores by the inspectors. Another prisoner at SOCF recalls that during the inspection the ACA auditing team "never did walk into my cell block. They went to the honor block, which has telephones and privatized single-man cells that are open all day." The majority of the prisoners did not have access to even those menial conditions.

One major recommendation by an earlier ACA inspection team to accredit SOCF was that the population of the prison be lowered to 1,630 prisoners. Once this reduction was accomplished, the inspectors concluded that "... personal safety is not much of an issue as it once was ..." at the facility (Prendergast, 1995). By the time of the Easter Sunday rebellion, the population had increased to 1,819 prisoners.

Prior to, and after the inspection, the ACA received written complaint after written complaint from prisoners and outsiders such as a massive letter-writing campaign from the public interest group Citizens United for the Rehabilitation of Errants (CURE) regarding the institution's blatant disregard for ACA standards, demanding an investigation into the brutal conditions; conditions that shortly thereafter erupted into the bloody and avoidable uprising. The ACA, however, summarily dismissed those outcries, choosing instead to admonish those who protested not to interfere with the accreditation process (Reed, 1995).

Now, after the riot and after half of the state's prisons received the ACA's accreditation (Prendergast, 1995)12, the director of the Ohio prison system, Reginald Wilkinson, has been elected to serve as the ACA's president-elect, a position that would apparently place Wilkinson in an ethical conflict of interest -- at least a conflict between the supposedly independent stance of the ACA to impartially evaluate, monitor and certify the operation of Ohio's Prisons to ensure standards compliance.

Then, again, such interlinked, conflicting relationships in the field of corrections in not uncommon. Fifteen of the eighteen members of the ACA's Board of Governors are primarily employed as correctional administrators, parole and probation supervisors, jail deputies, and as the chair of a state senate's select oversight committee on corrections (source: ACA's roster of 1994-96 Board of Governors). In Ohio, as a telling example, the architect who designed SOCF is the uncle of the contractor who built it (and seven other jail facilities in the state), who is the brother of Ohio Governor George Voinovich, who is the direct supervisor of the prison director and president-elect of the ACA, which certifies Ohio prisons (Prendergast, 1995) as being in compliance with ACA standards.

Yet another significant source of the ACA’s income is derived from government grants: $1.1 million in 1990, $1.5 million in 1992, and
$1.8 million in 1993 (source: ACA's IRS form 990),\textsuperscript{13} averaging 18 percent of the ACA's total revenue for those years. These government grants concomitant with accreditation fees from government agencies and marketing income focusing on governmental groups amounts to nearly 60 percent of the ACA's total income, while membership dues and assessments compose only seven percent of total revenue. Many critics of the ACA note that with a constituency so heavily invested in the correctional-industrial complex's expansion, "... the association has avoided taking a stand on numerous controversial corrections issues, such as the use of control units and privatization of prisons, preferring to blandly urge the development of a 'balanced approach' to corrections" (Prendergast, 1995).\textsuperscript{14}

A more egregious example of the ACA's failure to live up to its charter principles -- specifically "to safeguard the Constitutional and other rights of personnel and offenders"\textsuperscript{15} -- involves the U.S. Supreme Court case of \textit{Hudson v. McMillan}. This case involved a Louisiana state prisoner who was brutally beaten by two guards while chained in leg irons and handcuffs, all the while being observed by a lieutenant who cautioned the guards "... not to have too much fun." A U.S. court of appeals ruled that the prisoner had no viable claim under the Eighth Amendment's ban on cruel and unusual punishment because a cracked dental plate, loosened teeth and split upper lip did not constitute a "significant injury." The prisoner's petition for writ of Certiorari (appeal) was granted and Alvin Bronstein was appointed to represent him before the Supreme Court.

On November 13, 1991, Bronstein presented Hudson's case before the court, arguing that "significant injury" should not be a requirement to substantiate an Eighth Amendment claim. "His argument was supported by an impressive group of amici [friends of the court who file supporting information briefs]. The office of the U.S. Solicitor General not only filed an amicus brief, but also argued a portion of the case ..." in support of the prisoner (Bernat, 1992). Additionally, Americans for Effective Law Enforcement, Human Rights Watch and two prisoners' rights groups also filed as amici in the case on behalf of Hudson.

Although the beating of a prisoner is in complete violation of ACA's published standards, when invited to join as an amicus on behalf of the prisoner, the ACA declined. ACA then-president Helen Corrothers wrote to Bronstein claiming that the ACA executive committee rejected the two invitations to get involved because the committee felt it was not "in the best interest of the ACA" (Bernat, 1992). Bronstein then wrote to all the members of the ACA Standards Committee expressing his consternation:

I thought I should share with you the fact that, once again, the ACA leadership has demonstrated that ACA standards are not professional correctional standards. Rather, they are a collection of words and phrases relied on selectively by various officials when it serves their interest (e.g. as a defense to conditions lawsuits, as a means of getting funds from the legislature). The ACA Executive Committee action -- non-action might be a better description -- makes a sham of the whole standards and accreditation process.
It was only after the Supreme Court ruled against the Louisiana Department of Corrections, and presumably after Bronstein's admonishing letter as well, that ACA executive director James Gondles editorialized that "... as corrections professionals, we are duty-bound to speak out against the use of force except as a last resort" (Giari, 1992). Better late than never, as the saying goes.

Another example of the ACA's failure to live up to its claim to protect the constitutional rights of prisoners is its refusal to urge accredited prisons to respect the religious rights of Native American prisoners. The committee has received numerous complaints of the absolute deprivation of American Indian religious freedom in numerous prisons. As a general rule, the ACA's executive officers will not acknowledge receipt of such correspondence, regardless of the source.

The abuses of the accreditation process have become so widespread and well-known within the industry that in December 1994 the Center for Advocacy of Human Rights (CAHR) initiated an investigation of the ACA and ACA accredited prisons. As of mid-1995, the investigation involved the direct participation of hundreds of prisoners (primarily jailhouse lawyers) and outside supporters representing dozens of ACA accredited prisons in 43 states. The continuing investigation has revealed ongoing violations of the ACA's Standards for Adult Correctional institutions within virtually every prison that has been investigated. In many cases, these violations are also in conflict with state and federal laws, as well as international human rights law. For example, while the ACA's standards regarding "access to courts", "access to law library" and "access to counsel" expressly state that these particular standards are mandatory under constitutional law, some prisoners in virtually every ACA accredited prison being investigated by CAHR are denied such access. In fact, in many cases, such access is not only denied, but prisoners are commonly subjected to reprisals for their legitimate attempts rectify the situation, another violation of the ACA's standards.¹⁶

The overwhelming majority of ACA standards are nonmandatory. Nevertheless, according to ACA policy, accredited prisons are supposed to comply with 90% of the nonmandatory standards. The CAHR has been unable to locate any ACA accredited prison which is actually in compliance with 90% of the nonmandatory standards. This is a direct result of the ACA's lack of effective auditing and monitoring procedures, as well as prison and ACA officials' willful exclusion of the public and prisoners from effective participation in the accreditation and monitoring processes. While the materials distributed by the ACA indicate that prisoners and the public will have some input into the monitoring of ACA accredited prisons, the CAHR's investigation has revealed, as Bazelon claimed in 1982, that this is quite contrary to the truth. In fact, with few exceptions, prisoners are uniformly denied access to the Standards for Adult Correctional Institutions so that they may evaluate their prison's compliance or noncompliance with the standards.

Meanwhile, ACA officials have been writing to some prisoners that if they want access to the Standards they must get written permission from the warden (which is seldom given) and then go through an
attorney to obtain a copy. In one instance, Lisa Parker, representing the ACA, recently wrote to a prisoner who wished to purchase a copy of the Standards as well as ACA's policy manual. She informed the prisoner that he must go through an attorney to purchase the Standards and that under no circumstances may any prisoner see the ACA's policies. These practices are contrary to the ACA's claim that they encourage prisoners and the public to have input into the accreditation and monitoring processes. Prisoners are also denied membership in the very association that promotes the standards that govern their lives. When prisoners apply for ACA membership, either their applications are rejected outright and dues returned, or if processed and later identified as prisoners, their prorated dues are returned and they are advised that they can join the ACA when they are no longer prisoners.

The CAHR and other organizations have written the ACA seeking information, some of which the ACA is required by law to provide upon request. However, the ACA will not provide the information. For example, on May 8, 1995, and again on October 20, 1995, the CAHR wrote to the ACA's treasurer, Charles Kehoe, asking for a copy of the ACA's "... most recent financial statement, as well as the last three I.R.S. 1990 tax returns." Although state law in Maryland (where the ACA is headquartered) requires non-profit organizations to provide this information to the public within thirty days of the request, Kehoe will not acknowledge receipt of the requests nor provide the information sought. Interestingly, according to Jennifer Light (1995), public information officer for the Maryland Secretary of State, the ACA has refused to file with the Secretary of State financial statements required by law. Numerous requests by the Secretary of State to comply with the law have been ignored by the ACA (Dunn, 1995).

Another example of the ACA's failure to live up to its "Code of Ethics" -- particularly its principle that "members will respect the public's right to know, and will share information with the public with openness and candor" -- is demonstrated in further information it has refused to disclose to the public. For example, on September 13, 1995, Deborah Garlin, attorney and president of The Center for Advocacy of Human Rights, sent the following letter to each member of the ACA's Board of Governors and executive committee.

We address this correspondence to you in your capacity as a member of the American Correctional Association's Board of Governors. We are also sending a similar letter to each of the other members of the ACA's Board of Governors. Our reason for this is that over this past year we have addressed correspondence to some of the ACA's executive committee members, including Bobbie Huskey (President), James Gondles (Executive Director) and Charles J. Kehoe (Treasurer), either seeking information which we believe the ACA claims to disclose to the general public (or is lawfully required to disclose to the public), or complaining of human rights abuses that appear to be taking place within prisons that are accredited by the ACA. Neither Mr. Gondles, Ms. Huskey nor Mr. Kehoe have ever acknowledged receipt of any of our correspondence to them.

If this particular correspondence should be referred to someone other than yourself, we ask that you please forward it to the appropriate ACA official(s) and notify us of who it has been forwarded to for response.

Thank you.
Basically, we are seeking information regarding the ACA, and we will gladly pay the expenses of obtaining such information if you will notify us of the specific costs for processing. The information we seek is as follows:

1. The names and addresses of each adult correctional facility/prison in the United States that is either accredited by the ACA or undergoing the accreditation process.
2. The names and addresses of each adult correctional facility/prison in the United States that has ever had its accreditation revoked by the ACA for noncompliance with the appropriate Standards.
3. Is there a contract entered into between the ACA and the adult correctional facilities/prisons that the ACA accredits? If so, may we review a standard copy of said contract?17
4. What are the required fees that the ACA charges adult correctional facilities/prisons to obtain and maintain the ACA’s accreditation?
5. Are the prisoners in ACA-accredited adult correctional facilities/prisons provided access to the ACA’s applicable Standards and "Standards Compliance Checklists" in order to determine for themselves whether or not the ACA’s auditing officials are misled by prison officials regarding compliance with the Standards?
6. When prisoners wish to complain of ACA-Standards and human rights violations within adult correctional facilities/prisons which are ACA-accredited, who are the appropriate ACA officials that should receive such complaints, and what specific action, if any, does ACA policy require be taken to determine the validity of the complaints?
7. Could you please provide the names and mailing addresses of the current members of your Committee on Legal Issues?
8. We would also like to purchase the current edition of the ACA’s Standards for Adult Correctional Institutions. Please let us know what the cost will be and how to order.

