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Transforming Choices: An analysis of the trajectory of women's federal imprisonment as articulated in *Creating Choices* and *A Roadmap to Public Safety*

by

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For my father, whose interest in imprisonment led to mine.

Abstract

This thesis considers two prominent and contemporary documents pertaining to federal women's imprisonment in Canada: *Creating Choices: The Report of the Task Force on Federally Sentenced Women* (1990) and *A Roadmap to Strengthening Public Safety* (2007). I argue that *Creating Choices* is a feminist policy document reflecting the greater political context of post-war social liberalism, which allowed feminists to make claims to equality on the grounds that women as a group, were structurally disadvantaged and discriminated against (Brodie, 2008a, 2008b). Conversely, *Roadmap* employs a gender-neutral law and order discourse; its authors assume that the recommendations they make for the male prisoners can be applied to women and minority groups. I contend that this report is reflective of neoliberalism's emphasis on individual responsibility and self-sufficiency. The current implementation of *Roadmap* marks a shift in the trajectory of women's imprisonment, and signals a political shift in which gender issues are marginalized.

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Chapter 1: Introduction

Female federal prisoners in Canada hold a unique position within the penal system. Representing 6% of admissions to federal prisons in Canada (Public Safety Canada, 2011; Hotton Mahony, 2011), they exist in a criminal justice system designed (largely) for men. Women find themselves incarcerated for reasons different to those of men, and react differently to being incarcerated (Arbour, 1996; Comack, 2006; Faith, 1993; Hannah-Moffat, 2001; Hayman, 2006; Hotton Mahony, 2011; Sapers, 2008, 2009, 2010, 2011; TFFSW, 1990).

A concern for these needs and for the safety of imprisoned women guided the work of the Task Force on Federally Sentenced Women (hereafter, TFFSW), and informed the recommendations made in its 1990 report, *Creating Choices: The Report of the Task Force on Federally Sentenced Women* (hereafter *Creating Choices*). This report is “arguably...the first penal document to espouse a gender responsive correctional alternative” (Hannah-Moffat, 2008, p. 204), and the acceptance of its recommendations by the federal government “established Canada as an international leader in women-centred penalty” (Hannah-Moffat, 2008, p. 195).

Until the implementation of *Creating Choices*, the Correctional Service of Canada (CSC) assumed imprisoned men to be their universal subjects, and thus treated men and women in a similar manner; the needs of the relatively small numbers of women were neglected (Adelberg and Currie, 1987). *Creating Choices* marked a very significant shift in the philosophy underpinning the administration of women’s imprisonment in Canada. It employed a feminist

methodology (Monture-Angus, 2002) and espoused a gender-specific discourse of empowerment and choice; specifically, it articulated five guiding principles for women's imprisonment: empowerment, meaningful and responsible choices, respect and dignity, supportive environment, and shared responsibility (TFFSW, 1990). The TFFSW was also the first instance in which Aboriginal women sat on a penal task force and contributed their perspectives. As such, Aboriginal women were able to define their criminalization, and their needs.

The recommendations made in *Creating Choices* were fully accepted by the Government of Canada in 1990, and the Correctional Service of Canada (CSC) states that this report “remains the driving force behind women's corrections” (CSC, 2011). However, critical criminologists argue that the manner in which CSC has tried to implement the guiding principles has not resulted in the empowerment of prisoners, or the decreased use of “traditional incarceration” (TFFSW, 1990, p. 24). Rather, the CSC has subsequently positioned women prisoners as largely responsible for remedying their inequality, and the institution of the prison continues to punish, albeit under the guise of a “progressive” framework (Hannah-Moffat, 2000, 2001, 2008; Hayman, 2006, 2006; Kendall, 2000, 2002; Kendall and Pollack, 2003; Moore and Hannah-Moffat, 2005; Pollack, 2000, 2005, 2009; Snider, 2003).

Roadmap, written by the Correctional Service of Canada Review Panel (hereafter, CSCRP), on the other hand, was accepted in 2008 under the Harper government and advances the “transformation agenda” which sets out to enhance offender accountability, eliminate drugs in prison, improve correctional programs

and interventions, modernize physical infrastructure, and strengthen community corrections (CSCR, 2007). This document is crucial to analyze because of the transformation of incarceration practices across Canada. The CSCR stated that this agenda should guide the administration of the entire prison population, and the document speaks primarily to this aim. In fact, of the 241 pages that comprise *Roadmap*, only four pages are devoted to a section on “women offenders.” Its discourse is gender-neutral, it advances a law and order agenda, and it aims to rehabilitate prisoners according to neoliberal values (i.e., self-sufficient, productive, and not reliant upon state-aid) (Snider, 2006; Brodie, 2008a, 2008b, Gotell, 2011).

Thus, in terms of federally sentenced women, *Roadmap* marks a significant departure from *Creating Choices*. Howard Sapers, the Correctional Investigator of Canada, has stated his concern with *Roadmap's* approach to women offenders:

Women's corrections is a unique and entirely different category of corrections. It is puzzling that we would continue with a governance and accountability model that appears to make very little separation between male and female corrections (2010, p. 51).

He further notes that this “series of reforms could fundamentally alter federal corrections as we know it” (Sapers, 2010, p. 54) and that “the capacity [of the CSC] to provide safe and humane custody is facing some serious challenges” (p. 54). Jackson and Stewart (2009) criticize the approach of the CSCR for ignoring lessons learned through correctional history, for misusing statistical information, and for advancing recommendations that can jeopardize the human rights of prisoners. Given these criticisms, and the Panel's general inattention to gender

issues, it is necessary to analyze the CSCRP's recommendations as they pertain to federally sentenced women. It is also important to consider how policies for the administration of Canada's federal prisons have changed in their approach to women, as the effects of this policy shift are becoming evident.

For example, as a result of the recommendations made in *Roadmap*, the Government of Canada has proposed legislation to dramatically alter the terms of release. On March 23, 2011, Bill C-59, the "Abolition of Early Parole Act," received Royal Assent (Parliament of Canada, 2011), thereby abolishing the practice of granting parole at one-sixth of a prisoner's sentence (accelerated parole). The consequences of this are already being experienced by non-violent imprisoned women; "that's a hundred women who otherwise would have been able to go directly into the community, be supervised, be reintegrated, are now being held in custody awaiting an appearance before the parole board" (Pate as quoted in Crawford, 2011, p. 1).

Both federally sentenced men and women are being and will be subjected to the changes resulting from the implementation of the Transformation Agenda. However, given that the Transformation Agenda was designed mainly for white men (Groulx, 2009), and that federally sentenced men and women come into contact with the criminal justice system for different reasons (and women in much smaller numbers), and react differently to imprisonment (Arbour, 1996; Comack, 2006; Faith, 1993; Hannah-Moffat, 2001; Hayman, 2006; Sapers, 2008, 2009, 2010), the Transformation Agenda's impact upon federally sentenced women warrants special consideration. Furthermore, the CSCRP's marginalization of

imprisoned women is worthy of consideration for the reason that “gender and gender orders historically have been written into social policy regimes” (Brodie, 2008b, p. 166).

As such, in this thesis I address the trajectory of women’s imprisonment in Canada by comparing the thrusts of these two documents. I specifically compare the methodologies of the Task Force on Federally Sentenced Women (TFFSW, responsible for *Creating Choices*) and the Correctional Service of Canada Review Panel (CSCR, responsible for *Roadmap*); their resulting constructions of the federally sentenced women’s population; and how these factors shape the recommendations advanced for women’s imprisonment. I argue that *Creating Choices* is a feminist policy document in which the greater political context of post-war social liberalism facilitated the conditions in which feminists were able to make claims of equality on the basis that women (and imprisoned women), as a group, were structurally disadvantaged and thus discriminated against (Brodie, 2008a, 2008b).

Conversely, *Roadmap* employs a gender-neutral discourse, and assumes that the recommendations it makes for the white male prisoner population can be equally applied to women and minority groups. It is reflective of a neoliberal political and economic framework in which the “production of the self-reliant citizen became the ultimate goal of government and ultimate achievement of responsible citizen” (Snider, 2006, p. 330). Inequality and marginalization are understood as the results of individual deficits rather than being caused by socio-structural impediments (Harvey, 2007); similarly, issues of gender inequality are

understood in terms of individual shortcomings rather than related to gender, or gender orders (Brodie, 2008a, 2008b). I now turn to a discussion of (federally sentenced) women's socio-economic inequality in Canada to demonstrate the unique circumstances related to women's offending, and the resulting need for gender-specific policymaking.

Federally Sentenced Women: The Need for Specialized Research

Between the reporting years of 2001-02 and 2010-11, the amount of women sentenced to federal jurisdiction grew by 63.4% (Public Safety Canada, 2011). Furthermore, Aboriginal women are now the most rapidly increasing segment of the federal prisoner population (Sapers, 2010, 2011). The proportion of Aboriginal women in this population has increased by approximately 86% since 2001 (Public Safety Canada, 2011; Sapers, 2011). As of 2011, Aboriginal women accounted for 34% of the federal women's prison population (Sapers, 2011), while together, Aboriginal peoples represent 3.8%¹ of the Canadian population (Statistics Canada, 2009).

An overview of the socio-economic situation of women in Canada. The socio-economic status of women in Canada is lower than that of men; as of 2010, women earned 71% of the salary of men (Williams, 2010). Additionally, 23% of single mothers depend on government transfers to support their families, whereas the rate for single fathers in this situation is 9% (Williams, 2010). Moreover, the

¹ Hotton Mahony (2011) states that Aboriginal adults in Canada comprise 3% of the population. She relies on the 2006 Statistics Canada Census figures (which state that Aboriginal peoples comprise 3.8%) but provides insufficient explanation for the difference in her figures. As such, I have relied on the summary of the 2006 Census provided by Statistics Canada (2009).

socio-economic situation of Aboriginal women is worse than that of non-Aboriginal women (O'Donnell and Wallace, 2011).

The secondary education completion rate for Aboriginal women is 65%, whereas 80% of non-Aboriginal women have graduated from secondary school (O'Donnell and Wallace, 2011). Also, the unemployment rate of Aboriginal women (13.5%) is double that of non-Aboriginal women (6.4%), and Aboriginal women's median income is also less than that for non-Aboriginal women (\$15, 654 versus \$20, 640) (O'Donnell and Wallace, 2011). As well, while 30% of Aboriginal women live below the low-income cut-off (LICO), 16% of non-Aboriginal women do (O'Donnell and Wallace, 2011). As well, 3% of non-Aboriginal women derive their income from government transfers, whereas this is the case for 25% of Aboriginal women (O'Donnell and Wallace, 2011).