We apologize for inconveniencing you with this request for information; however, we believe it is necessary as part of an investigation we are conducting regarding ACA-accredited prisons which appear to be misleading the ACA about their compliance with the ACA’s applicable Standards. If and when our investigation has resulted in significant documented findings that some ACA-accredited prisons are in fact misleading the ACA’s auditing team(s) about their compliance with ACA Standards, we will promptly notify you in an effort to establish dialogue regarding the matter. If such be the case, it is our sincere desire to work in a spirit of cooperation with the ACA so that prison officials’ abuses of the accreditation and monitoring processes may be corrected.

Thank you very much for your consideration of these matters. We look forward to hearing from you soon.

Two of the twenty-four ACA officers/board members who received this letter acknowledged receipt, stating that they were forwarding the letter to executive director James Gondles for response. This is apparently what compelled Gondles to acknowledge receipt of the CAHR’s correspondence for the first time in two years. However, he refused to provide any of the information requested, with the exception of information on purchasing a copy of the ACA’s Standards. Openness and candor indeed.

The CAHR’s investigation has revealed and continues to reveal that prisoners in just about every accredited prison are subjected to brutal and inhumane treatment, including unsanitary conditions; sensory deprivation; denial of essential medical care which in many cases has
resulted in death; entirely ineffective grievance procedures; beatings; interference with privileged legal mail; withholding of publications which criticize prison practices and conditions, etc. Additionally, the CAHR's investigation has revealed that: 1) prisoners who complain about non-compliance with the ACA's Standards are commonly transferred to non-accredited prisons in an apparent attempt to silence their criticisms; 2) prisoners and outside supporters who complain of violations are generally ignored by both prison and ACA officials; 3) alleged violations are seldom, if ever, investigated by the ACA, and when they are investigated, the investigations generally exclude interviews with prisoners who are not pre-selected by the prison officials and no meaningful corrective action is taken by the ACA.

In one recent case, a Florida prison warden actually acknowledged that his prison is in violation of numerous mandatory standards, and justified it on the grounds that the standards can be ignored since the purchase of accreditation is "voluntary". This has been found to be the standard explanation given by prison officials when they receive queries of any kind regarding the prison's accreditation, a position which appears directly contrary to Gondles' (1993) testimony that "... accreditation is based upon an applicant correctional facility's demonstration of compliance with correctional facility standards adopted by the ACA.... ACA's sole authority is to deny accreditation to any facility found not to be in compliance with ACA standards." It is interesting to note, also, that the CAHR has been unable to locate any prison that has had its accreditation revoked once granted.

Almost every accredited prison refuses to provide prisoners with access to the ACA's Standards, and virtually every prison denies prisoners access to the prison's standards compliance "Checklist" so that the prisoners may determine whether or not the ACA is being deceived by unscrupulous prison officials about standards compliance. Moreover, by the ACA's own admission, when complaints of noncompliance are received by the ACA, the ACA will only conduct an on-site monitoring visit after providing the prison officials with advance notice that the ACA intends to conduct a monitoring visit. This affords all prison officials who are in violation of the standards an opportunity to cover up their violations prior to the monitoring visit.

The ACA may contend that the prisons it has sold accreditation to are, in fact, in compliance with the ACA's Standards, as many of the Standards merely require that the prison seeking accreditation promulgate policies which cover the fundamental rights of prisoners. For example, the Standard regarding "grievance procedures" merely requires that "... there is a written inmate grievance procedure that is made available to all inmates and that includes at least one level of appeal." The comment which accompanies the standard states:

A grievance procedure is an administrative means for the expression and resolution of inmate problems. The institution's grievance mechanism should include provisions for the following: written responses to all grievances, including the reasons for the decision; response within a prescribed, reasonable time limit, with special provisions for responding to emergencies; supervisory review of grievances; participation by staff and inmates in the procedure's design and operation; access by all
inmates, with guarantees against reprisals; applicability over a broad range of issues; and means for resolving questions of jurisdiction.

The comment is nothing more than a comment. In other words, while the comment states that the "... grievance mechanism should include ... participation by ... inmates in the procedure's design and operation," as well as "guarantees against reprisals," the fact of the matter is, no accredited prison's grievance procedure in this country has been designed with the actual input or participation of prisoners. Prisoners who utilize the grievance procedure are commonly subjected to reprisals for utilizing the procedure, including beatings, solitary confinement, etc. But these facts do not constitute a violation of the Standard itself, as the actual Standard -- as opposed to the comment -- merely requires that "... there is a written inmate grievance procedure that is made available to all inmates and that includes at least one level of appeal." In other words, once the procedure is placed in writing, the Standard has been and continues to be complied with by the written policy's mere existence. Violation of the written policy does not constitute a violation of the ACA Standard.

But this is fundamentally deceptive. When the prison has written the policies corresponding with the ACA's Standards, then the ACA sells the prison a letter of accreditation which is then used by the prison to obtain more funding from federal, state and private sources. These letters of accreditation state that the accreditation is based on an "independent" evaluation. Independent? The ACA is not an "independent" investigator or evaluator for two reasons: 1) because the evaluators are being paid (with our tax dollars) by the prison officials who are being evaluated; and 2) because the prison officials being "evaluated" are invariably either members, associates or affiliates of the ACA, with absolutely no exceptions. As you will recall, for example, every Ohio prison that has received the ACA's accreditation is under the directorship of the ACA's president-elect. Independent?

The standard practices of the ACA and ACA accredited prisons are producing what we believe to be detrimental effects on both prisoners and socio-economic conditions within the United States. It is the kind of practices described above which cause prisoners to lose all respect for the government and the people that the prison and ACA officials allegedly represent. When such respect is nonexistent, disregard for the government and the people (and their laws) logically follows, thus creating the kind of social disorder and violence that we see every day in the news and in our environments; disregard and violence that is understandably perceived by groups such as prisoners as not only justifiable, but imperative. The prisoners who rebelled at SOCF in 1993, Santa Fe in 1980 and Attica in 1971, for example, clearly believed that their actions were inevitable, as all their previous nonviolent attempts to have legitimate grievances corrected had fallen on deaf ears or had been met with administrative hostility and brutalization.

As U.S. District Judge Karlton of the Eastern District of California so aptly cautioned not long ago when considering how the Supreme Court has admonished the courts to "... defer to the discretion of prison officials" when confronted with prisoners' complaints:
I pause here only long enough to note that such [an admonishment] does not even allow the possibility of malevolence. I know nothing in the history of prison administration in this country to provide such utter confidence. Moreover, this [admonishment] does not recognize that extreme deprivations and perceived unfairness may themselves create profound security problems, as the histories of prison rebellions from Attica to the recent incidents involving Haitian detainees clearly demonstrate. It may well be that considerations of this sort are initially for the responsible prison authorities, and that their determinations should be treated with deference. Nonetheless, as has been observed, deference to supposed expertise may be no more than a fiction (1987).

It is clear that ACA and corrections officials are not being held accountable to the public for their misdeeds. It could be cogently argued that the practices of the ACA are in violation of the 1970 Racketeering Influenced Corrupt Organizations Act (RICO). Since under the RICO Act only two linked actions are required to establish a racketeering pattern — any act or threat indictable under fifty or so state and federal laws, such as fraud of public monies — and conspiracy can be established by a wide range of circumstantial evidence, the ongoing promotion of the essentially meaningless accreditation process costing taxpayers millions of dollars apparently makes the American Correctional Association vulnerable to such an indictment. In light of the apparent deception with which they have been dealing with and manipulating the public, it appears that it would be appropriate and in the public interest for Congress to conduct an investigation and public hearings on the matter. Such action is imperative if, in using Judge Bazelon's words, the "conspiracy of silence between corrections officials and the public can be replaced with a partnership for reform."

ENDNOTES

1 Little Rock Reed is a Native American rights activist and former political prisoner. On Human Rights Day, December 10, 1995, his book, The American Indian in the White Man's Prisons: A Story of Genocide (UnCompromising Books, 1993), was named as an Outstanding Book on the subject of human rights in North America by the Gustavus Center for the Study of Human Rights in North America. Sponsors for the award were the National Interreligious Commission on Human Rights, the National Organization for Women, Free Inquiry, the National Conference of Christians Jews, the National Association for the Advancement of Colored People, the National Urban League, the Unitarian Universalist Association, Project Censored, B'nai B'rith, and the Fellowship of Reconciliation.

Ivan Denisovich is the non de plume of a prisoner. For reasons of personal safety his true identity is being withheld. The name is taken from the title character in Aleksandr Solzhenitsyn's seminal work One Day in the Life of Ivan Denisovich, concerning existence in the Soviet gulag system.

2 The grandfather of the ACA was chartered in New York in 1871 as the National Prison Association of the United States of America. In 1909 the name was changed to the American Prison Association, and in 1954 the current title was adopted.
These numbers represent state prisons only and exclude federal, county and private institutions, which number into the thousands of facilities.

Actually, most prisons contract with private companies for slave labor. Prisoners are required to work full-time for little or no pay, the proceeds of which benefit private companies. If the proceeds were shifted to benefit the public rather than private corporations, prison labor would significantly reduce, if not eliminate, the need for tax moneys to be spent on prisons.

Since the late 1980s, advertising revenue in Corrections Today has tripled (Meddis & Sharp, 1994).

Interestingly, in 1994, the ACA had to mail an apology letter to its 20,000 plus members, explaining the circumstances surrounding the sale of the association's mailing list to Prison Life magazine, an act that apparently many members complained of as inappropriate when they received a free copy of Prison Life (Gondles, 1994).

Approximately 2/3 of correctional facilities have populations of less than 500 prisoners (Stephan, 1992).

The actual number of institutions that have been accredited is difficult to determine. The ACA has refused to disclose the figure. Estimates range from ten (Mohr, 1995) to twenty-five percent (Sullivan, 1995), with a higher percentage of the nation's private prisons receiving accreditation.

A 'control unit' is a specific unit within a prison or an entire prison which subjects the individual to severe sensory deprivation and isolation as a means of brainwashing. Proliferating across the country, control units were designed after the brainwashing chambers used on American POWs in North Korean and Chinese prison camps in order to achieve effective brainwashing and social control. While prison officials publicly state that control units are used for the most violent criminals, studies have indicated that they are used primarily to silence religious leaders, political dissidents, jailhouse lawyers and writers who are critical of prison policies and practices. The Federal Bureau of Prisons (BOP) established its first control unit and accompanying "treatment program" modeled after these brainwashing chambers with the erection of the U.S. Penitentiary in Illinois, following a conference in which Dr. Edgar H. Schein encouraged the prison officials to do so. Without exception, each brainwashing technique described by Dr. Schein was a violation of the constitution and international human rights treaties. To rationalize his position (which was adopted and implemented by the GOP), Dr. Schein stated, "These Chinese methods [of brainwashing] are not so mysterious, not so different and not so awful, once we separate the awfulness of the Communist ideology and look simply at the methods used." In other words, it is politically correct to be "communists" as long as we call ourselves "democratic." Following Schein's presentation, then-director of the BOP, James Bennett, stood before his subordinates and stated that the BOP provides a "... tremendous opportunity to carry on some of the experimenting to which [Dr. Schein has] alluded." He urged them to "... undertake some of the techniques Dr. Schein discussed," and he assured them that BOP headquarters in Washington "... are anxious to have you undertake
these things: do things perhaps on your own -- undertake a little experiment of what you can do with the Muslims...." Indeed they did. Today the GOP and every state prison system has a control unit in which political prisoners/leaders are confined. For an in-depth examination of the origins and current use of control units, see the Journal of Prisoners on Prisons (1993) Vol. 4:2. Also see, T. Kisslinger (1995).

10 As the National Advisor to the Citizens United for the Rehabilitation of Errants, Maygene Giari (1995) comments, "Most of the criticisms leveled against the [ACA's] accreditation process in the 1970s and 1980s are still as valid today as they were then."

11 During a South Carolina ACA accreditation process, two prisoners in one institution who succeeded in talking to the audit team were subsequently locked up in a control unit later that day (South Carolina CURE, 1995).

12 Accredited even though the system is crowded to 182 percent of capacity with 43,000 prisoners in system designed for 26,000 (Prendergast, 1995).

13 These figures are rounded.

14 While the ACA avoids taking a stand on controversial issues that may offend potential purchasers of accreditation, it has been known to get involved, though subliminally, in some controversial issues when its own profiteering interests and longevity are at stake. For example, in her research paper entitled "Propaganda: Misleading the Public for Political Gain", Maygene Giari (1995) pointed out that in politician's efforts to form public opinion that more prisons are necessary for public safety, a National Institute of Justice (NIJ) study by Edwin Zedlewski, "Making Confinement Decisions", drew on a number of studies "... to show that it is far cheaper to build more prisons than to use alternative penalties or early release to relieve prison crowding." As Giari points out, Zedlewski cited a Rand Corporation study (also made for the NIJ) that found inmates averaged between 187 and 287 crimes a year, not counting drug deals. He estimated that to cost of prison construction, amortized over the lifetime of the institution, amounts to about $5,000 a year. Adding $15,000 a year for the cost of imprisonment in a medium-security prison, he figured the total cost of a year's imprisonment for one inmate would be $20,000. On the other hand, with the cost of crime estimated at $2,300 per crime, the "typical" inmate who committed only the lower figure of 187 crimes per year would be responsible for $430,000 in costs of crime. Thus, according to Zedlewski's figures, sentencing 1,000 more offenders to prison would cost only an additional $25 million per year, but would prevent about 187,000 felonies costing approximately $430 million over the same period of time (Zedlewski, 1987).

Criminologists challenged the validity of Zedlewski's cost-benefit analysis. He misused the material from the Rand study, giving the impression that the "typical" criminal commits such a shocking number of crimes. The Rand study was not a survey of a typical prison population. The survey covered only robbers and burglars in prison, and such offenders represent only about 45% of all prison admissions. These prisoners were asked to report the number of crimes they had...
committed in the two years before they were sentenced to prison. Zedlewski reinterpreted this to mean the number of crimes they had committed after release. Moreover, the median number of crimes they admitted was 15 per year, not between 187 and 287. The figure of $2,300 as the cost for each crime has been challenged as inflated, and grossly misleading when applied to all repeat offenders. Furthermore, Zedlewski under-estimated the costs of imprisonment and prison construction. In any case, offenders who commit 187 crimes a year would be more likely to be housed in maximum-security prisons, which cost a lot more than medium security.

Zedlewski's study came out in 1987, but despite the criticisms leveled against it, NIJ Director James Stewart reissued it again in 1988. It was resurrected yet again in 1989 in the professional journal *Corrections Today* (published by the ACA), in an article by Richard Abell (1989), Assistant Attorney General in charge of the Office of Justice Programs. Abell [and the ACA] proposed that criminal justice professionals use Zedlewski's study as the basis for making decisions on building more prisons. Advocates of "Three Strikes" laws at state and federal levels in 1993-94 once again repeatedly cited the "savings" that would result from life sentences for third time offenders. Such claims became so frequent that Rand Corporation issued a fact sheet saying that neither the number of crimes committed by the supposedly "average" criminal nor the purported cost of those crimes is born out by Rand studies.

Referring to prisoners as the ACA's "clients", the ACA's Code of Ethics states that "[m]embers will respect and protect the civil and legal rights of all clients", and that "[e]ach member will report without reservation any corrupt or unethical behavior which could effect either a client or the integrity of the organization.

According to the editor of the *Prison Legal News*, within days after distribution of the April 1995 edition, in which the CAHR had an extensive article published in which it urged prisoners to participate in the investigation of the ACA, an ACA representative called the publisher in an attempt to obtain Prison Legal News' mailing list. Although the request was denied, dozens of letters between the CAHR and prisoners who subscribe to the Prison Legal News have mysteriously disappeared, including correspondence between the authors of this article.***

In fact, the ACA does enter into a contract with every agency it accredits. Prisoners are third party (direct) beneficiaries to the contracts. As such, they may bring an action directly against the ACA and the prison officials to enforce the promise made for their benefit. It was discussion of this possibility, as well as the possibility of an organized filing of numerous lawsuits against the ACA to be consolidated into a nationwide class action alleging ACA violations for fraud and other laws, which apparently concerned the ACA officials about the article CAHR had published in the *Prison Legal News* as discussed above.

The application of the RICO Act has consistently expanded since its inception 25 years ago. Currently, companies have employed RICO to charge unions, either trying to organize their work forces or negotiate new compensation packages with racketeering efforts (Baker, 1995).
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Although the Inquiry has been over for a number of weeks and the final report of The Commission of Inquiry Into Certain Events at the Prison for Women at Kingston, Ontario is due out March 31, 1996, I feel as though I am only now emerging from the shroud of the events and proceedings. I am left without even a fleeting sense that things might actually change as a result.

As I write this, many of us are grieving the suicides of yet another two women in our prisons. I hope both Brenda and Denise may now rest in peace, and that the rest of us have the strength to continue on in our push for justice. I pray that we will see a time when no more women will lose their lives or their spirits in our prisons. I wish the Prison for Women (P4W) and other prisons could close permanently. I find myself increasingly vibrating between despair and anger. Rather than be immobilized by the despair, I urgently call for action.

Before I discuss what happened to whom and when, what my personal and CAEFS responses were, I need to start by articulating what I consider to be the most profoundly disturbing and disappointing revelations of the Inquiry. Throughout the process, I was shocked by the disdain for the women and the flagrant disregard for the law exhibited and articulated by Correctional Service of Canada (CSC) witnesses. This extended from those on the front line to those at the top, including the Commissioner and his Senior Deputy Commissioner. I was also incredulous at the extent of the systemic disorder and ineptitude of what seemed to be a bureaucracy out of control.

In the end, it was most disturbing to realize that every matter raised by Commission counsel in their final submissions to Justice Arbour had been raised prior to the C.B.C.'s Fifth Estate exposé, with the Commissioner of Corrections, and in many instances the Minister as well. These matters were raised by the women themselves, via third level grievances as well as direct appeals to the Commissioner, and the Minister and some of his colleagues in Parliament. They were also raised by the Correctional Investigator. Issues were of course also raised by CAEFS, our membership, as well as our coalition partners in the women’s social and criminal justice network.

In all cases then, the Commissioner had heard the same matters raised once, twice, three, or more times. This fact notwithstanding, he had chosen to believe the information he was receiving internally, even after such input had been clearly shown to be significantly flawed or obviously wrong. In the final days of the Inquiry, briefing notes disclosed that even after such issues as the use of force, the

Kim Pate is the Executive Director of The Canadian Association of Elizabeth Fry Societies (CAEFS), which is the national organization representing the twenty-one volunteer societies. For a broad explication of the context of these events at P4W, see Journal of Prisoners on Prisons, (1994) Vol. 5:1.
involvement of men in the strip searching of the women and the women's lack of access to counsel had been established in evidence, the Commissioner was still being given erroneous information. Unfortunately, despite the existence of transcripts and media accounts to the contrary, the Commissioner chose to follow his briefing notes rather than question his own staff.

What emerged was the portrait of a very insular, insecure yet self-righteously arrogant government department, where prisoners or anyone who questions their actions are relegated to the margins and classified as unimportant and misinformed, regardless of the facts. I must admit that I naively believed that somewhere along the line someone would express regret and accept responsibility for at least some of what had so clearly gone wrong. I seriously underestimated the extent of the bureaucratic brainwash, Orwellian double speak and rudderless direction of CSC. All energies seemed to be focused instead upon efforts to obfuscate the issues, discredit any perceived detractors and continue on with business as usual.

Why am I still incredulous when the suicides this past week do not seem to cause a questioning of policies and procedures, and that efforts instead seem to be focused upon the frailties of the women themselves or to scapegoating their sister prisoners? At times it feels a little too weird doing this work, but then I remind myself of the basics -- that social control and industry are what imprisonment is really about, not justice.

I also remind myself that the focus of the Inquiry from CSC's perspective was myopic: federally sentenced women are, after all, only 2 per cent of the federal prison population. In addition, we considered the implications of the Inquiry to be much more extensive than did CSC for whom it seemed to be just another brief spotlight on a past event at the Prison for Women, and not particularly relevant or significant to the future of women's corrections. We certainly hope that the reality will ultimately be otherwise. I will outline CAEFS perspective on the future -- and mine -- throughout the rest of this article.

A discussion of the Inquiry must start with the situation at the prison more than 2½ years ago. Despite the release in 1990 of the recommendations of the Task Force on Federally Sentenced Women, and the pending closure of P4W, transitional planning had not proceeded as suggested. Despite clear interim recommendations, liaison workers and all programs and services for the women at P4W were not maintained. For at least the past two years, such contracted services as psychology and the library were in jeopardy. In addition, some positions vacated by staff were not necessarily filled. There was also a reduction in the availability of educational programs. There was increasingly limited availability of staff to escort women to other prisons for programs, ETAs, medical appointments, et cetera.

Despite the Solicitor General Doug Lewis' announcements in September and December of 1994 that the level of services and programs offered would be maintained until closure of the Prison for Women, cutbacks at P4W were included in CSC's regional and national budget reductions. This Minister had also previously announced that the prison would close by September 1994.
In the past 2½ years, security levels within the Prison were increased as opposed to being revised or relaxed in preparation for the movement of women from P4W to the new prisons. For example, B-Range was established as a Separation Unit in July 1991. There have been increasingly limited opportunities for B-Range women to access non B-Range jobs, services and programs. There was a particular crackdown in this regard following the stabbing of a prisoner in August/September 1993. The administration refused to "open up" B-Range until such time as the "victim" of the stabbing was transferred to the Burnaby Correctional Center for Women (BCCW). She was held in the P4W hospital area until January 1994. In the interim, there was no relaxing of security.

Many B-Range women were only permitted security visits with their families. The rationale given was that the administration suspected, had intelligence information regarding, or had actually detected drug use by those women who were being denied access to support (family, or friends who might visit). In reality, most of the other women who were not placed under such visiting restrictions did not generally receive visitors. B-Range women were not permitted access to the full yard, nor eventually at the same time as the rest of the general population.

The power struggle between the P4W administration and the B-Range women was exacerbated in December 1993, when all of the B-Range women went on a hunger strike after one of them had her Private Family Visit (PFV) cancelled within 1-2 hours of its commencement. This occurred in the midst of the women (and CAEFS) trying to negotiate with the prison administration for the women to be permitted to have their families attend the December 1993 Family Day. A standoff ensued, ending some 2-3 days later, when the women terminated their hunger strike so as not to interfere with the next woman’s PFV. This was also a response to their discouragement caused by the warden’s unwillingness to even agree to meet with them. These matters subsequently formed part of the rationale for not relaxing security on B-Range once the stabbing victim left P4W.