Aboriginal women also suffer increased rates of victimization when compared to their non-Aboriginal counterparts; 15% of Aboriginal women have experienced spousal violence, whereas 6% of non-Aboriginal women have; and the violence Aboriginal women experience is more severe and life-threatening than that endured by non-Aboriginal women (O'Donnell and Wallace, 2011). Additionally, Aboriginal women experience emotional and/or financial abuse at rates twice those of non-Aboriginal women (O'Donnell and Wallace, 2011). Thus, we can see that Aboriginal women who are overrepresented in the prison system are also experiencing high levels of risk and poverty that impact the reasons they are incarcerated, as well as their experiences of incarceration.

Federally sentenced women in Canada. Women under federal sentence are also more socio-economically disadvantaged than women in the general population (Hotton Mahony, 2011). They are less likely to have completed secondary school and/or to have post-secondary education, less likely to be employed at time of sentencing, and more likely to be single and younger than women in the general population (Hotton Mahony, 2011). Approximately 77% of federally sentenced women are mothers (Sapers, 2011) in which many of them are solely responsible for their families (Sapers, 2010). Furthermore, as Sapers noted in 2010, federally sentenced women have frequently experienced family violence and sexual, physical, and emotional abuse. Specifically, 86% of federally sentenced women have disclosed histories of physical abuse, and 68% have disclosed experiences sexual abuse (Sapers, 2011).

Likewise, 77% of women in federal prison are diagnosed as being dependent upon substances (Sapers, 2011). The number of federally sentenced women with histories of mental health issues (31%), who are admitted to the institution with existing prescriptions for medications (48%), and who are assessed as having mental health needs upon admission (29%) is also increasing (Sapers, 2011); women are approximately twice as likely to have histories of institutionalization for mental health treatment than are men (Sapers, 2010). Almost 50% of federally sentenced women have histories of self-harm (Sapers, 2011); approximately 25% self-harm while incarcerated (Sapers, 2010), and they do so more frequently than males (Sapers, 2010). Unlike male inmates, women

who repeatedly engage in this behaviour have “no dedicated or piloted complex needs program or specialized unit” to address their needs (Sapers, 2011, p. 26).

For comparable offences, women found guilty are less likely to be sentenced to prison than are men, and when sentenced, they are generally given shorter sentences than men. Women convicted of violent crimes are most likely to have used violence against an intimate partner, spouse, or family member, whereas men are most likely to have used violence against acquaintances (Hotton Mahony, 2011). Although Hotton Mahony (2011) reports that there is an increase in women being convicted of violent offenses, she is unable to conclude whether this represents an actual increase in violent behaviour, or a shift in policing procedures and priorities.

It is clear that federally sentenced women land in prison for very different reasons and with very different needs than do their male counterparts. As such, it is necessary that this research analyze where and how *Roadmap's* recommendations diverge from those in *Creating Choices*, in order to consider the CSCRP's failure to address these special needs, and its tendency to marginalize women prisoners. The implementation of the Transformation Agenda also warrants attention, given the current context of penalty in Canada in which it is being realized; this context is one characterized by legislative changes (Sapers, 2011), an increasing prisoner population (Sapers, 2011), prisoners serving larger amounts of their sentences inside than in the past (Public Safety Canada, 2011), and the expansion of current prison facilities to meet the population increases caused by these changes (CSC as cited in Sapers, 2011; Toews, 2010).

This thesis is organized as follows. In Chapter 2, I justify my employment of the methodology of policy document analysis, discuss my choice of these particular documents, and explain my procedure. In Chapter 3, I provide an overview of the literature pertaining to women's imprisonment in Canada, and situate my study relative to this body of work. I also demonstrate the limited amount of academic engagement with *Roadmap*, especially in regard to issues of gender. In Chapter 4, I situate *Creating Choices* and *Roadmap* as consistent with the political contexts in which they emerged. I do so by drawing on Brodie's (2008a, 2008b) argument that the political framework of post-war social liberalism provided the conditions for claims to women's equality to be made and heard at the level of policy, but that a shift to neoliberal political rationalities, and the presumed attainment of gender equality, have led to gender-neutral policy making, as well as to the individualization of social inequality and marginalization. In Chapter 5, I discuss the potential implications of the current trajectory of women's imprisonment in Canada, and directions for future research.

Chapter 2: Methodology

Documentary Analysis

Introduction

The attention given to documentary analysis within qualitative methodology and the social sciences has been limited (Prior, 2007; Saarinen, 2008). This is unfortunate given that, as Gibson and Brown (2009) note, documents are part of everyday social life, and can serve as rich sources of data for social researchers. Prior (2007) argues that a clear definition of a “document” is impossible inasmuch as documents include not only those that contain text, but also those containing other artifacts such as “architectural drawings, books, paintings, gravestone inscriptions, film, World Wide Web pages, bus tickets, shopping lists, and tapestries” (p. 346). Gibson and Brown (2009) agree with Prior’s definition; they understand documents to be “any [...] record of social practice” (p. 1).

For the purposes of this project, I am concerned with analyzing policy documents, particularly *Creating Choices: The Report of the Task Force on Federally Sentenced Women* (1990) and *A Roadmap to Strengthening Public Safety: Report of the Correctional Service Review Panel* (2007), in order to answer my research questions: “What is the trajectory of women’s imprisonment in Canada? Specifically, how do two major documents of Canadian federal prison reform/re-organization frame the regime of women’s federal imprisonment in Canada?”

Given my interest in understanding the divergence and similarities of the recommendations contained in these documents, one of which was written 22 years ago and one five years ago, documentary analysis is the most appropriate method for this research project. This is true for the following reasons:

- This method is particularly relevant to research endeavours that are concerned with historical matters (in which there can be limited data sources from which researchers can select).
- It is appropriate for projects in which the researcher seeks to analyze contemporary practices in which access, in this instance, to prisons and/or interview participants, could be problematic (Gibson and Brown, 2009).

Approaches to Using Documents

Gibson and Brown (2009) categorize documentary analysis as either “analytically focused” or “analytically filtered” (p. 1). The former refers to a research process in which research participants and/or the researcher create documents specific to the research question (e.g., diaries, photographs, etc). However, this research project specifically employs the “analytically filtered” approach. This framework employs documents that preexist the undertaking of the research in question—it does “not generate data, but select[s] or *filter[s]* data according to their relevance to the research problem” (p. 2).

Data Selection. This study analyzes *Creating Choices* (1990) and *Roadmap* (2007) because these two documents pertain to the administration of federally sentenced women’s imprisonment in Canada. CSC states that these documents guide its approach to (women’s) imprisonment (CSC, 2009, 2011,

2012). Both documents were made with the specific aim of reshaping Canadian imprisonment and were accepted in full by the Government of Canada (CSC, 2011; Jackson and Stewart, 2009).

As will be discussed in the literature review (Chapter 3), historically in Canada, many recommendations for women's imprisonment have been made, but few have been implemented (Hayman, 2006). As such, the fact that the recommendations contained in *Creating Choices* and *Roadmap* have been/are being implemented makes these documents especially worthy of attention. Prior (2007) states that documents are "receptacles of content" (Prior, 2007) as they give insight into what is being "heard" (Snider, 2003) at the level of policy. They are also "agents" inasmuch as they can be used to motivate action (Prior, 2007), and are made for this very purpose (Hodder, 2002). That the recommendations contained in these documents have been/are being implemented also demonstrates that they have served as catalysts for change.

Given its important place within the literature regarding women's imprisonment, *Creating Choices* (1990) provides a very useful framework against which the subsequent trajectory of women's imprisonment can be compared. The research undertaken by the TFFSW was the most intensive government initiative addressing women's imprisonment in Canada (Hayman, 2006). This report has been cited as being "progressive" (CSC, 2007; Sapers, 2010), and as having employed a feminist approach (Comack, 2006; Hannah-Moffat, 2008; Hayman, 2006; Monture-Angus, 2002). Monture-Angus (2002) states that *Creating*

Choices is the measure against which other reform initiatives for women's imprisonment must be compared.

Creating Choices is distinct inasmuch as it amassed data pertaining to federally sentenced women that was unknown at that point (e.g., that which pertained to Aboriginal women) (Adelberg and Currie, 1993; Hayman, 2006, TFFSW, 1990), and was the first correctional inquiry to consider the relationship between socio-economic factors and criminalization (Hayman, 2006). As well, the TFFSW specifically acknowledged the significance of culture and ethnicity (principally Aboriginal) within the prison environment (Hayman, 2006).

The TFFSW was characterized by a partnership between the voluntary sector and the government, which was rare for correctional initiatives at that time (Hayman, 2006). The implementation of the recommendations led to the closure of the Prison for Women (P4W) in 2000 (a measure most inquiries and reports had called for since its opening in 1934) (Hayman, 2006). Hayman (2006, p. 256-7) states that the most salient result of the TFFSW's work and its report is that "the rigour with which the Task Force pursued its program of research into federally sentenced women has ensured that those women will never again be so anonymous to those responsible for their care" (256-7). As *Creating Choices* represented an important shift in the administration of women's federal imprisonment in Canada, it is a useful framework against which to analyse *Roadmap*.

Roadmap, published in 2007, provides a timely basis for comparison; inasmuch as it is a document written for both men's and women's imprisonment,

it signals a divergence from the philosophy of *Creating Choices*. Its gender-neutral framework also raises the question as to whether the approach of the CSCRP represents a return to the “add women and stir approach” (Comack, 2006), in which approaches designed for men are applied to women, and the needs of federally sentenced women are secondary to those of the larger male population. This is a method that has been discredited in Canada (Arbour, 1996; McMillan and Granger-Brown, 2011; TFFSW, 1990).

Analyzing Policy Documents: Goals and Opportunities

Saarinen (2008) states that the process of analyzing policy documents is a method that can reveal the policy issues that have (and those which have not) captured the attention of policy actors at a given time, as well as those that are being acted upon. The result is that policy actors foreground problems, simultaneously narrowing the space for alternative views. And, by doing so, they also perpetuate certain political views of social reality. The goal in analyzing policy documents is not to evaluate the implementation of the recommendations contained in said documents, but to examine the political priorities manifested in them. As Saarinen (2008) explains:

Why bother with texts? Are not policy acts more significant in the policy arena? The answer is simply that texts form the way in which we see the world, and the uses of policy texts lead to a chain of operationalisations that have an effect on the world. Policy discourse describes, conceptualizes and creates actions in the world (p. 725).