In addition, women in P4W, particularly on B-Range, were reporting harassment by staff, particularly the disrespectful and condescending attitudes, of some of the younger, less experienced staff. For example, women being called for "kibbles and bits" at dinner time, stomping and banging and flipping up shams during the night shift. First Nations women on A-Range, as well as in the Wing, had complained of interference with bundles, prayer time and the destruction of the Sisterhood’s grandmother drum. The latter has never been acknowledged by the warden (et al..) although the women told me there was a "bookmark" in the middle of the drum and it’s covering had been opened up. It had been a gift from the Native Women’s Association of Canada to the Sisterhood in May of 1993 during their spring Pow Wow.

CAEFS encouraged women to seek the assistance of the Correctional Investigator, raise matters with the Citizens’ Advisory Committee, and to utilize complaints and grievance procedures. The women were initially reluctant, but did gradually increase calls to the Office of the Correctional Investigator and laid complaints and grievances. Mary
Cassidy, the Warden at that time, was specifically advised by the author that CAEFS would be increasingly encouraging Federally Sentenced Women (FSW) to avail themselves of the "legitimate complaint mechanisms", as we felt that they needed to utilize that process to assist their efforts since the prison administration was not budging.

I advised the warden of this in an effort to take some of the heat off of the women -- which I assumed they would experience. I also advised the women that from my experience, I shared their conclusion that "things would likely heat up" before conditions would improve. The warden considered this as possibly inciting the women. In fact, in addition to advising me that she felt I was possibly inciting the women, two B-Range women were segregated after they attempted to file a group grievance on behalf of their colleagues on the range. Their behaviour was classified as threatening to the order of the institution.

Despite the rhetorical commitment of the Solicitor General and the CSC, there are decreasing opportunities for women to be empowered and have meaningful choices. For example, women still do not generally have access to CORCAN jobs or other work release opportunities; except for some hairdressing experience, no vocational training opportunities exist. There is also a lack of development of joint strategies to link the community into the new prisons and assist women with the transition, despite offers from Elizabeth Fry Societies and other groups to facilitate it.

Further, staff training in preparation for the new approaches contemplated by the Federal Task Force's recommendations were not undertaken and there was insufficient training of new staff coming on board. This took place in a situation characterized by an increasing exodus of staff. The Commissioner of Corrections indicated that there was a 70 per cent staff turnover at P4W over the last few years. The women were reporting inconsistencies amongst staff re: security practices, provision of privileges, access to the Correctional Investigator, to CAEFS and to their lawyers. They noted the staff's lack of knowledge of policies and procedures, and their failure to adhere to them, especially in relation to complaints and grievances; the lack of support for the work of the Peer Support Team, psychology, and outside contract staff. Also, the warden had indicated that she was short staffed at times, thereby limiting the Prison's ability to provide escorts for temporary absences, social events and the like.

From the first telephone calls and my April 28, 1994 visit to P4W, CAEFS was integrally involved in attempting to ensure that there would be a full and open investigation into the matters and issues relating to what has come to be known as the "April incidents" at the Kingston Prison for Women. In addition to raising concerns with staff at the regional and national levels of the Correctional Services of Canada regarding the state of affairs at P4W both prior to and since the April 1994 incidents, CAEFS encouraged the Solicitor General to conduct an independent investigation into these matters.

Two days after the Solicitor General announced that he would be commissioning an independent inquiry into the matter, the author was advised by John Edwards, the Commissioner of Corrections for the
Correctional Service of Canada, that the videos of the "incidents" were available for viewing at national headquarters. Sharon McIvor, of the Native Women's Association of Canada and I, viewed the videos of the April 26, 1994, Kingston Penitentiary Emergency Response Team’s (ERT) actions in P4W, and the May 6, 1994, transfer of five women from P4W to Kingston Penitentiary.

The difference in the manner in which procedures were followed in both instances was strikingly disparate. In stark contrast to the intervention of April 26, 1994 (as presented by C.B.C's *The Fifth Estate*) the strip search and shackling procedure on May 6, 1994, was a calm, methodical procedure, carried out by three women correctional staff. The Kingston Penitentiary ERT stood outside on standby and subsequently escorted the women out of P4W and over to Kingston Penitentiary.

The Canadian Human Rights Commission included the P4W issues in its Annual Report of March, 1995. In addition, the Senior Commissioner, Max Yalden, met with the Commissioner of Corrections and advised of their concerns with respect to the ERT involvement at P4W and the decision to allow the hiring of men for front line positions in the new women's prisons. Similar concerns were discussed by *Penal Reform International* (1991) in their newsletter. The problems identified at P4W were related to their own attempts to report upon international incongruence with and lack of implementation of the United Nations' *Standard Minimum Rules for the Treatment of Prisoners*. Amnesty International referred the matter to their international office in London, England. I also forwarded information to the International Centre for Human Rights and Democratic development, and to women who participated in the United Nations 4th World Conference on Women in Beijing (China), from September 4-15, 1995.

In addition, Michael Jackson has included information in the report he is authoring on justice for the Royal Commission on Aboriginal Peoples. Resolutions have also been proposed for national women's groups, and these issues were on the agenda for the "Violence Against Women" consultations with the Department of Justice in June of 1994 and 1995. Attempts to keep the issue alive with the media also remain a high priority.

Two of the women involved in the April "incidents" and subsequently segregated for eight months, have now been released. One is on the west coast, the other on the east coast. One woman was recently maced, stripped, shackled, and re-segregated following what began as a drug-induced state. We currently await the results of her counsel’s investigation into the incident. We have also requested the intervention of the Correctional Investigator, as well as an accounting from the prison administration. This theme is shockingly familiar.

Adherence to the inmate grievance procedures are still highly variable. We continue the two year wait for a Grievance Committee (consisting of prisoner and staff representation) to address complaints that arise in the institution. We continue to have significant concerns about the resistance amongst staff at P4W to adhering to the CSC’s own inmate grievance process.
The new segregation unit was officially opened on April 14, 1995. Solid doors, locked metal slots, glaring neon lights, questionable ventilation, indiscernible programming and limited personal contact make it a most unpleasant environment. When the unit opened, Thérèse LeBlanc, the warden at P4W, maintained that stays in the unit would be short term and that she would like to keep the unit closed as much as possible. The reality is disturbing, albeit not surprising.

Meanwhile, the old segregation unit was physically altered by the removal of the tread plate which was installed on the bars when the women were transferred back to P4W from Kingston Penitentiary in July of 1994. The prison now refers to the area as a "special needs unit" for women who have significant mental health concerns.

After more than four years of pressure for the development of policies and procedures for B-Range, these are now being developed. Although we had been pushing for such an examination for some time, the warden and her senior administration claimed that this could not occur until after the segregation policies and individual plans for the gradual release of the women from segregation were developed. The rationale for this decision was twofold. First, the pressures from CAEFS and others (including nation wide media coverage) to release the women from segregation as quickly as possible, increased the level of energy expended in responding to the many media calls, and was creating time and resource crunches. Secondly, the staff at P4W were not yet ready for the reintegration of the women from segregation, much less the relaxing of the tight security on B-Range. The current justifications for delays include the need to focus more attention upon the transition of the women from P4W to the new prisons.

Regional representatives of the Union of Solicitor General Employees (USGE) intimidated CSC and management made life extremely uncomfortable for Bob Bater. The harassment culminated in a meeting with the heads of the Emergency Response Teams (ERTs) from the penitentiaries in the region in June 1995. As a result, the 12-year volunteer member and then Chair of the Citizens' Advisory Committee for the Prison for Women felt that he had no alternative but to resign his position. Many staff remain angry with Bob because of the comments he made on the C.B.C.'s *Fifth Estate*.

Despite the objections and interventions of CAEFS and other national women's groups, the Executive Committee for CSC adopted the security classification scheme. At the same time, CAEFS also expressed concerns about the manner in which the April "incidents" were used to mythologize federally sentenced women by classifying increasing numbers of women as high security risks. At the end of April 1995, we took a snapshot of the 134 women then in P4W: 52 were classified as maximum security, 44 as medium security and only 38 as minimum security, 12 of whom are actually resident at the Minimum House across the street from the prison. In addition to the havoc it has wreaked at P4W, the security classification scheme is creating additional concerns regarding the integration of women into the new, supposedly minimum security prisons for women in the regions.
The Commission of Inquiry

Up to and throughout the Inquiry, we were committed to uncovering the layers of decision making and the basis upon which CSC actions were taken. We also had profound concerns regarding the impact of the events upon the policies and practices of the Correctional Service of Canada vis-a-vis federally sentenced women, both at P4W between now and the closure of the prison, and in relationship to the planning for the new regional prisons for women and the national Healing Lodge.

Primarily due to the nature of the information we had gleaned as a result of our organization’s mandate and work, we led the development of a coalition of other national justice, First Nations’, women’s and labour organizations. This coalition joined CAEFS in advocating for the sort of investigative inquiry that was ultimately announced immediately prior to the airing of the C.B.C.’s Fifth Estate exposé. In particular, we encouraged the Solicitor General to ensure that the scope of a public inquiry include the following.

P4W 1992-95

A thorough investigation into the entire handling by the Correctional Service of Canada of the events surrounding the "April 1994 incidents" at the Prison for Women in Kingston, with particular emphasis upon the assessment and identification of responsibility for decisions made regarding:

a) the situation at the Prison for Women during the eight months preceding the April incidents;
b) the April 22-26, 1994 incidents themselves;
c) the events following the April 1994 incidents, including: the involuntary transfer of five women to Kingston Penitentiary; the excessive length of segregation at the Prison for Women; and the continued punitive responses, including the re-segregation in January 1995 of two of the women involved in the April 1994 incidents; and,
d) the actions of both staff and prisoners throughout the previous 18-24 months at the Prison for Women.

Policy

A thorough examination of the policies in place for federally sentenced women in Canada, with a view to ensuring a more positive and proactive manner of addressing the needs, and the risks of and to women imprisoned, both during the transitional period between now and the closure of the Prison for Women, as well as in the new prisons and the national Healing Lodge. We most particularly believed that the Inquiry must examine at least the following Correctional Service of Canada policies:

a) staff screening, selection, training and deployment policies; especially the decision to allow men to work on the front lines in the new prisons;
b) security classification, risk assessment and case management practices for federally sentenced women; and,
c) roles, responsibilities and powers of intervention of the Citizen’s Advisory Committee and others.

We were also of the view that the Inquiry must include the perspectives of the following key participants, both amongst those who would have standing to fully participate in the investigations, as well as those who would testify during the proceedings:
1) the federally sentenced women involved both directly and indirectly in the incidents at the Prison for Women;
2) external individuals and organizations such as staff and volunteers of Elizabeth Fry, First Nations’ and other community based groups;
3) staff of the Office of the Correctional Investigator (to the extent that they are permitted, pursuant to the provisions of the *Corrections and Conditional Release Act*) and members of the Citizen’s Advisory Committee;
4) Correctional Services staff, including Union and contract staff representation; and,
5) individuals and/or groups with expertise in such areas as violence against women as well as those with an understanding of issues related to incarceration, sensory deprivation and prison conditions.