As such, by analyzing the recommendations made in *Creating Choices* and *Roadmap*, it is possible to gain insight into the ways in which federally sentenced women are conceptualized within policy discourse, and the divergence between

the approaches to imprisonment contained in these two documents. Furthermore, the analysis of policy documents can “make visible policy processes, their development and the values and power relations behind them” (p. 725).

Unlike other forms of textual and/or content analysis, the methodology I employ in this project is not one in which the frequencies of specific words are calculated (see further Prior, 2008). Instead, like Saarinen (2008), I consider language to be a technology which makes possible the creation of, and which maintains, various social structures, institutions, and procedures. As such, I consider the recommendations (which entailed various concepts) made within these two documents under the broad themes of how the female offender is understood (not in terms of her lived experience, but rather how she is figured in these policies), and how this understanding structures the recommendations for her imprisonment. I am then able to compare and contrast the recommendations (and thus directions) for imprisonment espoused in the documents.

Through my analysis I am also able to compare the composition of the committees charged with undertaking the mandates, the ways in which they realized their mandates, and their resulting recommendations. Saarinen (2008) states that this form of analysis can make evident policy trends, allow for the identification and description of various policies processes, and be useful in comprehending some of the contingencies in which some policies come to be implemented.

Benefits of Using Documents

There are various advantages to using documents as research material. Documents are unaltered by the research process and by time, and can provide

historical insight (Appleton and Cowley, 1997; Gibson and Brown, 2009; Hodder, 2002). Inasmuch as *Creating Choices* and *Roadmap* were public government documents, I was able to access this data easily, unobtrusively, and with no monetary costs (Appleton and Cowley, 1997; Hodder, 2002). Appleton and Cowley (1997) state that an advantage to using documents is that the researcher is not able to influence (unintentionally or not) the participants through this process, as can be the case when interviewing participants. As well, the information gained through analyzing texts can differ from that obtained through interviewing, for example, the authors of these texts (Hodder, 2002). However, a researcher's bias can still be present in his or her interpretation of the documentary data.

As such, researchers, to the best of their ability, must depict the material as objectively as possible, and must be attuned to subtleties in meaning when selecting and analyzing the data (Bowen, 2009). I have kept in mind my preexisting biases as pertains to this work. My biases include a critical disposition toward the criminal justice system, and toward the Harper Government and its law-and-order platform. Given my undergraduate training, I also generally consider criminalized women along the "victim-offender continuum" (Comack, 2006).

Given these biases, I know that I am likely to interpret the work of the TFFSW more favourably than that of the CSCRP inasmuch as the TFFSW stated that it was working in the best interests of imprisoned women, whereas the CSCRP aimed to overhaul CSC's business operations in the interest of efficiency. However, as I have progressed through this research process, I have realized that

it is not relevant whether the statements made in regard to imprisoned women are “accurate” (Silverman, 2000), but whether these statements are “heard” (Snider, 2003) by policymakers, who then design policy accordingly. During this research process, it has been helpful to be cognizant of Hodder’s (2002) statement that documents “are written to do something” (p. 267).

Appleton and Cowley (1997) suggest that the authors of documents are not likely to assume that their work will be used as data in future research projects. However, authors of public documents, especially if they are advancing controversial viewpoints, are usually aware that their work will be subject to academic and public scrutiny. Given the politicized nature of the advocacy and academic work regarding P4W prior to the creation of the TFFSW, it is likely that the authors of *Creating Choices* could have anticipated that their work would be subject to academic analysis. However, whether this influenced the work of the TFFSW is unknown. On the other hand, the CSCRP’s mandate to assess the CSC’s business operations was not informed by a pre-existing dialogue in the academic and voluntary sectors, as was that of the TFFSW.

Disadvantages of Using Documents

Conversely, there are disadvantages to using documents as data sources. The process of preparing the material to be analyzed can be very time-consuming (Appleton and Cowley, 1997; Gibson and Brown, 2009). Also, Appleton and Cowley (1997) highlight the fact that the information contained in documents can be limited, incomplete, and/or erroneous. However, this possible disadvantage does not apply in the case of my study, given that I am not concerned with the

accuracy of the statements made in these reports, but rather that these statements have been/are accepted as “true” by the Government of Canada (as demonstrated by the acceptance and implementation of the recommendations made in both documents).

However, a possible disadvantage to analyzing the documents as I have is that there is a delay between when the documents were published, and when the policies they recommended were implemented. Consequently, what is contained in the documents may not reflect what is happening at the level of practice at the present time. As well, the institution of imprisonment is so hidden from the public view that what is written in the documents could be very different than what is occurring at the level of practice. In order to mitigate these limitations, these documents were used to analyze the trajectory of women’s federal imprisonment at the level of policy.

Procedure

My research procedure has followed Appleton and Cowley’s (1997) three steps for analyzing documents. First, I read through the documents in order to become familiar with their general theories. Gibson and Brown (2009) provide a list of questions to consider when becoming familiar with the selected documents. Specific to this research project were the following:

- When was the document produced?
- How long did the document take to be produced?
- How does that timing relate to other key events?
- What is the document for?

- Why was it produced when it was?
- Does/did the document achieve its aims?
- Who is the document for? (p. 7)

The answers to these questions inform my main analysis as I argue that these factors influenced the recommendations that the Task Force and the CSCRP developed.

Second, I performed what Appleton and Cowley call a “simple sort” (p. 1012). This entails making the distinction between pertinent and negligible data, which reduces the amount of data that forms the basis for the main analysis. I was specifically interested in statements relating to how the offender was conceived by the committees, and the recommendations made for the administration of imprisonment; recommendations for community corrections and/or community programs were excluded in this study.

The third step described by Appleton and Cowley (1997) is the “development of the criteria for critique” (p. 1012); in this instance, the criteria I used to assess the recommendations centred around the following questions: How did the committees collect data? With whom did they consult? What were their mandates? In asking these questions, I was able to understand and analyze how these committees arrived at their versions of the “reality” of the federally sentenced women’s population, and the recommendations developed on this basis. Prior (2007) states that employing an approach which analyses the “building blocks” of a particular document (such as the composition of the committees, their specific mandates, and their research methodologies) can, at times, “reveal

more than the document itself” (p. 346). As such, this process produced a nuanced understanding of the recommendations contained in these documents. This allowed me to compare the two visions of women’s imprisonment, as outlined in these documents.

Chapter 3: Literature Review

Introduction

This section highlights the numerous Canadian commissions and inquiries that addressed the situation of federally sentenced women, and that preceded *Creating Choices*. It examines how federally sentenced women were described in the academic literature prior to *Creating Choices*, and how *Creating Choices* remained aligned with the feminist academic literature preceding it. This chapter also provides a general overview of the literature surrounding the implementation of *Creating Choices*, as well as the literature that addresses *Roadmap*. This review is helpful to understand the uniqueness of *Creating Choices*, and confirms the dearth of literature pertaining to the Transformation Agenda generally, and specifically in regard to its application to women's imprisonment.

There have been detailed historical accounts of the rise of the prison as a tool for social control in Western Europe and the United States (Cohen, 1985; Foucault, 1975; Ignatieff, 1978; Rothman, 1990), as well as accounts which specifically focus on histories of women's imprisonment in Britain (Zedner, 1991), Canada (Hannah-Moffat, 2001; Hayman, 2006), and the United States (Freedman, 1981; Rafter, 1990). Pertinent to this project is the fact that although women's imprisonment in Canada was often discussed at the policy level, it never made it past that discussion stage, and as a result changes rarely occurred.

Inquiries and Reports Pertaining to Federally Sentenced Women in Canada

It is important to understand that many reports preceding *Creating Choices* had called for the reform of the ways in which federally sentenced women were imprisoned. Most saliently, the closure of the Prison for Women

(P4W) was often recommended, but not acted upon by the Government. As such, the eventual closure, stemming from the TFFSW's report, was the result of social and political contingencies, not simply the recommendations contained within *Creating Choices*.

In *Imprisoning Our Sisters* (2006), Hayman argues that the P4W, which opened in 1934, was always mentioned in correctional inquiries and reports, but almost all of those mentions were “within the context of discussing federal imprisonment as a whole rather than focusing solely on women” (p. 20). As P4W was located in Kingston, Ontario, and was the only federal women's facility, women sentenced there were often geographically isolated from their home communities, an inequity men were not subjected to given their higher population numbers and the greater numbers of male prisons. The question of whether a central facility should remain in operation was addressed in many of the recommendations contained in these inquiries and reports. However, the state, citing economic reasons, mostly dismissed the resultant proposals (Cooper, 1987; Hayman, 2006).

Women's imprisonment in Canada has been a matter of public debate since the seventeenth century. Between then and the twentieth century, records show that imprisoned women were regarded as either “poor or unfortunate” or “lazy and worthless” (Cooper, 1987, p. 127). During this time period, they were also housed in locations convenient to the needs of the larger men's federal prison population and were made to do work which benefited this larger population (e.g., seamstress labour for male prisoners) (Cooper, 1987).

Cooper (1987) describes 1913 to 1933 as “the winds of change” for federal women’s imprisonment, “In 1913, after sixty-five years of recommendations for adequate accommodation for the women, the female prison was finally erected in a new location within the penitentiary walls” (p. 133). One year later, the Royal Commission on Penitentiaries (1914) stated that women under federal sentence should serve their time in close proximity to their places of residence. This recommendation was rejected because the women’s unit (within the walls of Kingston Penitentiary (KP)) had just been built (Cooper, 1987; Hayman, 2006).

In 1921, the Nickle Commission was charged with “investigat[ing] the state of management of the female prison” (Cooper, 1987, p. 133). As such, it was the first inquiry to focus exclusively on imprisoned women. This Commission condemned the treatment of prisoners within the women’s prison (Cooper, 1987; Hayman, 2006) and recommended that a new women’s institution be erected outside of KP grounds. As a result, construction of what was to be P4W began across the street from KP in 1925 (Cooper, 1987). Prior to its official opening for women in 1934, it was used for two years to house male prisoners from KP (Hayman, 2006). When it did open its doors to female prisoners, the physical conditions were of poorer quality than the inmates had previously experienced (Cooper, 1987).

The Archambault Commission of 1938 recommended that P4W be closed, and that women be returned to their home provinces to serve their sentences (Cooper, 1987; Hayman, 2006). Although the federal government entertained this

recommendation, it declined to provide funding to the provinces in order to house its prisoners. As a result, this proposal was not implemented (Cooper, 1987). The Fauteux Committee of 1956 again recommended the closure of P4W, but again, fiscal support was not provided and this recommendation was not realized (Cooper, 1987).

The Royal Commission on the Status of Women in 1970 brought attention to the unequal programming and lack of appropriate services experienced by imprisoned Aboriginal and francophone women (Hayman, 2006). The MacGuigan Report of 1977 denounced both the physical conditions of P4W and its failure to rehabilitate its inmates (Cooper, 1987). Also in 1977, the National Advisory Committee on the Female Offender produced its report (known as the Clark Report), which once again recommended that P4W be closed (Hayman, 2006). To address the proposals made in the Clark report, the National Planning Committee on the Female Offender was convened. In turn, this committee released the Needham Report (1978), which recommended that two regional centres replace the P4W (Hayman, 2006). At the same time as the Needham Report was released, the Chinnery Committee also stated that P4W should be closed. However, the Government did not implement these recommendations, and more reports were written regarding this situation (Hayman, 2006).

During the 1980s the imprisonment of and conditions in which federally sentenced women were imprisoned became a “status of women” issue (Adelberg, 1985, p. 3; Elliot and Morris, 1987, p. 146). As such, 1980 saw the Women for Justice (a group of feminist activists, scholars, and prison reformers) laid a

complaint with the Canadian Human Rights Commission (CHRC) against the CSC on the grounds that women housed in P4W were discriminated against based on their sex. The ruling was issued in 1981. Nine of the eleven charges were upheld, but no significant changes occurred at P4W (Berzins and Hayes, 1987; Hannah-Moffat, 2001).

In 1981, the Canadian Association of Elizabeth Fry Societies produced yet another report urging the closure of P4W (Hayman, 2006). The Canadian Bar Association, in 1988, advocated that policy be created to initiate P4W's closure. Also in 1988, The Daubney Committee was mandated to assess the criminal justice system and its various sentencing options. It concluded that P4W should be closed within a period of five years, and that a task force be formed to oversee this (Hayman, 2006). Although the Task Force on Federally Sentenced Women was formed in 1989, it insisted that it was not established as a direct response to the Daubney Committee's recommendations mentioned above (Hayman, 2006; TFFSW, 1990).

Adelberg (1985) and Adelberg and Currie (1987) describe the 1980s as a turning point in Canadian women's imprisonment, where there finally existed political will to address the situation of federally sentenced women. Just prior to the publication of *Creating Choices*, much of the feminist criminological literature concerning women's imprisonment in Canada argued that most imprisoned women offended as a result of their marginalized social position (Adelberg and Currie, 1987). Criminalized women were understood in this literature to be women living in a patriarchal society who were typically

undereducated, young, and socio-economically deprived, and who had suffered physical/sexual/emotional abuse as both children and adults (Adelberg, 1985; Adelberg and Currie, 1987; Johnson, 1987; Cooper, 1987; Elliot and Morris, 1987; Berzins and Hayes, 1987). As such, these authors stated that imprisoned women had much more in common with marginalized women on the outside than they did with federally sentenced men on the inside, and that “many women offenders [were] at the same time victims” (Johnson, 1987, p. 43).

Implementation of *Creating Choices*²

As discussed above, various committees and task forces called for the closure of P4W, but it was not until the TFFSW made its recommendations that the government finally acted, and closed the prison. The P4W closed in 2000, five years after the first regional centre opened in Edmonton, Alberta (Hayman, 2006). Although the government accepted in their entirety all of the recommendations made in *Creating Choices*, the report’s implementation and translation into practice by CSC did not reflect the intentions of its feminist authors (Hannah-Moffat, 2000, 2001, 2008; Hayman, 2006; Kendall, 2000, 2002; Kendall and Pollack, 2003; Moore and Hannah-Moffat, 2005; Pollack, 2000, 2005, 2009; Snider, 2003). As Hogeveen and Woolford (2006) contend:

Despite reformist or transformative intentions, critical programs placed under the aegis of a system designed to buttress oppression are invariably altered, if not inverted. They are no longer *challenges to* the system; they are now *part of* the system. Thus,

² Many critical criminologists have analyzed the disjuncture between the principles for women’s imprisonment as articulated by the TFFSW and CSC’s subsequent implementation. See for example: Hannah-Moffat, 2000, 2001, 2008; Hayman, 2006; Kendall, 2000, 2002; Kendall and Pollack, 2003; Pollack, 2000, 2005, 2009; Snider, 2003 for a detailed analysis as the purpose of this thesis is to analyze the thrust of these documents, and not their subsequent implementations.

ostensibly critical programs often fall short of just intentions because they are implanted into an alien body and translated according to its finite logic (p. 691).

Therefore, following the logic of Hogeveen and Woolford (2006), despite the good intentions of the TFFSW, and the fact that its recommendations were accepted in full, an authentic implementation of its program would have been inconsistent with the overarching logic of the existing criminal justice system. As such, the cooptation and subsequent distortion of the Task Force's recommendations by CSC is unsurprising given its difference from traditional approaches to imprisonment.

Hayman (2006), too, agrees that the criminal justice system resists reforms that call for a lessening of its role. However, she also stipulates that well-intentioned reformers should not cease their efforts, that it is this "translation" (Hogeveen and Woolford, 2006, p. 691) of just intentions that should be guarded against; "it is the incorporation and distortion of benevolence within the larger correctional agenda that should be resisted" (p. 253). Specific to imprisonment, Hayman (2006) contends that reforms, critical of the system or not, are fated to fail, "because the basic premise of imprisonment—that you can coerce people into being good by depriving them of their liberty and imposing change upon them—is fatally flawed" (p. 258). However, by providing what it believed to be choices that women would both want to, and be able to, engage with, the TFFSW attempted to create a document that could exist in this tension.

Specifically, the TFFSW made its recommendations based on members' perceptions that federally sentenced women have high needs and present a low

risk. This perspective, which was consistent with feminist criminology, regarded women offenders “as women first, offenders second...[and] highlighted the reactive and trivial nature of female crime” (Snider, 2003, p. 370). However, when translated into practice, this conception of female offenders did not lessen the punishment levied against them, but instead caused other forms of punishment—under the guise of addressing women’s particular needs—to be employed by the prison (Snider, 2003). This conception of imprisoned women as “homogeneous, passive, victimized” and as all having similar problems, made it so that the TFFSW could not adequately address the needs of imprisoned women who did not fit this archetype (Hayman, 2006, p. 251). Thus, as Hayman (2006) argues, CSC, not the TFFSW was left to define and design responses for women who stood outside of the low-risk/high-need paradigm.

Women’s Imprisonment Under and After *Creating Choices*

As mentioned above, CSC translated the TFFSW’s guiding principles in ways that contradicted the reformers’ intentions. Although the principles were underpinned by issues of social inequality, marginalization, and power differentials between men and women as groups, when implemented, the principles became primarily focused on women’s individual responsibility to self-improve, and less on social issues impacting their everyday lives (Hannah-Moffat, 2000, 2001, 2008; Hayman, 2006; Moore and Hannah-Moffat, 2005). Although the implementation of the Task Force’s recommendations by CSC diverge from the original thrust of the documents, this document is still relevant inasmuch as

“CSC remains publicly committed to the report’s principles” (Hayman, 2006, p. 238).

The problems associated with the implementation of *Creating Choices*, are consistent with Snider’s (2006) assertion that feminist knowledge and critique, specific to the criminal justice system, is received, taken up, and translated by the government and its agencies according to neoliberal rationalities. Suggestions for reform that maintain the status quo for dominant groups are more likely to be “heard” (Snider, 2003, 2006). On the other hand, suggestions that call for redistributing “income, power, [and] prestige” (Snider, 2006, p. 310) are not well received by those in power. Specific to *Creating Choices*, Hayman (2006) criticizes the CSC for adopting and translating feminist and Aboriginal discourses to suit its own needs without necessarily advancing the feminist or Aboriginal causes.

Hannah-Moffat (2000) argues that CSC has changed the meaning and purposes of the principles of empowerment and shared responsibility to suit its needs, and which are compatible with neoliberal forms of governing. This, in turn, maintains power relations as they were/are; in respect to empowerment:

The difference is that the Correctional Service of Canada sees empowerment as linked to *responsibility* not relations of power. Corrections, [...] seeks to make the offender accountable and responsible for their criminal behaviours, irrespective of structural or situational limitations [...] this individualist approach contradicts feminist approaches, which place the woman’s actions into a wider social, political, and economic context (Hannah-Moffat, 2000, p. 525).

Consistent with a neoliberal framework is the assumption that an individual is a “rational, free, responsible and prudent consumer who is capable of minimizing

and managing risk” (Hannah-Moffat, 2000, p. 511). As such, the result of the implementation of *Creating Choices* is very different from its calls for the redistribution of social power, and for the consideration of the relationship between marginalization and crime.

The trajectory of contemporary imprisonment in Canada, relative to other countries, has also been addressed. For example, Moore and Hannah-Moffat (2005) analyze the “punitive turn” thesis dominant in contemporary criminology specific to provincial imprisonment in Ontario, and the federal system generally. This thesis posits that Western penal systems (led by the US) are entering a phase where the penal system is becoming more punitive, while simultaneously abandoning the ideal of rehabilitation (Pratt et. al, 2005). However, this is not the case in Canada. Although the Ontario justice system has embraced a “tough-on-crime” approach, characterized by “the creation of mega-jails, boot camps, private prisons, and work gangs,” it has done so not at the expense of rehabilitation efforts, but in concert with them (Moore and Hannah-Moffat, 2005, p. 88). As will be discussed in Chapter 4, the Transformation Agenda frames punitive measures as means to achieve offenders’ rehabilitation.

The rhetoric of federal imprisonment is very much rehabilitation centred. CSC emphasizes gender and culturally sensitive rehabilitation programming. This, however, obfuscates the reality of the situation: “therapeutic discourses and practices are also punitive. The Canadian criminal justice system operates under the liberal veil of the free subject who makes her or his own choices” (Moore and Hannah-Moffat, 2005, p. 86). By its very nature, imprisonment entails the

deprivation of liberty. As such, prisoners do not necessarily participate in rehabilitative programs of their own volition, but do so knowing that non-participation will negatively affect their chances of being granted parole (Hayman, 2006; Moore and Hannah-Moffat, 2005).