CAEFS’ objectives in participating in the Inquiry were primarily to ensure that there was a full review of what transpired, especially the need for a clear articulation of the role and responsibility of CSC in creating the pre and post April 1994 atmosphere and environment of unrest at P4W. We also hoped to encourage changes to policies and procedures for federally sentenced women, in part by highlighting the problems exemplified by how CSC dealt with the issues they created at P4W.

Accordingly, CAEFS sought and was granted full standing as public interest intervenors in the Inquiry. Without funding, we would not have been able to participate fully and effectively in the Inquiry process. While some resourcing for CAEFS, the women and the Citizen’s Advisory Committee was provided, those bureaucrats who were funded directly from the public purse had significantly more resources available than did the rest of us.

As a public interest group with standing at this Inquiry, CAEFS valued the opportunity Phase I provided for the examination of the layers of decision-making and the basis upon which actions were taken by the Correctional Service of Canada in 1994, in relation to events at the Prison for Women. The relatively broad range of issues canvassed in Phase II then provided an opportunity for some constructive and timely discussion, which indicated the need for the establishment of progressive and proactive policies and practices, now and in the future.

Phase II highlighted the significance of this Inquiry. It created our first opportunity since the work of the Task Force on Federally Sentenced Women, for women prisoners, groups such as CAEFS, academics and correctional experts to meet in a forum that was not dominated and whose agenda was not determined by CSC. Section 77 of the *Corrections and Conditional Release Act* (CCRA) notwithstanding, our experience has been that there is reluctance on the part of CSC to engage participants in policy development meetings with
respect to federally sentenced women. Indeed, CSC staff have asserted that because there are sufficient numbers of women on staff, they have all the expertise they require and no longer need to consult outside the Service. We maintained that a similar attitude would exist with respect to consultation and advisory provisions of s. 82 of the CCRA if sufficient numbers of First Nations staff were within the ranks of the CSC.

Unfortunately, concerns that were generated prior to the Inquiry, were confirmed by the evidence presented in Phase I, and were exacerbated during Phase II, as the Correctional Service of Canada introduced their "latest" plans for the new prisons. These are the same plans we have repeatedly challenged as mere reconfigurations of current correctional practices. We believe that CSC is reluctant to relinquish the vestiges of models designed to deal predominantly with the men in their prisons.

Moreover, as this Inquiry unfolded, women at the Regional Psychiatric Centre in Saskatoon were subjected to another non-emergency ERT intervention and strip search. Also, women in the segregation unit at the Prison for Women continued to be subjected to longterm 24 hour camera surveillance. A young woman with increasing mental health concerns began to routinely ask to be physically restrained by being strapped to a board. When asked why, she indicated that the staff stayed with her and talked to her if she was on the board. Women transferred to the new regional prison in Edmonton were/are subjected to routine strip searches after every visit with someone from outside the prison, as well as after visits with fellow prisoners in their cottages.

These realities illustrate some of the reasons that we continue to have significant concerns regarding the future for federally sentenced women in Canada. We are apprehensive about the willingness and ability of the Correctional Service of Canada to institute the necessary reforms to address the needs and challenges of women prisoners.

The projected image of a criminal justice system whose personnel promote the utmost respect for the law by modelling a humane and just exercise of power is a stark contrast to the image that has emerged throughout both phases of the Commission of Inquiry. The experiences of women prisoners has exposed too many profoundly disturbing examples of oppression and abuse of power, as well as arbitrary decision making. In our view, the Correctional Service of Canada has repeatedly exhibited callous indifference to prisoners, flagrant disregard for its own policies, and disrespect for the very legislation pursuant to which it operates.

Accordingly, CAEFS respectfully submitted that the recommendations we made on the record during Phase II, combined with the ensuing written recommendations and those of other groups, such as LEAF and the Correctional Investigator, as well as those of the Inmate Committee and the Native Sisterhood, should provide the groundwork for this Commission to recommend significant reform of the manner in which women are imprisoned in Canada.
CAEFS' Recommendations to the Commission of Inquiry

Accountability

CAEFS joined both the Office of the Correctional Investigator and the Women's Legal Education and Action Fund (LEAF) in recommending that a commissioner of women's corrections be appointed to govern all matters related to federally sentenced women, including the supervision of the wardens of the new regional prisons and the Kikawinaw of the Healing Lodge. This office would be independent of the current Correctional Service of Canada and report directly to the Solicitor General. CAEFS further recommended that the individual appointed not come from within the ranks of CSC, but preferably be a woman whose experience encompasses human service administration in areas that could include social services, education and health services, as well as the criminal justice system.

CAEFS further recommended that the head of women's corrections (or CSC, in the unfortunate event that our first recommendation is not implemented) be part of a mandatory advisory body to be comprised minimally of individuals representing:

a) federally sentenced women, preferably at least;
   (i) two who are currently serving prisoners, possibly elected from the chairs of the Sisterhood groups and Prisoners' Committees of the new prisons and the Healing Lodge, and
   (ii) two who are formerly imprisoned federally sentenced women; these individuals could be representatives of self-organized former prisoners, such as Strength in Sisterhood (SIS) thereby being selected by former and/or serving prisoners;

b) the Office of the Correctional Investigator;

c) the Native Women's Association of Canada;

d) the Canadian Association of Elizabeth Fry Societies;

e) Black, visible minority and immigrant women's communities - more than one representative; and,

f) the Union of Solicitor General Employees.

This sort of body was contemplated by the members of the Task Force on Federally Sentenced Women. Moreover, although the CSC did not choose to implement the national body recommended for the federally sentenced women's initiative, CSC does have a National Aboriginal Advisory Committee.

The CSC is mandated, by virtue of the provisions of s. 82(1) of the CCRA, to establish national, regional and local advisory committees. The members of the National Aboriginal Advisory Committee are all external First Nations representatives, whose mandate is to advise the Commissioner, via his Corporate Advisor on Aboriginal Programs, with respect to issues related to CSC's work with aboriginal offenders. Moreover, as LEAF has established in its submissions in this regard, the need for a separately administered aboriginal correctional system has long been discussed and advocated.

CAEFS accordingly recommended that the Commission propose that s.82 of the CCRA similarly apply to the new national head of women's corrections, as well as the regional / institutional heads. Also, s. 77 of the CCRA should be amended so as to include a provision similar in
principle to that of s. 82(1) of the CCRA, whereby the sort of advisory committee recommended above, as well as regional advisory bodies, can be legislatively mandated, with a duty to report annually to the Solicitor General and the Parliamentary Standing Committee on Justice and Legal Affairs.

The national advisory committee would provide support and advice to the senior administrator of women's corrections. Such advice would primarily relate to the development of policy within the existing legislative framework, as well as suggestions for law reform. At the outset, the committee would undoubtedly need to focus upon the improvement of internal and external accountability mechanisms.

CAEFS further recommended that regional advisory committees, similar in composition to that proposed for the national body, be established for each of the new regional women's prisons, including the National Healing Lodge and the Burnaby Correctional Centre for Women. These regional bodies would act as a governing board for each of the new prisons.

Unless accountability mechanisms are established in order to maximize the likelihood that federally sentenced women will experience justice and fairness while in prison, the unfortunate reality is that their needs and concerns will once again disappear from public view now that the work of the Inquiry is done. Furthermore, in these times of increasing political and socio-economic polarization and, given the flagrant disregard for the law disclosed by CSC in evidence during Phase I, we anticipate even greater difficulty gaining full public exposure of future crises for federally sentenced women living behind prison walls.

We recognize that there are some good and well intentioned staff within the CSC who have tried to effect change in such areas as risk management and therapeutic programmes and services for federally sentenced women. However, despite their best efforts, their work and words are too often appropriated and finessed into bureaucratic rhetoric.

CAEFS accordingly continues to support the recommendations of the Correctional Investigator with respect to the need for the wardens of the new regional prisons to be held accountable for institutional adherence to the provisions of the CCRA, and that rates of conditional release and availability of relevant institutional and community programming to achieve successful community integration, be included as key variables in the evaluative process.

CAEFS further recommended that commencing with the Exchange of Service Agreement (ESA) pertaining to the Burnaby Correctional Centre for Women (BCCW), all ESAs between the federal and provincial/territorial governments be reviewed in order to ensure that the rights and entitlements of all federally sentenced women are provided and protected thereunder.

By virtue of an Exchange of Services Agreement between CSC and B.C.'s provincial corrections department, the provincially run BCCW serves as the carceral setting for federally sentenced women in the Pacific region. The director of BCCW apparently continues to participate in national meetings with respect to federally sentenced
women's issues. However, BCCW has been excluded by CSC from documentation regarding Task Force implementation matters since shortly after this process became operational in 1991.

CAEFS further recommended that our organization be provided with the mandate and requisite resources, including the financial means, to conduct annual audits of institutional adherence to governing legislation and policy within each of the regional prisons for women. Such audits are to be submitted to the Solicitor General and the Standing Committee on Justice and Legal Affairs.

Staff

We are concerned that the staffing model for the new prisons has shifted significantly from that envisioned in *Creating Choices*, (1990) and that this could result in a parallel shift from a human services orientation of staff as supportive facilitators, to a fairly clear correctional or custodial orientation. For example, although it was originally envisioned that the heads of the new facilities would be recruited from other social service fields, all of the "wardens" were hired from the administrative ranks of CSC. Also, while the title of the new staff has been changed to "primary workers", their duties will basically be a roll-up of current correctional officer and case management officer duties, with some programming responsibilities. In addition, their training will consist of basic CSC correctional officer training, plus a mere ten days of "woman-centred" training.

Of most significance is the decision to open up frontline staff positions to men in the new regional prisons currently under construction. The Federal Task Force (1990) found that more than 80% of federally sentenced women have histories of physical and or sexual abuse, most at the hands of men in positions of authority over them. The figure rises to over 90% for First Nations' women alone, a group that is over-represented in the prison population. CAEFS is of the view that the potential risks and/or perceived risks of abuses of power in general, and sexual coercion, harassment and/or assault more particularly, are likely to be exacerbated by the presence of men in frontline correctional worker positions.

With the tabling of *Creating Choices*, (1990) the Correctional Service itself acknowledged that federally sentenced women would likely benefit in terms of personal growth, individuality and independence by having supportive and sensitive women as frontline workers, and that staffing policies would then be consistent with the current Correctional Service of Canada policy of not hiring men as frontline correctional officers at the Prison for Women. Moreover, in 1980 Canada endorsed international norms with respect to the assignment of male and female prison guards. Article 53 of the United Nations' *Standard Minimum Rules for the Treatment of Prisoners* (1958), specifies that women prisoners are to be "... attended and supervised only by women officers." In addition, the recent decision of the Supreme Court of Canada in the *Conway* case, essentially reaffirmed current practices at the Prison for Women of allowing only women to fill frontline positions, stating that such practices were in
keeping with the provisions of the *Canadian Charter of Rights and Freedoms*.

For all of the foregoing reasons, CAEFS urges the Commission to recommend that correctional policy for women prohibit the employment of men to work in frontline positions at the Prison for Women and in the new regional prisons and that sexual harassment policies be established for the new prisons.

**Approach**

CAEFS also continues to view the need for a gender specific process as vitally important to the implementation, in the new prisons, of the recommendations of the Task Force on Federally Sentenced Women (1990). While we recognize that some women sometimes pose a risk to themselves or to others, CAEFS advocates an holistic approach to the security needs of federally sentenced women, as opposed to pursuing the "male-oriented" offence based models. By focusing on what is essentially a negative approach to classifying women, the model currently being proposed appears most likely to further disempower and therefore contribute to the continued infantilization of federally sentenced women.