Moore and Hannah-Moffat (2005) challenge the assumed notion that being punitive only occurs when the site of punishment is the body. They argue instead “that liberal initiatives within a penal system—in particular, therapeutic initiatives such as those found in Canadian prisons—are also punitive and sometimes cruel” (2005, p. 96). As such, while *Creating Choices* appears to offer a “healing” approach to rehabilitation, CSC still levies these approaches as punishment, albeit under a different form.

Hannah-Moffat (2008) focuses on CSC’s purported gender-sensitive programming that is currently characterized by a focus on risk, need, and responsivity (RNR)³. Simply put, the RNR approach “identifies the risk-need factors associated with recidivism (for example, criminogenic needs) and matches offenders to ‘evidence-based’ programmes designed to target these needs, with the aim of lessening the likelihood of re-offending” (p. 193). However, this model has been primarily designed for a male treatment population:

The vast research literature on RNR has only recently considered the implications of this model for women and, to a lesser extent, ethno-cultural and racialised groups. Feminist scholars have

³ Under the RNR model, risk is based on the notion that offending is predictable and thus rehabilitation programs can be properly suited to needs. Within this model, emphasis is placed upon addressing criminogenic needs (defined as those statistically correlated to reoffending). The responsivity principle stipulates that treatment should be delivered in a manner that will maximize its effectiveness, “consistent with the ability and learning style of the offender” (Hannah-Moffat, 2008, p. 196).

offered strong theoretical and empirical critiques of the RNR model for failing to attend to gender differences (p. 193).

Beginning with *Creating Choices*, which understands risk in the context of socio-economic factors, Hannah-Moffat (2008) analyzes the direction of programming in women's federal imprisonment in Canada.

She uses CSC's 2004 version of its "Program Strategy for Federally Sentenced Women Offenders" (the original version was published in 1994) to argue that the trajectory of women's corrections is one based on a prioritization of effectiveness and efficiency (understood as non-recidivism by offenders). She argues that this strategy, which advocates applying RNR approaches (generally used for the male population) to women, represents a departure from a feminist and holistic understanding of women's offending to one which "hierarchically isolate[s] and treat[s] primarily criminogenic needs" (Hannah-Moffat, 2008, p. 204).

Within this model, men are figured as the universal subject, and gender (as "woman") is only considered during the last stage of assessment. The assessment tools used to determine a prisoner's level of risk (R) and need (N) seem to be gender-neutral, but in fact reflect masculine traits. Gender is only considered in terms of responsivity (R): for CSC, it is "not central to risk-need assessment (crucial to identifying programmes and their content)" (Hannah-Moffat, 2008, p. 205). The result is that "gendered concerns are compartmentalized, de-legitimated and only superficially addressed" (Hannah-Moffat, 2008, p. 205). This is also the case for issues of race, culture, and ethnicity (Hannah-Moffat, 2008). This model, however, operates on the premise that the principle of responsivity can be

achieved only if the principles of risk and need are addressed properly. As such, feminist understandings of women's offending and needs are incompatible with the RNR approach that currently dominates federal prison programming (Hannah-Moffat, 2008).

Roadmap

There has been limited academic and voluntary sector engagement with *Roadmap* and/or the transformation agenda. Groulx's (2009) M.A. thesis analyzes this report; he concludes that *Roadmap's* recommendations suggest the simultaneous repression and responsabilization of prisoners in order to garner their rehabilitation. To discuss how the Transformation Agenda will affect prisoners, Groulx (2009) employs Foucault's argument that political rule is established and maintained by deploying discipline, governance, and sovereignty. Groulx (2009), however, performs his analysis with the "typical male prisoner" in mind.

Jackson and Stewart (2009) critically assess the potential ramifications of this agenda from a legal and human rights standpoint; they criticize *Roadmap* and the government's acceptance of its recommendations inasmuch as: a) the recommendations have not been subject to analysis by academics, public policymakers and/or analysts, or the voluntary sector; b) the CSCRIP does not consider the history of Canadian imprisonment or reform; c) the report's "tough on crime" ideology is presented as adequate justification for amendments to public policy; d) given the rushed nature of the mandate, and CSCRIP's lack of knowledge relative to its subject matter, *Roadmap's* analysis and recommendations lack an engagement with "well documented correctional

history, human rights considerations and an understanding of the relevant law” (p. iv).

My research aims to address this dearth of literature concerning the Transformation Agenda, especially in regard to its application to federally sentenced women. By comparing the therapeutic and healing approach espoused by *Creating Choices* to the explicitly coercive approach contained in *Roadmap*, this project will analyze the thrust of these documents, the political context in which they emerged, and the current “woman of policy discourse” (Snider, 2003).

Chapter 4: Main Analysis

Creating Choices as a Product of the Post-Welfare State

Since the mid-1980s, gender has been progressively erased from the policy agendas of advanced democracies, especially those that have embraced the central tenets of neoliberal governance (Brodie, 2008b, p. 149).

Introduction

This chapter will compare the methodologies of the Task Force on Federally Sentenced Women (TFFSW, responsible for *Creating Choices*), and the Correctional Service of Canada Review Panel (CSCRCP, responsible for *Roadmap*), their resulting constructions of the federally sentenced women's population, and how this shapes the recommendations advanced for women's imprisonment. I argue that *Creating Choices* is a feminist policy document that reflects the greater political context of post-war social liberalism (Brodie, 2008a, 2008b) and "heightened social movement activism, when a number of social groups—including women, ethnocultural and racialized minorities, queers, and Aboriginal peoples—were embracing a progressive identitarian politics and calling for meaningful political recognition and the extension of social rights" (Patten, 2012, p. 108).

Conversely, *Roadmap* employs a gender-neutral discourse, and assumes that the recommendations it makes for the male prisoner population can be applied to women and minority groups. It is reflective of a neoliberal political and economic framework in which the "production of the self-reliant citizen became the ultimate goal of government and ultimate achievement of responsible citizen" (Snider, 2006, p. 330). The CSCRCP stipulates an approach to rehabilitation that is explicitly punitive in nature, in order to compel offenders to be responsible and

accountable (i.e., amenable to their correctional plan). The CSCRP believes that a key objective of a prison sentence is to make prisoners (more) employable so that they can find work when they are released. Inequality and marginalization are understood as the result of individual shortcomings, not socio-structural impediments (Harvey, 2007); thus, issues of gender inequality are understood in terms of individual shortcomings rather than related to power differentials between social groups.

Post-War Social Liberalism and Claims to Equality

Brodie (2008b) asserts that in the Canadian political context, the central tenets of second wave feminism were very much tied to, and made possible by, post-war social liberalism. Although the welfare state was inequitable for women, its structure made it so that feminists could bring meaningful attention to this discrimination. To varying degrees, these tenets continue to be politically present and thus provide an alternative to neoliberal conceptions of citizenship.

The three overarching tenets of the post-war welfare state were that the government should regulate the economic market to prevent financial and political volatility, the government should focus on issues of social equality for its citizens, and avenues should be available for people to “make claim to a measure of equality, social security, and collective provision as a right of citizenship” (Brodie, 2008b, p. 150). However, the earliest form of the welfare state in Canada was based on the model of the male-earning nuclear family. Women were not understood politically as a social group unto themselves, but as “wives,

mothers, and widows”—their concerns were understood in terms of their heterosexual families’ needs (Brodie, 2008b, p. 150).

The entitlements of “full citizenship” were based on full-time participation in the workforce (Brodie, 2008, p. 150). The conceptualization of women as wives and mothers also served to position women as financially reliant upon their husbands, families, and/or the state (Brodie, 2008a, 2008b; Ilcan, 2009; Minaker and Snider, 2006). For women dependent on the state, social assistance entailed “surveillance, conditionality, social stigma, and low levels of compensation” (Brodie, 2008a, p. 168). The fact that welfare policies presumed that women were financially provided for by their male spouses provided feminist academics and advocates the space in which to analyze and enunciate the ways in which these policies were discriminatory, and how “many poor, unmarried, lesbian and minority women who rarely had the luxury of private dependency on a male breadwinner” were disproportionately affected (Brodie, 2008b, p. 151).⁴

Feminist Scholarship and Activism: Influences on the Criminal Justice System

As discussed above, during the 1970s and 1980s, emerging feminist criminological knowledge changed how the criminal justice system addressed and understood women. Knowledge claims, advanced by mainstream criminology, which often applied male-centred research to women, were discredited for being biased and erroneous. As such, the credibility of “experts” was challenged, and feminist research changed the ways in which women in conflict with the law were

⁴ Inasmuch as feminists were advocating for different things depending on their location and politics, certain claims (for example, made by middle-class white women) were easier for the public and government to hear and/or act upon (see further, Brodie, 2008b).

understood (Comack, 2006; Snider, 2003, 2006). Through feminist paradigms, women in conflict with the law became conceptualized as “women in trouble”; feminist criminologists emphasized that structural inequalities, not individual pathologies, were related to women’s conflict with the law (Comack, 2006; Snider, 2003, 2006).

Snider (2003), however, makes the point that inasmuch as feminist criminologists were acting in what they believed to be the best interests of criminalized women (i.e., decreased punishment and the decreased use of imprisonment), they too, through their role in the knowledge creation process, in part maintained the concept of a woman who could benefit and grow from being sent to prison for breaking the law (Snider, 2003). Specifically, how criminalized women were/are understood will shape the punishment imposed upon them. I now turn to *Creating Choices* to show how women were conceptualized as having high needs and presenting low risk, and how this perception shaped the resulting plan for women’s imprisonment.

Creating Choices as a feminist policy document

The organization of the TFFSW reflects Canada’s tendency during the 1980s for “the federal government, the gender-based bureaucracy and women’s organizations [to] collaborate on a spectrum of issues” (Brodie, 2008b, p. 153). The Task Force was comprised of women under federal sentence; members of

women's, Aboriginal, and other community groups; and government officials and agency representatives who were considered experts on women's imprisonment⁵.