Rather than promoting such approaches as condemnation and punishment, *Creating Choices* (1990) advocated the promotion of self directed and peer supported alternatives. It was felt that more behavioural change would be possible if prisoners and staff had a better understanding of human behaviour and relational dynamics. Understanding what makes a certain behaviour unsafe and what other alternatives exist is more likely to produce constructive and desirable behavioural change than a punitive or manipulative response. An atmosphere of mutual respect and dignity was identified as the ideal means of maintaining institutional order and discipline.

Current plans for security classification do not seem to have moved sufficiently from the old model and its attendant problems. Therefore, we are worried that these current plans will transport the recent and perennial difficulties at P4W to the new prisons by importing behaviour modification style practices of punishment and privilege bartering. We are fundamentally opposed to continuing the process of transforming women’s needs and often desperate life experiences into criminogenic factors and potential instruments of, or rationale for, punishment.

Research into violence and aggression reveal that there are strong situational factors operating either to facilitate or inhibit an outburst of violence. For example, anger and cognitive labelling, dehumanization and deindividuation, stress and perceived alternatives to violence. Even the most passive person is probably capable of some aggression if not outright violence under certain circumstances.

The Task Force envisioned individualized woman centred approaches as opposed to a continued focus on male based correctional classification strategies. *Creating Choices* (1990) anticipated that all assessment tools and program plans for federally sentenced women would be oriented to and driven by their respective community release
plans, rather than the current move toward a model of specified or core correctional program categories.

As we continued to witness during both phases of the Inquiry, rather than examine the various systemic and institutional factors that contributed to the incident on April 22, 1994, CSC exacerbated the situation and then attempted to justify its actions by demonizing the women involved; portraying them as dangerous, high risk women. As a result, following the April 1994 events at the Prison for Women, CSC developed a new "Strategy to Manage Federally Sentenced Women who Behave Violently" and doubled the capacity of the Enhanced Security Units of the new prisons. They chose this option rather than examine the implications of their own practice of assuming they must change prisoners but may leave the prison environment unchanged. They ignored the importance of legitimacy, fairness and justice, underlying the exercise of prison power, and the role of the institution in generating conflict.

As Margaret Shaw (1995) stated during Phase II of the Inquiry: It is, for me, a curious thing that our knowledge of how to handle violence and destruction in schools or in psychiatric hospitals even has for some time included the organization and management practices of those institutions as a crucial element in the generation and the way that violence is encouraged and a major place for intervention.

In prisons, while there has been some acknowledgement of management practices and routines as ways of improving the handling of events, the major focus is still on the identification of the characteristics of the individual most likely to be disruptive. (p.598)

Rather than encouraging prisoners to take responsibility for their actions and to respect the law, prisons encourage the development or enhancement of coping skills that rely upon the use of manipulation and coercion. The more powerless and unable to influence their own circumstances people feel, the more likely they are to resort to increasingly desperate measures in order to feel as though they have some control over their lives. In the case of women in prison, this too often results in women resorting to self injurious behaviour in an effort to deal with a dehumanizing situation. Furthermore, prisons tend to promote the very behaviour they are supposed to "correct". Therefore, it is not surprising that in those relatively few prisons where prisoner empowerment and self-actualization and the development of a sense of community are encouraged, self injury, assaults and suicides, and the need for institutional use of force, is rare.

CAEFS has repeatedly advised CSC that we regard the strip searches of the women in Edmonton as an illegal practice that is antithetical to the principles of Creating Choices (1990). Given that the "enhanced security units" are not classified as segregation units, the stripping of women in and out of those units contravenes CSC policy (Commissioner's Directive #571) and the legislation governing this area (s.48 CCRA; s. 7 Canadian Charter of Rights and Freedoms). This practice is also in contravention of Articles 3 and 5 of the Universal
declaration of Human Rights and the United Nations’ *Minimum Standard Rules for the Treatment of Prisoners* and the U.N. Convention against torture and other cruel, inhuman or degrading treatment or punishment.

Moreover, as *Creating Choices* (1990) clearly articulated, the notion of dynamic security did not contemplate regular and routine invasive searches. Rather, we would suggest that the effective use of dynamic security requires regular and intensive staff interaction and trust between prisoners and staff. Strip searches directly interfere with the processes required for the development of trust and the empowerment of the women. We certainly view routine strip searching as unnecessarily intrusive and humiliating, and extremely detrimental to a woman’s sense of personal dignity.

In addition, we still await a response to our September 5, 1995, letter to the Commissioner and a copy of the investigative report into the August 19, 1995 incidents at the Regional Psychiatric Centre in Saskatoon.

**A Call to Action**

In letters to Justice Arbour and the Commissioner of Corrections, we have yet again reiterated and elucidated the roles of the respective local and national Elizabeth Fry representatives. This has been the subject of several formal meetings and numerous informal discussions with the wardens of P4W and the new prisons, staff of the Federally Sentenced Women Program and the Commissioner of Corrections.

In the new regional prisons, CAEFS and its membership will continue to advocate on behalf of the women in an effort to ensure that women’s rights and entitlements are being provided. CAEFS’ preference is to not be involved in purely "operational" matters at P4W or the new prisons. Consequently, in our Phase II submissions, CAEFS asserted the need for regional governance bodies for the new prisons and a national advisory body for the area of federally sentenced women’s corrections as a whole. We would welcome the opportunity to start this process in a somewhat incremental fashion, by first having CAEFS at the National Wardens’ and Federally Sentenced Women’s Program meetings.

CAEFS is currently in the process of regionalizing its advocacy functions. Although, at the Commission of Inquiry, some members of CSC expressed concern at the impact of our advocacy efforts with and on behalf of women prisoners, these have generally been concerns arising out of our monitoring functions. For more than four years, as the Executive Director of CAEFS, I have had the privilege and responsibility of visiting P4W on a regular basis as part of the manner in which CAEFS monitors and assesses the operational implementation of policies.

The purpose of these visits has been to keep abreast of issues arising for federally sentenced women with a view to informing our broader advocacy and law reform efforts, as well as to assist our membership in their efforts to advocate with and for women in prison. Unfortunately, subtle and overt threats to their supervision and service
delivery contracts have left some of our local societies feeling somewhat reluctant to voice opposition to correctional policy and procedure. As a result, much of this advocacy work has generally been performed by the national office.

With the advent of the new prisons and the national Healing Lodge, the advocacy efforts of CAEFS are being regionalized. Local societies closest to the new prisons will visit and provide services to women in the institutions on a weekly or daily basis, depending upon resources. CAEFS has been asked to assist regions and to continue to perform an advocacy function. This would include visiting the new prisons 1-3 times per year, with regional CAEFS representatives being responsible for monthly visits to the new prisons. Such visits would include meetings with the organized prisoners' groups, such as the Inmate Committee(s), the Sisterhood, Black Women's Group(s), Francophone Women's Group(s), Lifers' Group(s), et cetera, as well as meetings with the prison administration. The regional representatives will keep both the Elizabeth Fry societies and CAEFS advised of issues, needs, and concerns arising in their regions. The Executive Director of CAEFS will coordinate national advocacy and policy reform efforts, with a view to assisting local and regional representatives as required.

The foregoing regionalization plans, as well as existing roles of the respective local and national Elizabeth Fry representatives have been the subject of several formal meetings and numerous informal discussions with the wardens of P4W and the new prisons, staff of the Federally Sentenced Women Program and the Commissioner of Corrections. Indeed, prior to the April 1994 incidents, the Correctional Service of Canada provided CAEFS with a one time grant to help fund our regionalization planning meetings. CAEFS has also offered and is in the process of pursuing opportunities to provide information sessions concerning our mandate, function and objectives, for all staff at P4W, the new regional prisons and the Healing Lodge. In fact, at Warden Leblanc's invitation, we have conducted such "orientation sessions" for her managers and have reiterated our offer to provide "sessions" for frontline staff. We are also in the process of organizing similar assemblies with and for each of the new wardens and their staff.

It is also instructive to note that issues which the CSC identifies as operational matters, are in fact situations which CAEFS has previously identified as involving issues of serious current and future policy implementation significance. For example, the transfer of the women from P4W to Kingston Penitentiary was identified as an operational matter by CSC. CAEFS does not dispute the operational nature of any particular transfer decision by the CSC. However, given the unprecedented nature of the transfer, combined with the reality that CAEFS was not receiving answers to its questions regarding CSC's future plans with respect to involuntary transfers, the implications of that particular transfer for the future treatment of women in the new prisons was of extreme precedential importance to CAEFS.

Following the release of Creating Choices (1990), the Federal Task Force steering committee and working groups were disbanded. They were replaced by a National Implementation Committee (NIC) which, despite the recommendations of the Task Force, was devoid of
federally sentenced women, CAEFS or other community representation. Moreover, even since the promulgation of the *Corrections and Conditional Release Act* (1992), with its s. 77 provision of a duty to consult with groups such as ours, the Commissioner of Corrections, as well as members of his staff at national and regional headquarters and the Federally Sentenced Women's Program have resisted involving CAEFS directly in policy development.

CAEFS has obligations to federally sentenced women who look to us to advocate on their behalf. Accordingly, CAEFS has felt it was imperative to impose itself in some operational decisions, particularly where others have no jurisdiction or resourcing to assist the women. For example, the issues with which the Inquiry was concerned could be characterized as "operational concerns". The intervention of the ERT on April 26-27, 1994, the denial of women's rights and entitlements, as well as the extended retention of women in segregation, currently as well as in the past, are but a few such examples.

In the new regional prisons, CAEFS and its membership will continue to discharge a monitoring function in order to ensure that women's rights and entitlements are being provided and that CSC is adhering to the law governing its activities. CAEFS' preference is to not be involved in purely "operational" matters at P4W or the new prisons. Consequently, in our Phase II submissions, CAEFS asserted the need for regional governance bodies for the new prisons and a national advisory body for the area of federally sentenced women's corrections as a whole. Unless truly effective and representative independent mandatory advisory bodies are constituted, CAEFS will undoubtedly continue to be expected to intervene on behalf of the women.

Since being at CAEFS I have also tried to develop linkages with prisoners and other women doing similar work in other countries. During Phase II of the Inquiry, one of the resource people brought in by the Commission was the warden of Bedford Hills, New York, Elaine Lord. In addition to echoing the views of others from the United States to the effect that Canada should address the needs of our relatively small number of federally sentenced women in individualized and community-based ways, Elaine challenged CSC to critically examine its leadership role and responsibilities.

She also spoke about the fact that although there had been only one suicide in the prison where she is the warden/superintendent in 22 years, she and all her staff consider it a major failure. Elaine Lord is the first warden I have ever met who, in response to almost every question I asked her about how she did things in New York, stated that I should really speak to the women in her prison. By the third time I heard that, I had decided I would take her up on the offer.

On December 19, 1995, I visited the women's prison at Bedford Hills, New York. Despite the fact that it is a maximum security prison with 850 prisoners operating within the context of an extremely punitive criminal justice system, and related social and economic policy, the spirit and vibrancy of the women imprisoned there is quite remarkable. It is definitely a prison, but the staff, following the leadership of their "Superintendent" Elaine Lord were clearly most
concerned about the needs and interests of the women. A suicide prevention workshop held while I was there was oversubscribed. Despite the fact that there has not been a suicide in many years, the staff were keen to ensure that they "keep up to speed on intervention strategies." Elaine's requirement that staff engage in a minimum of 40 hours paid professional development activities per year also assists the process.

The women at Bedford clearly felt that while they were never deluded about their state of imprisonment, as much opportunity for self growth and actualization as possible in the circumstances, was encouraged and rewarded. I visited the women as they met and worked. The energy, vibrancy, and lack of slash marks were the most striking things I noticed. The three truck loads of toys and two bus loads of children, as well as the babies and toddlers in the mother-child unit also are indelibly etched in my memory. In comparison, when I think of the many Canadian women prisoners whose arms and bodies have been literally slashed to ribbons; the postponement of the mother-child program in the new prisons; or when I recall the "security concerns" raised by P4W staff when we requested an opportunity to have toys donated for the women to give to their children, I feel my frustration rising. The visit made me slightly more discouraged about the lack of correctional leadership for women imprisoned in Canada, but it also spurred me on to ever more vociferously voice the fact that change is possible and necessary.

In light of the above and the recent suicides at P4W and Edmonton, CAEFS continues to recommend the abandonment of CSC's "new" Security Management Model. We support the suggestion of the Correctional Investigator that access to the Healing Lodge, as well as to programs both within the regional prisons and the community, be determined by the individual needs and circumstances of each woman. Those with the greatest need should receive priority access, and all security classification, risk assessment and case management practices for federally sentenced women should reflect the same priority.

CAEFS further recommended that prisoners be encouraged in self-actualizing and self-expression, and that institutional resources focus upon and promote opportunities for prisoners to exercise choice and preference, whilst staff simultaneously model and expect pro-social, humane and respectful interpersonal interactions.

CAEFS further recommended that staff screening, selection, training and professional development and advancement policies and practices reflect the foregoing by encouraging and rewarding the same.

CAEFS also recommended the development of non-punitive conflict resolution training and support for prisoners and staff, as well as the abolition of any rule prohibiting behaviour or which defines as institutional infractions, attitudes as offences against the good order and discipline of the prison.

With respect to the use of force and other prison issues, CAEFS recommended that the legislative and policy provisions pertaining to the regional prisons and federally sentenced women be amended so as to:

a) eliminate the use of mace or any other weapons;
b) eliminate the use and prohibit the establishment of institutional emergency response teams or police squads;
c) eliminate the use of arbitrary strip searching and restraints;
d) promote reliance upon the use of dynamic and humane interaction, as opposed to segregation and other forms of "enhanced security"; including the provision of immediate access to therapeutic/personal support and peer group support in crisis situations, so as to assist in diffusing and ultimately resolving situations; provision of additional training for staff, with respect to women's issues, such as how to work with women encountering flashbacks, et cetera;
e) prohibit the use of involuntary transfers;
f) mandate the establishment and monitoring of effective accountability and grievance mechanisms for prisoners;
g) prohibit the development of a Special Handling Unit (SHU) for women, in name or practice; that is the establishment of a new SHU or the continued use of B-Range at P4W, or the Enhanced Security Units in the regional prisons and the Healing Lodge as separation units;
h) direct reform of the internal investigative process by ensuring that investigators are external to the CSC, with at least one member of each board of investigation examining issues involving federally sentenced women being a nominee of CAEFS; and that such boards have the independence to expand the scope of their investigations, the nature of evidence sought/collected, the publicizing of findings, et cetera;
i) provide nonviolent, women directed and lesbian positive environments that create healthy atmospheres for prisoners, including lesbian positive staff who understand and support women who are dealing with a multiplicity of issues, including past experiences of violence, separation from children, et cetera;
j) mandate the provision of a mother-child and prisoner parenting policy in each of the regional prisons and the national Healing Lodge, whereby participation is voluntary and may only be interfered with by relevant child welfare authorities;
k) mandate the provision of enhanced personal and professional development opportunities in each of the regional prisons and the national Healing Lodge for prisoners, particularly for those serving prison sentences in excess of five years;
l) mandate the provision of mental health resources in each of the regional prisons and the national Healing Lodge for women who desire/require them; such services are to be developed in conjunction with relevant community-based mental health authorities;
m) provide training for prisoners and staff in nonviolent crisis intervention techniques, as well as crisis debriefing; also, provide and promote professional support and ongoing professional development in these areas via the provision of a minimum 50 hour per year training requirement for staff;
n) advance the protection of prisoners' rights and entitlements, such as the access of prisoners to legal counsel;
o) direct the provision of mandatory staff and prisoner orientation and ongoing educational programs designed to alert both parties to the obligations of staff to protect the human rights of prisoners, in accordance with Canada's agreement with the United Nations' Minimum Standard Rules for the Treatment of Prisoners (1958), the Canadian Charter of Rights and Freedoms, Canadian Human Rights legislation, the Corrections and Conditional Release Act (1992), as well as provincial corrections' legislation and regulations; and, 
p) enhance the power of CAEFS and others whose mandate it is to promote the dignity and autonomy of prisoners, and to positively intervene to support and protect the rights and entitlements of women in Canadian prisons both with respect to specific incidents as well as the more general administration of the regional prisons; including the power to initiate appeals to the regional and/or national advisory bodies previously discussed.

Conclusion

CAEFS and other national women's and social justice groups persist in our condemnation of the use of incarceration as the least effective and most expensive means of addressing criminal transgressions, as well as its tendency to result in dehumanizing and brutalizing experiences for prisoners. We urged the Commission to call upon the federal government to limit the use of incarceration by making the following recommendations.

That the federal government immediately institute a moratorium on the number of prison beds available for federally sentenced women throughout Canada and limit the utilization of same by capping the number of prison bed days available to each sentencing judge.

That the federal government provide resources to judicial education authorities to support the provision of educational opportunities to enable members of the judiciary to gain a greater understanding and assessment of the relative merits and long term effectiveness of sentencing options.

That the federal government actively support the provision and use of such non-carceral criminal sanctions as probation, suspended sentences, attendance centre, educational and vocational programming or training, therapeutic and self-help services, neighbourhood and community service, restitution, compensation, mediation, and the variety of alternative forms of residentially based treatment and community supervision options -- from halfway or quarterway houses to supported independent living and satellite housing projects.

That the federal government repeal all mandatory minimum sentences and limits for parole eligibility.

That the federal government de-institutionalize as many women in prison as possible, ensuring that all "correctional" resources attached to the incarceration of each woman follow her in to the community for at least the period during which she would have otherwise been in prison. CSC's 1992 figures indicate that the annual cost of incarcerating each federally sentenced woman at the Prison for Women is approximately $92,000, thereby ensuring that the needs of the women,
as well as their respective communities could be met. Therefore, community-based security concerns could be addressed by 24-hour support and supervision if necessary.

That the federal government fund and promote the access of women in prison to legal aid services to address issues related to their conditions of imprisonment and conditional release. This should insure that adequate legal aid coverage is provided throughout the country and/or legal clinics are established specifically for prisoners, preferably staffed by experienced lawyers, as opposed to reliance upon student staffed clinics alone.

That the federal government promote public access to and exposure to prison, with a view to facilitating public education and dispelling myths with respect to the realities of the role, conditions and ineffectiveness of our prisons.

Finally, CAEFS recommends that the Solicitor General publicly release the report of the Commission of Inquiry, immediately upon receipt thereof and that the government develop an action plan in response to the report by April 30, 1996.

This Commission of Inquiry inspired hope amongst prisoners in the Kingston Prison for Women. Knowing that the Inquiry has had little if any impact upon the current practices in other prisons (notably, Burnaby and the Regional Psychiatric Centre in Saskatoon, but also the new Edmonton prison), we are fearful of what the future holds for federally sentenced women now that the work of the Inquiry is finished. Regardless of how progressive the Final Report is, without the political will to implement its recommendations, federally sentenced women will likely not experience any positive changes to their current situational realities.

REFERENCES


In 1970, a Soviet political dissident, poet and civil rights activist was discredited as a "schizophrenic" in a mock trial, convicted of violations of the Soviet criminal code and sentenced to a prison mental hospital. Few Western readers would probably hesitate to question the authenticity of the "diagnosis" or the legitimacy of the subsequent prison sentence. Thus labelled, Natalya Gorbanevskaya spent two years in prison, while the government maintained that her mental condition rendered her irresponsible for her own behavior and accounted for her commitment to working for social justice. Her sentence was mercifully short; those of many other Soviet dissidents, likewise discredited as psychiatric cases, were much longer.

In 1994, an American political dissident, artist and animal rights activist was discredited as a "terrorist" in a mock trial, convicted of Attempted Arson, Possession of Incendiary Devices and Unlawful Use of a Weapon and sentenced to prison. Because of the fear and stigma attached to the word "terrorist", probably few Western readers would question the government's criminalization of Lise Olsen, but would accept the prosecution’s libel as legitimate. Lise Olsen is myself. I bonded out of prison three days before my release date, having completed the entire prison portion of my four year sentence. I was rearrested on the same charges after an Appellate Court decision that determined I had been illegally convicted when the trial judge allowed the prosecution to prejudice the jury against me solely because of my political beliefs.

The Appellate Court made a distinction between being an "activist" and being a "terrorist". However, the mainstream media, the mouthpiece of the state did not make this distinction. Articles written about me, taken directly from the fertile invention of the arresting detective, described a fearsome scenario involving "Molotov cocktails" and "firebombs". While in prison, "Possession of Explosives" was the IDOC computer charge describing me. Yet I have never been accused of, convicted of, nor imprisoned for that charge. IDOC refused to comply with an Appellate Court order to erase the scurrilous nomenclature, and justified its refusal of electronic home monitoring or work release for me based upon the "serious nature of the offense".

The "terrorist" label is as popular in USA 1995 as the "witch" label was in 1692. In a country obsessed by a political agenda of criminalizing the innocent and felonizing misdemeanors by the routine police methodologies of invented confession, perjury, fabrication of evidence and withholding of evidence that would have proved innocence, imprisonment for profit is a foregone conclusion when the word "terrorist" is introduced. Juries, completely unaware of the "imprisonment for profit" growth industry and shielded by the media from knowledge of the same, are manipulated by impressive judicial instructions and unscrupulous and deliberate prosecutorial distortions to render convictions.
In 1992, on the Fourth of July, I attempted to illuminate a huge pro-fur anti-environmental ad leased on a steel railway viaduct with 21 home-made gas-fueled lanterns. The latter were styled after a cross between the Coleman gas camping lantern and a candle, suspended in metal sconces and designed to flame in a Spirit of 1776 festive style for five minutes, melt down and extinguish. Out of the 21, only one worked. No damage was done, nor injury sustained. None was intended. The protest project was to advertise the public's right to know (freedom of information) regarding the environmentally harmful realities of the fur industry.

The action was not covert. Many holiday-makers were about with real explosives; M-80s, Cherry Bombs and the like. Police drove past, not bothering to stop. The billboard was 1½ blocks from a police station. Certainly, they perceived nothing suspicious there. Yet four months later I was arrested for "attempted arson", my fingerprints having been matched to those supposedly expunged from a misdemeanor arrest the previous year when I attempted to rescue cats being experimented on by my employer, Cook County Hospital, and take them to a veterinarian. Only the court order to expunge had not been carried out and the prints remained in police files. Moreover, the FBI had kept a record of the expunged misdemeanor and notified the Chicago police that I might be the infamous lantern culprit.