Mandate. The TFFSW's mandate highlights a break with "traditional" (i.e., male) approaches to imprisonment; previous reports, inquiries, and commissions that discussed women's imprisonment did so in the consideration of federal imprisonment as a whole (Hayman, 2006). The TFFSW, however, was to investigate the federal policies and subsequent treatment of women under federal sentence "from the commencement of sentence to the date of warrant expiry, and to develop a policy and plan which would guide and direct this process in a manner that is responsive to the unique and special needs of this group (TFFSW, 1990, p. 86)." The TFFSW explained that an approach to women's imprisonment, which was merely adjusted from that of men's, was insufficient:

In the 1980s, this has been recognized as both unrealistic and paternalistic. Control over women's future, over women's choices, must rest within women's own experience. Likewise, adding-on Aboriginal women to the review of women serving federal sentences amounts to the same mistake as tacking women onto the tails of a system designed by, for and about men (TFFSW, 1990, p. 16-7, emphasis added).

Furthermore, the TFFSW highlighted the fact that previous task forces, inquiries, and reports were unable to respond effectively to the needs of imprisoned women due to a limited focus on women who were in prison and, more specifically, those housed at P4W. The TFFSW also found fault with previous approaches that ignored the socio-economic conditions and lived histories of criminalized women.

⁵ See Hayman (2006) for a detailed account of the composition of the Task Force, and how it realized its mandate.

Hooyman, Browne, Ray, and Richardson (2002) explain that feminist work is underpinned by a focus on “power differentials across groups” and “the need for social justice” (p. 4). Thus, feminist analyses differ from research in which women are the researched group, but social structure and inequality remain unconsidered: “feminist perspectives may begin but do not end with women; instead, they help us to understand both women’s and men’s privilege, oppression, diversity, and abilities along with their similarities in meeting life’s challenges” (Hooyman et al., 2002, p. 4). *Creating Choices* can therefore be understood as a feminist policy document (Comack, 2006; Hayman, 2006; Monture-Angus, 2002) because of its women-centred research approach, and its resulting recommendations oriented toward “social change” and “reduc[ing] inequities” (TFFSW, 1990, p. 123).

To guide the research process, the TFFSW had agreed to a number of working principles, of which the following are pertinent to this discussion: to “engage in action research” (p. 86); “include representation from Aboriginal and minority women’s groups”; collect and analyze information “in a culturally relevant way” (p. 87); and “consult with federally sentenced women” (p. 87). As such, the Task Force employed standpoint feminism. This framework, when used in feminist criminology, is a research methodology in which women participate in interviews “about their lives to better understand the factors and conditions that brought them into conflict with the law” (Comack, 2006, p. 36). Standpoint feminism also understands its research participants as “experts of their own lives” (Comack, 2006, p. 37). This positioning allows for a more nuanced and accurate

account of women's histories (often of victimization) and contact with the criminal justice system.

Consultation process. Throughout its work, the TFFSW consulted approximately 300 sources; there were 203 women under federal sentence during the life of the Task Force, of which 170 were interviewed (39 Aboriginal women, 33 French Canadian women, and 68 serving their sentences in provincial prisons (race and ethnicity not mentioned by TFFSW)). The Task Force's resulting "vision for change [was] built primarily on descriptions and experiences of suffering" (p. 1) and focused on addressing the needs of the women.

This process also marked a significant shift in the approach taken in earlier reports and inquiries regarding federally sentenced Aboriginal women. A separate, Aboriginal-specific research team was established to undertake research regarding federally sentenced Aboriginal women. As such, Aboriginal voices figured prominently throughout the document, and the recommendations made for Aboriginal women's imprisonment were philosophically aligned with their culture. The TFFSW advocated that federally sentenced Aboriginal women must be recognized as such, not just as women, or as Aboriginal. Given Canada's colonial history, Patricia Monture (the author of Chapter II "The Voices of Aboriginal People" in *Creating Choices*) asserts that "control over our future as Aboriginal Peoples and our choices as Aboriginal women, must rest within Aboriginal communities, and with Aboriginal women" (p. 17). As such, the approach to imprisonment that is advocated in *Creating Choices* is one in which Aboriginal culture and spirituality are recognized by CSC, and in which choices

presented to federally sentenced Aboriginal women are culturally and spiritually relevant (the Healing Lodge represents a concrete manifestation of this intent).

Based on its consultation process, the TFFSW emphasizes an approach to justice premised on restoration and healing: “Aboriginal nations have the power to heal. We only need the resources and respect to do so” (p. 22). Monture also explained that this approach was culturally appropriate:

We find that this report has not only acknowledged our voice and our experience but, this report respects our historical and founding position as the Original Peoples of Canada. It is our voice that helps to lead this new vision for women in corrections...this is a first (Monture, TFFSW, 1990, p. 23).

Creating Choices thus represented a significant step in which the voices of women who were Aboriginal were heard at the level of correctional policy discourse⁶.

The role of the prison. The TFFSW is explicit in its assertion that prisoners’ rehabilitation is their own undertaking. The prison is to serve as the facilitator of this, which was a novel approach:

While in the past, rehabilitation has been seen as a kind of “doing to” offenders, what appears to be happening at the present time is an orientation which emphasizes the inmate’s responsibility for her own rehabilitation. The institution does not rehabilitate the offender; the woman chooses to create a more responsible, self-sufficient future (and thereby) rehabilitates herself. Seen in this way, the responsibility of the institution is to offer and expose the inmate to those programs which will assist her in this process (p. 66).

The TFFSW and CSCRIP both agree that offenders are responsible for their self-rehabilitation, and that the role of the institution is to provide the conditions to

⁶ Although, as Hayman (2006) argues, these discourses were co-opted by CSC to suit its needs.

make this possible. As will be discussed below, the CSCRP delineates an explicitly punitive plan in which restrictions (for example, upon conditions of confinement, family visits, and release) are suggested, in order to compel offenders to comply with their rehabilitation plans.

Understanding imprisoned women. The TFFSW made its recommendations based on two overarching issues: that P4W was unable to meet the needs of imprisoned women, and that the conditions of their imprisonment were unequal to that of men (TFFSW, 1990). Based on the research undertaken throughout its mandate, the TFFSW conceptualized imprisoned women as having high needs and posing low levels of risk to others. Reasons for women's offending lay in women's unequal social position and marginalization. As well, their histories of abuse and marginalization had left them disempowered and with low levels of self-esteem, and thus unable to make proper (i.e., law-abiding) decisions.

Consequently, the TFFSW made recommendations for the imprisonment of women based on the following approach:

In seeking a means of improving conditions for women in penitentiaries, we have opted for equity, rather than equality with men. We should not simply superimpose male models of corrections on female penitentiaries. Such an approach has proven inadequate in the larger society—it is even more inadequate when applied to women's prisons" (Hattem as cited in TFFSW, 1990, p. 26).

The TFFSW put forth five principles to guide CSC's imprisonment of women: empowerment, meaningful and responsible choices, respect and dignity, supportive environment, and shared responsibility. The Task Force also

recommended that in order to meet the needs of federally sentenced women, six new regional centres (prisons)⁷, including an Aboriginal Healing Lodge, should be built, opened⁸, and operated according to the above-mentioned principles. These guiding principles were made in the context of advancing solutions to women's inequality, marginalization, victimization, and offending.

Responsibility. The notion of women taking responsibility for themselves and their offending histories features prominently in the Task Force's recommendations and in its conception of rehabilitation. For example, the TFFSW suggested that once women had assumed responsibility for their behaviour, they should take part in the design of their rehabilitation plan, aimed at ensuring their earliest possible release. Specifically, the TFFSW recommended that an assessment cottage be erected on prison grounds. While in this environment:

Each woman will be encouraged at the earliest possible point in her sentence to take responsibility for her life and her criminal activity. When she is able to confront her situation objectively, she will then participate in the development of a personal plan that will provide her with the skills, strengths and insights she needs to be released to a community residence at the earliest possible date (TFFSW, 1990, p. 138).

This positions the taking of responsibility as a necessary step before embarking upon rehabilitation. As part of their role, Correctional staffers are to facilitate this, "to help women take responsibility for their lives in prison and prepare for self-sufficiency upon release" (TFFSW, 1990, p. 106). For the TFFSW, the notion of

⁷ Only five regional centres, including the Healing Lodge, were opened. Federally sentenced women in the Pacific region are housed in the Fraser Valley Institution in British Columbia, which also includes men's facilities (CSC, 2010).

⁸ The opening of the first regional centres was fraught with complications. For a detailed analysis see Hayman (2006).

responsibility for oneself is linked to one's ability to live in a law-abiding and independent manner.

The *empowerment* of federally sentenced women is the overarching goal upon which the Task Force bases its recommendations. For the TFFSW, women's disempowerment has its basis in socio-economic inequities and violence against women, which are "experienced even more acutely by many federally sentenced women" (p. 125), and even more so by federally sentenced women who are Aboriginal. The result is that women have lower levels of self-esteem and lack the confidence to make choices that can lead to a "more rewarding, [and] productive future" (TFFSW, 1990, p. 125). Although women's disempowerment is rooted in social inequalities, the TFFSW asserts that women have within them the raw material to lead more rewarding lives—they just need a structure that will allow them to take responsibility. The TFFSW's recommendations will make that structure possible.

For women to become empowered, they must be presented with *meaningful and responsible choices* that will allow them to break them from "the[ir] dependence on men, alcohol or drugs, and/or on state financial assistance" (TFFSW, 1990, p. 130). Thus they must be in a position to make choices ranging from vocational training and lifestyle and diet. Equally important, they must have post-release community support. If all of this is part of a federal sentence, "life inside prison will better mirror life outside, and so will provide a more realistic environment in which to foster self-sufficiency and responsibility" (p. 129).

Again, individual women are charged with making use of the options presented to them (i.e., making responsible decisions).

The Task Force also reported that the women interviewed throughout its work felt the prison policies to be “arbitrary” (p. 129), leaving them infantilized and dependent, with neither the structure nor motivation to make choices. The principle of *respect and dignity* is premised on the notion of mutual respect for and between staff and prisoners, and for Aboriginal spirituality and practices. This will lead imprisoned women to respect themselves and others, a condition necessary for them to “act responsibly” and to “take responsibility for their futures” (p. 129).

The principle of *supportive environment*—spanning “political, physical, financial, emotional/psychological and spiritual [environments], especially for Aboriginal women” (TFFSW, 1990, p. 130)—was believed by the TFFSW to be a necessary precondition to achieving its other principles. The Task Force emphasized that the most important environmental factor is “the will of the people involved” (p. 130) and maintained that gender-neutral approaches are inequitable for the reason that “equality of programming, environment, security, cannot be reduced to equality of treatment in the sense of “sameness” of treatment, but must be understood as equality of outcome” (p. 131).

It is important to note, however, that while the principles of *Creating Choices* are premised on feminist claims to equity, these principles are also individualizing and responsabilizing, as is evident in the principle of *shared responsibility*. Specifically, the TFFSW (1990) tasks various social institutions

and the private sector with the responsibility for providing support and oversight, as well as an environment that allows women to make “sound choices” (p. 132). The Task Force asserts that an approach in which CSC is solely held accountable is insufficient.

As such, the TFFSW’s mandate represents the political climate of the 1980s in which gender-specific social policies were a priority of the Canadian government, and where political channels existed in which groups-based claims to equality could be advanced (Brodie, 2008a, 2008b). The mandate of the TFFSW is an example of such a claim as the TFFSW understood federally sentenced women as a group that were discriminated against.

It was in this particular social and political context that the recommendations made in *Creating Choices* were accepted in their entirety. This acceptance, however, was the result of many contingencies. The Task Force recognized that the time in which it was working was “a period of creative change in the ways policy makers and service providers see the justice system and its interactions with federally sentenced women” (TFFSW, 1990, p. 65). Task Force members were aware that then-Commissioner Ole Ingstrup’s appointment to the position likely came with an expiration date. As Hayman writes of a Task Force member’s position:

I really want us to work quickly in having the task force up and moving. Time goes so quickly and I do think that Ole Ingstrup is very open to alternative ideas. The average term for a Commissioner of Corrections is three years and he has already been in the position for six months” (Diamond as cited in Hayman, 2006, p. 28).

As well, there were seven suicides (six of which were Aboriginal women) at P4W between 1988 and 1991, including a woman who contributed to the work of the Task Force (Hayman, 2006). These suicides further underscored the need for prison reform.

However, this “women’s equality infrastructure” (Brodie, 2008b, p. 154) soon came up against neoliberal political agendas which began to take hold in the 1980s, and which became more prominent throughout the 1990s and 2000s (Minaker and Snider, 2006). Proponents of neoliberalism criticised governments that operated according to post-war welfare political rationalities for “inefficiently managing government planning, regulating, and spending, and for governing too much” (Ilcan, 2009, p. 211). Consequently, most western and westernized countries undertook social policy transformation; although the ways in which gender was (or was not) considered varied during this time. For example “many European countries, for example, have implemented social policies that are designed to help women reconcile the multiple and often conflicting demands of paid work, child care, and domestic labour” (Brodie, 2008b, p. 166). However Canada, once a leader amongst Western social welfare states in the field of gender-based policymaking, underwent a political change beginning in the late 1980s in which issues of gender were gradually marginalized from social policy priorities (Brodie, 2008b).

Defining Neoliberalism

Harvey (2007) and Patten (2012) contend that neoliberal values and discourses have become socially ingrained to the point where they structure both

how many individuals go about their lives, and how governments approach rule. Brodie (2008a) describes neoliberalism as “both a theory of economic growth, adapted from classical liberal economics, and an experiment in contemporary governance” (p. 169). Harvey (2007) defines neoliberalism as “a theory of political economic practices that proposes that human well-being can best be advanced by liberating individual entrepreneurial freedoms and skills within an institutional framework characterized by strong private property rights, free markets, and free trade” (p. 2). The ultimate goal of neoliberal governance is economic growth, facilitated by a liberated market (Brodie, 2008a). Limits are placed on state intervention as neoliberal theory understands state involvement, institutions, and programming to be inefficient, and at times, superfluous (Patten, 2012).

The role of the state is thus to act in such a way as to establish institutional frameworks conducive and supportive to neoliberal priorities and practices (i.e., the financial market, and the facilitation of “unproductive” citizens becoming “productive”) (Brodie, 2008b; Harvey, 2007; Patten, 2012). The prominence of and adherence to “the rule of law” is also stressed (Harvey, 2007, p. 64). According to neoliberal theory, augmented economic productivity will result in an increased standard of living for all. Individuals are understood to be liable for their own welfare; achievements and/or downfalls are thus the result of individual initiative or lack thereof—systemic and contextual factors and/or barriers are not considered (Harvey, 2007). Under neoliberalism, Patten (2012) writes “the

legitimacy of collective social projects is questioned and organized social interests are rejected as self-interested ‘special interests’” (p. 101).

Gender neutrality and neoliberalism. Beginning in the mid-1980s in Canada, federal funding designated for issues of gender equality began to diminish (Brodie 2008b). Prime Minister Harper’s government has furthered this; the infrastructure in which to advocate for equality based on a group’s marginalization was and continues to be dismantled (Brodie, 2008a, 2008b; Gotell, 2011). The result, as Brodie (2008b, p. 156) argues, is that gender has become “just one of many identities that make up the much-celebrated Canadian multicultural mosaic, rather than as a structural barrier to citizenship equality and as a basis for claims-making.”

In 2006, the funding to the federal government organization Status of Women Canada—whose work is to “promote equality for women and their full participation in the economic, social, and democratic life of Canada” (Status of Women Canada, 2012)—was reduced. Many of its research programs were terminated, and its regional offices closed (Brodie, 2008b). This is consistent with the government’s position that gender is no longer an issue worthy of attention, as the Harper government has claimed that women’s equality has been achieved.⁹ As such, gender-specific policymaking is positioned as redundant (Brodie, 2008b).

Individuals, not groups. In terms of gender-neutral policies, Minaker and Snider (2006) contend that they “make sense” (p. 759) since these statements are

⁹ Included in the funding cuts were government institutions and women’s organizations that presented research opposing the government’s claim that gender equality has been achieved (Brodie, 2008b).

articulated within a larger political and social framework in which gender equality is presumed to exist. What this “equality” in fact means, according to Brodie (2008b) is that “...we are all invited to become enfranchised and empowered by the market, and to become self-sufficient Canadians, and citizen-taxpayers, who neither expect nor tolerate the recognition of systemic barriers or the inefficiencies of collective redress” (p. 160). This understanding privileges individuals, but not groups; it also does not consider the greater socio-economic status, men, as a group have, when compared to women. Another effect of this presumed equality is that issues are not framed according to gender (Brodie, 2008b); as such, the issues that benefit and/or maintain men’s privilege are not subject to the same scrutiny as are women’s claims. From the point of view of some of the Canadian public, and the current government, advocating for women’s equality is seen as “self-interested” and is met with disdain (Brodie, 2008b, p. 149).

The effects of focusing on individuals in lieu of collective groups have wide reaching repercussions:

This [genderless and individualized] imaginary dismisses both the relevance of gender difference in the calculation of public policy and the force of structures in the production and reproduction of systemic inequalities, not only for women, but for all equality seekers. This discourse attempts to relieve the neoliberal project from the challenge of mediating structural barriers and opening spaces for the systemically disadvantaged to exact strategies for redress (Brodie, 2008b, p. 160).

Inasmuch as neoliberal rationalities promote self-sufficiency, they are able to manage and refute critiques related to socio-economic barriers; the solution

purportedly lays in one's ability to better their situation through, for example, educational upgrading, and thus improved employment opportunities. The failed citizen is thus a failed individual (not a member of a group which is discriminated against) (Minaker and Snider, 2006).

Minaker and Snider (2006) argue that, "neoliberal governance required the constitution of a new subject, the responsabilized individual" (p. 765). This individual is to be entrepreneurial, self-reliant, and economically productive. As such, the government is to facilitate this—its role is not to achieve social justice, or to set standards of employment and living through extensive social programs (Harvey, 2007; Brodie, 2008a; Minaker and Snider, 2006; Ilcan, 2009; Patten, 2012). This logic underpins in part the ways in which CSC eventually implemented the recommendations made by *Creating Choices*, and is the foundation of the recommendations made in *Roadmap*.

Roadmap as a Product of the Neoliberal State

Mandate and Approach

The mandate of the Correctional Service of Canada Review Panel (CSCR) was "to review the operations of CSC, as part of the government's commitment to protecting Canadian families and communities" (CSCR, 2007, p. iii). This encompassed rehabilitation programming; community programming; providing mental health services within federal prisons and in the community; the initial institutional placement of prisoners serving murder sentences; the method for selecting urban sites for community correctional centres and parole offices;

CSC's management of parole breaches; and how CSC addresses "frivolous and vexatious grievances by offenders" (CSCRCP, 2007, p. iii).

The CSCRCP was also asked to evaluate CSC's strategy to improve resources and assistance to victims, its ability to augment public safety in a fiscally conservative manner, and its capacity to adhere to "its **basic** policy and legal obligations" (CSCRCP, 2007, p. iv, emphasis added) in the context of deteriorating infrastructure and the "changing offender profile" (CSCRCP, 2007, p. iv). For the purposes of this project, I focus on the recommendations made for rehabilitation programming as based on the "changing offender."

The Panel was composed of five members who were not allotted a research team to assist them with "a mandate larger than that given [to] many royal commissions" (Jackson and Stewart, 2009, p. 8). Six months after the Panel was assembled, its report was published (CSCRCP, 2007). The CSCRCP members were considered authorities on matters of public policy and security. Rob Sampson chaired the CSCRCP; he served as the Ontario Minister of Correctional Service from June 1999 to April 2002. Before this appointment, he worked for the provincial government in its auto insurance sector, and has since held executive appointments in private sector financial and mortgage institutions. Jackson and Stewart (2009, p. 8) criticize Sampson as unqualified and as having "neither the credibility of an expert on the broad range of subject matters under review nor the political distance that one would expect from the chairman of an ostensibly objective and 'independent' review."

Other members included Serge Gascon, retired Deputy Police Chief with the Police Service of Montreal; Sharon Rosenfeldt, a substance abuse counsellor who co-founded Victims of Violence (after her teenage son was abducted and murdered); Ian Glenn, Q.C., who served as Chair of the National Parole Board from 2001 to 2006; and Chief Clarence Louie, a renowned Aboriginal leader and, since 1985, the Chief of the Osoyoos Indian Band. As of 2007, Louie has also served as Chair of the National Aboriginal Economic Development Board.

Jackson and Stewart (2009) point out that despite the vast professional experience of these members (e.g., policing, pragmatic aspects of parole, Aboriginal employment, and the experience of victims), these members did not have the academic backgrounds (e.g., criminology, correctional law) expected of members forming this kind of committee, nor did they have the scope of expertise related to policymaking and/or imprisonment that such a mandate demands. Compared to their TFFSW counterparts, the CSCRP members were not considered qualified to make recommendations on matters of imprisonment, nor did the CSCRP consider prisoners as “experts.”