After 20 months free on bond, I was convicted at a jury trial in which the jury was prejudiced to convict: by having the lanterns presented to them labelled BOMBS in big red letters; judicial instruction to believe the arresting detective as a "credible witness" so that his self-written "confession to making Molotov cocktails" would be perceived as a genuine confession; and by being shown large photos of the lanterns removed by the police from the billboard and placed atop train tracks with a passenger train coming towards them. Both defense and prosecution explosives experts testified that the "devices" were "non-explosives", a fact noted by the Appellate Court in reversing and remanding my conviction. This did not stop the prosecution from denouncing me as a "terrorist" to the jury, although the perjury of the arresting detective was definitely exposed when he stated that in addition to me "confessing" to making "firebombs" I had also "signed a confession to arson" (something I was never even accused of), and then being unable to produce this non-existent "confession".

The words "terrorist" and "bomb" possess tremendous power for conviction, every bit as much as "schizophrenic" did in the Soviet Union in the 1970s. Jealous of the New York City and Oklahoma City bombings, Chicago wishes to claim "terrorist" fame by inventing me as one. This is popular with the public and politicians, unlike the persecution of American political dissidents. One month after the conviction, the FBI, sad to lose a "terrorist" opportunity, decided that I could be their pet scapegoat in a second case that involved some "smokebombs" discovered in some Chicago department stores nine months before, and allegedly "claimed" as the doing of animal rights activists. My fingerprints were not those on the smokebombs. So the FBI tried to criminalize people known to me by obtaining their fingerprints by illegal means - including printing at gunpoint on the
hood of their car and pretending to be investigating a murder. They tried to indict me at two Grand Juries while I was in prison. They tried to bribe my catsitter to enter my apartment, clearly attempting to plant something "incendiary" inside it.

To obviate this case fabrication, my attorney invited (in writing) the FBI to search my apartment under his supervision, tap my phone and give me a polygraph test. Needless to say, they have not availed themselves of this openness since their terrorist invention scam is not a legitimate investigation.

I now face a second "legal" trial on the same case. I have been rearrested and have paid a second bond on it, with this difference: I have now received, as a grant by the Appellate judge, the electronic monitor (house arrest) denied me in prison when it would have counted as part of my sentence. My attorney, a venerable eighty-one with fifty-seven years experience, states he has never seen such a vendetta before, and that the States' Attorney's office "hates" me. He has never before seen them retry a "class two non-violent offender", indeed, they never retry cases less than murder; neither armed robbery nor rape. I live in virtual isolation, unable to even go to the grocery store, an American political prisoner defending my life from the fabrication of being a "terrorist". As if to confirm that States' agenda against me, when I voluntarily entered Chicago's Cook County jail to receive the monitor that verifies my whereabouts at all times and precludes case invention against me, the "arresting offense" was no longer "attempted arson" as it had been in 1992. No. On my ID card, in big printed letters was a single four-lettered word, BOMB.

Thus are terrorists invented as targets of political conspiracy agendas by the time-honoured method of defamation and name-calling. Terrorist or schizophrenic; what's the difference, if it justifies sending a person to prison as a discredited political dissident?
State Criminal Justice Machinery Employed to
Silence Political Dissidents:
The Ongoing Case of Little Rock Reed

Little Rock Reed

It is our belief that Little Rock Reed, a part Lakota man and sundancer who has committed his life to working for the self-determination and the religious rights of the aboriginal peoples of this land, has been targeted by the Ohio government to be imprisoned, and possibly murdered, in order to silence his voice which speaks to the injustices perpetrated on the aboriginal peoples and particularly our men, women and children who are incarcerated throughout this land.

We demand that the government conduct a fair and unbiased investigation into the circumstances relating to the current imprisonment of this man so that he may be free to continue doing the work that Tunkasila has put in his heart to do. If such an investigation is not done, this relative's imprisonment, much like the imprisonment of Leonard Peltier, will stand as a symbol of the injustices meted out by the white man's government against our people who simply wish to live in accordance with the traditional teachings given to us by our grandfathers, and to them by Wakan Tanka, the Creator.

-- Traditional Circle of Elders
Pine Ridge Indian Reservation
September 1994

The above demand, signed by 65 of the traditional leaders of the Oglala Lakota Nation, exemplifies similar demands that were ignored by the governors of New Mexico and Ohio -- demands made by various human rights/prisoners' rights organizations, the National Lawyers Guild, United States Senator Pete Domenici, hundreds of New Mexico and Ohio citizens, and various attorneys and professors throughout the United States and Canada. Because these governors refused to investigate and chose instead to have Little Rock extradited from New Mexico to Ohio, Little Rock fought extradition to Ohio in the New Mexico district court. Following two months of hearings, New Mexico District Court Judge Peggy Nelson ordered Little Rock's immediate release from jail, ruling that he and his attorneys proved beyond a reasonable doubt that the state of Ohio seeks to extradite, imprison and brutalize him for speaking and writing about human rights abuses against prisoners in general and Native prisoners in particular. In her 17 page decision, Judge Nelson declared that Ohio prison and parole officials' pursuit of Little Rock's extradition and imprisonment "... is premised on the desire to silence his voice." In the extradition hearings, Little Rock and his attorneys presented uncontroverted evidence indicating that the Ohio officials violated a long list of laws, including, but not limited to, Ohio and federal constitutional guarantees of freedom of speech, the right to petition the government for redress of grievances, the right to privacy, due process of the law, equal protection of the law, the right to be free from cruel and unusual punishment, and corresponding statutory and administrative laws. Additionally, they violated the New Mexico and Ohio Uniform Criminal Extradition Acts, and committed numerous criminal violations, including conspiracy, coercion, false imprisonment, dereliction of duty, interfering with civil rights, obstruction of justice, tampering with evidence, perjury, and Ohio's Corrupt Activity Act.
Under Ohio law, these last three violations are third degree felonies with severe penalties of imprisonment. Section 2921.11 of the Ohio Revised Code states: "No person, in any official proceeding, shall knowingly make a false statement under oath or affirmation, or knowingly swear or affirm the truth of a false statement previously made, when either statement is material.... Whoever violates this section is guilty of perjury, a felony of the third degree."

Section 2921.12 of the Ohio Revised Code states: "No person, knowing that an official proceeding or investigation is in progress, or is about to be or likely to be instituted, shall ... [m]ake, present or use any record, document, or thing, knowing it to be false and with purpose to mislead a public official who is or may be engaged in such proceeding or investigation, or with purpose to corrupt the outcome of any such proceeding or investigation.... Whoever violates this section is guilty of tampering with evidence, a felony of the third degree."

A violation of the above two laws by public officials constitutes a violation of section 2923.31 of the Ohio Revised Code (the Corrupt Activity Act. Here is how these laws were specifically violated by two of the key players in Ohio's conspiracy against Little Rock:

(1) In a letter to the Taos, New Mexico, District Attorney's Office dated September 27, 1994, Jim Hathaway, an APA case analyst, claimed, among other falsehoods, that Little Rock's extradition was sought primarily because he had charges pending in Kentucky, and that Little Rock had two outstanding warrants for his arrest in Cincinnati, Ohio and Covington, Kentucky, "... verified as active on this date." These claims were proven to be false in the hearings. The proof of falsity came in the form of certified court clerk documents from Cincinnati and Covington. Moreover, according to uncontroverted testimony at the New Mexico hearings, Hathaway acknowledged to the Kentucky court clerk that he knew there was no outstanding warrant at the time he wrote the letter.

(2) APA acting Chief Jill Goldhart, in a sworn statement seeking Little Rock's extradition, stated that Little Rock will be charged with "... failing to report an arrest [while on parole] and involving himself in further criminal activity." The uncontroverted evidence, however, proved that Little Rock had never been arrested while on parole as claimed by Goldhart. Additionally, the evidence established that Little Rock has no pending criminal charges of any kind in Ohio, Kentucky or any other state. Moreover, the evidence indicated that Little Rock has not involved himself in any "further criminal activity", nor did the governor's extradition warrant or its annexed papers contain any facts (much less evidence) supporting this false allegation against Little Rock.

What is striking about this ongoing case is that the New Mexico Attorney General's Office, on behalf of Ohio, has appealed Judge Nelson's decision to the New Mexico Supreme Court, arguing that Ohio officials' criminal and civil violations are "irrelevant." In the appeal brief, the Attorney General admits that "... throughout the evidentiary presentation in these extradition proceedings, [Little Rock] presented considerable evidence concerning his ... mistreatment by Ohio and New Mexico authorities, improper motive and wrongdoing by Ohio corrections and parole personnel, his struggle to urge prisoner issues and the duress which required him to abscond from parole supervision in Ohio."
Immediately following this admission, however, the Attorney General argues that this "considerable evidence" is entirely "irrelevant" because when a state invokes the Extradition Clause of the U.S. Constitution to capture an alleged fugitive, the targeted individual retains no right to present evidence of wrong-doing by the state officials demanding extradition (ironically, this repressive position is fully supported by U.S. Supreme Court precedent regarding extradition proceedings, and is consistent with current U.S. public policy).

Clearly, this case has broad ramifications for social activists across the country, for if Little Rock can be imprisoned and brutalized for demanding government accountability, anyone can.

It is for this reason that we seek our U.S. readers' support. We call upon you to join those of us who demand government accountability in cases like Little Rock's. Today there are more than 200 political prisoners in the United States. The only thing that distinguishes Little Rock's case from all the others is that Little Rock was fortunate enough to have a judge who was willing to review the evidence and rule according to the demands of justice. Unfortunately, without massive public outcry, her decision will in all likelihood be overruled by the higher courts because of the standing policy on interstate extradition which forbids the courts from reviewing evidence of bad faith motives by states demanding extradition of alleged fugitives (this policy is not unlike those of other regimes condemned by the United States).

At this time, Little Rock is being represented by the New Mexico Public Defender's Office in responding to the state's appeal, as he can no longer afford attorneys' fees. His responsive brief is being accompanied by a supporting brief by the National Lawyers Guild (amazingly, organizations such as the American Civil Liberties Union do not support this first amendment case).

Additionally, Little Rock has filed a petition with the Ohio Supreme Court asking that the court order the APA and Ohio Governor Voinovich to cease and desist with their attempts to have Little Rock arrested and extradited. Little Rock does not expect a favorable decision by the Ohio Supreme Court because its members are friends of Governor Voinovich. However, a Columbus, Ohio civil rights attorney has agreed to represent Little Rock in a lawsuit against all these officials for the systematic deprivation of his civil rights. Little Rock says that if he is awarded monetary damages as a result of this lawsuit, whatever is left after paying his debts (legal expenses) will be given to the Center for Advocacy of Human Rights (CAHR) to be used in the battle for prisoners' rights and the rights of Native Americans.

Any donations to help allay the costs of these efforts to obtain justice for Little Rock would be deeply appreciated and are tax deductible if sent to the CAHR. For more information on how you can support these efforts, please write and send a SASE to the CAHR, P.O. Box 880, Ranchos de Taos, NM 87557-0880, or call the CAHR at (505) 751-0197 (the Center cannot return long distance calls direct due to lack of funds).

Thank you for your support.
ENDNOTES

1 This is the first case in U.S. history in which a court of law has given such express recognition to a prisoner as a political prisoner. For a full account of this case, see *Journal of Prisoners on Prisons*, 1993. Vol. 5:1.

2 Little Rock was represented by Taos attorney John Paternoster and Deborah Garlin, president of the Center for Advocacy of Human Rights.