Throughout its data collection and consultation processes, the CSCRP’s “experts” were those working in corrections, unlike the TFFSW, whose members considered federally sentenced women as “experts” on their imprisonment. In contrast to the TFFSW, which consulted 170 imprisoned women, the CSCRP consulted 100 sources in total, of which two were prisoners—both male, and both via written submission (CSCRP, 2007; Groulx, 2009). This demonstrates a

research process in which consultation with those “for whom the agenda has the most significant consequences” was very limited (Groulx, 2009, p. 107).

The committee did, however, consult with staff employed in various CSC institutions, members of voluntary sector organizations that work closely with CSC, and “interested Canadians” (CSCRCP, 2007, p. V). Based on its data collection, the CSCRCP concluded that CSC is now faced with specific challenges based on the “changing offender population” and thus recommended the Transformation Agenda that it claimed would change “the way in which CSC does business” (CSCRCP, 2007, p. V). As such, the Panel viewed its mandate not to serve the best interests of those under federal sentence, but to serve the CSC by treating it as a business and advising it on how to be more efficient. In regard to design of the prison, the CSCRCP shows itself to be diametrically opposed to the Task Force’s philosophy when it states its disagreement with “a model that assumes all individuals are able to function responsibly” (p. 154). As such, it is not surprising that the recommendations made by the CSCRCP explicitly condone the use of coercion and punishment to have offenders act “responsibly.”

The role of the prison. The CSCRCP understands the role of the prison to be multifaceted: it is to provide the environment conducive to rehabilitating the offender, wherein the offender can “pick up the tools of rehabilitation and use them” (CSCRCP, 2007, p. 15); CSC must also “assist” in rehabilitating offenders (p. 15). The Panel understands rehabilitation as a mutual responsibility of both CSC and those it incarcerates. For the CSCRCP, rehabilitation requires offenders who are committed to their correctional plans, and CSC must properly administer

their sentences (in which rehabilitation is a component). However, unlike the TFFSW (who believed that given the proper environment, women would engage in their rehabilitation), the Panel recommends punitive measures that CSC should take in order to have resistant prisoners self-rehabilitate (as will be discussed below).

Responsibility. The notion of “responsibility” figures prominently in *Roadmap*, for the CSCRP those who have responsibility are CSC, and offenders. Ilcan (2009) argues that under neoliberal government rationalities responsibility for social issues has shifted from the public to the private sphere. Accompanying this shift has been a reconceptualization of the notion of responsibility in which programs and services are reconfigured in order to “encourag[e] certain individuals and groups to become increasingly more responsible for their actions” (p. 229). Ilcan’s (2009) argument is reflected in the recommendations made in *Roadmap*, in which the CSCRP suggests that correctional policy be modified to increase the responsibilities of the offender.

The Panel takes the position that the Corrections and Conditional Release Act (CCRA) should prescribe the responsibilities of those under federal sentence, stating that the CCRA is currently “weak” in doing so (p. 15). It proposes that an “offender accountability” section be included in the CCRA which would stipulate that offenders adhere to institutional rules, show deference to CSC staff, and “actively” engage in their correctional plans (p. 16). As conceptualized by the CSCRP, the offenders’ responsibility is both to accept their past behaviour and become rehabilitated to live in a productive, non-criminal, and self-sufficient

manner: “They must learn that they are responsible for their actions and are obligated to respect the rights and freedoms of others in society” (p. 15). This passage also demonstrates that the influence of systemic inequalities upon offending is not relevant to the CSCRP in their conception of “responsibility.”

***Roadmap* and “the Changing Offender”**

From amelioration of inequality to gender-neutral punishment. Inasmuch as I position *Creating Choices* as a feminist document which understands criminalized women as influenced by factors of social inequality, I argue that *Roadmap*, in its gender-neutral approach and punitive approach, reflects Canada’s current neoliberal political climate, and law and order approach to criminal justice (Patten, 2012). Snider (2003) claims that during the 1990s, concurrent with a shift to neoliberal governance and the backlash against feminism, the role of the criminal justice system shifted from that of “amelioration” (thrust of recommendations made in *Creating Choices*) to “punishment” (consistent with recommendations advanced in *Roadmap*). How policymakers understand and discuss imprisoned women has also shifted, from what Snider (2003) deems “women in trouble” to that of the “atavistic woman of policy discourse” described as “the predatory, rational, calculating Female Criminal, the violent gang girl or the irresponsible, out-of-control Bad Mother/Child Abuser” (p. 367).

Redefining the women offender population. While *Creating Choices* described women offenders as having high needs and presenting low risk, *Roadmap* presents a different picture of the same population. Including all

federally sentenced offenders, *Roadmap* contends that “the changing offender profile” best reflects the effects of policy changes and the deinstitutionalization of mental health services that have occurred during the past decade and a half. However, this does not consider gender differences related to offending, nor the effects of the diminution of social services. Instead, *Roadmap* positions offenders as those who have failed to conform to neoliberal norms of citizenship: “many offenders need to learn how to live as law-abiding citizens *for the first time*, as they have failed to learn the skills required to be productive members of society” (CSCRP, 2008, p. 4).

The Panel contends that although rates of overall crime had decreased, the rate of violent crime had increased. This increase in violent crime, the Panel says, is reflected in the prisoner population as well: “[F]ar more are *assessed* as violence-prone, hostile, impulsive, [and] aggressive” (p. 3, emphasis added)¹⁰. These prisoners are described as:

- Coming from violent backgrounds;
- Being repeat offenders who require high levels of maximum security housing upon admission;
- Serving sentences of less than three years;
- Having gang affiliations, substance addictions, and acute mental health problems, (CSCRP, 2008, p. V).

¹⁰ As such, it is questionable as to whether it is the assessment tools and/or the prisoners that have changed. Regardless, this is the conception of prisoners that is being “heard” (Snider, 2003) by prison policy-makers and administrators.

The women's federal prison population is described in the same terms by the Glube report (2007), *Moving Forward with Women's Corrections: The Expert Committee Review of the Correctional Service of Canada's Ten Year Status Report on Women's Corrections, 1996-2006*. The CSCRP refers/defers to this document, a CSC-mandated assessment of women's corrections, to inform its recommendations for the women's population. This report paints a very positive picture of CSC's implementation of the recommendations made in *Creating Choices*—a conclusion that is not shared by critical criminologists (for example, see Hannah-Moffat, 2000, 2001, 2008; Hayman, 2006; Kendall, 2000, 2002; Kendall and Pollack, 2003; Pollack, 2000, 2005, 2009). The CSCRP's reliance on this document also demonstrates a lack of research undertaken by the CSCRP in regard to federally sentenced women. I considered this report as a component of *Roadmap*.

The Glube Report also asserts that federally sentenced Aboriginal women are especially representative of the “changing offender profile,” stating that “there has been an expansion of their representation within the overall women's population, a rise of those with a gang-related profile, greater numbers classified as maximum security, and a higher proportion of those convicted of violent crimes” (Expert Committee, 2007, p. 18).¹¹ The CSCRP states that the number of gang-affiliated prisoners under CSC's care is increasing, with the result that approximately 15% of men and 10% of women under federal sentence have these

¹¹ Stewart and Jackson have analyzed and explicated how the CSCRP's improper analysis/use of statistics has constituted this “changing offender profile.” However, this is not the aim of this paper; instead I am interested in what is “heard” by policymakers (Snider, 2003). As such, even though the notion of the “changing offender population” might be misleading, it is nonetheless what is currently “heard” and forms the basis for CSC's actions.

affiliations. The Panel also describes the prisoner population as demonstrating increases in “serious mental health problems” which are experienced by 26% of women, and 12% of men.

The Panel does not have a lot of hope for the offenders in the workforce: “the current offender profile demonstrates a low level of basic employment qualifications, poor employment histories, and life skills that have contributed to poor job performance” (p. 45). Whereas the TFFSW considered women prisoners’ illicit behaviour as symptomatic of their lived histories of abuse, the Panel views it through the lens of employability: “related deficits such as substance abuse and violent behaviour have contributed to offenders’ deviant behaviour. These deficits, if left unaddressed, will continue to limit the offenders’ ability to find and keep jobs” (p. 45).

The Panel stated that upon admittance to a correctional institution, women had less employment history than did men, specifically that federally sentenced women were “unemployed more than 50% of their time prior to incarceration, were unemployed at the time of their arrest, and were dissatisfied with their trade or profession” (76). As Snider (2003) writes, how offenders are understood will structure the punishment imposed upon them. Furthermore, the “atavistic woman” being described above, who “require[s] more incarceration, punitiveness and repression” is not the same prisoner described in *Creating Choices*. That is because she is not a product of feminist criminologists, but “of the neoliberal state” (Snider, 2003, p. 370). The Glube Report, like *Roadmap*, considers offenders primarily in terms of their economic and productive potential, stating

“CSC’s main objective is to prepare the women for employment upon release” (Expert Committee, 2007, p. 25). As such, the recommendations made by the CSCRP demonstrate that interventions are aimed at constituting self-sufficient, responsible, productive (i.e., neoliberal) citizens.

Recommendations

The CSCRP advances the Transformation Agenda which centres upon the five “key areas” of “enhancing offender accountability, eliminating drugs, enhancing correctional programs and intervention, modernizing physical infrastructure, and strengthening community corrections” (CSCRP, 2007). Unlike the TFFSW, which conceptualizes the prison as providing an environment conducive for prisoners to undertake their own rehabilitation, the CSCRP (2007) believes that offenders are responsible for their own rehabilitation; however, as will be discussed below, the CSCRP explicitly recommends coercive measures in order for CSC to “deliver on the rehabilitation principle” (p. 14).

Environment. The CSCRP understands the physical infrastructure and environments of CSC institutions in two ways, as outdated, and as unable to aid in the delivery of prisoners’ correctional plans (made possible by surveillance). It acknowledges that the CSC has many aging and decrepit institutions (from the 1800s and early 1900s), which are insufficient to meet the needs of the heterogenous population characteristic of the “changing offender profile.” The CSCRP considers some built environments as unsafe, because obscured sight

lines make it difficult to closely observe offenders, and/or to enforce offenders' correctional plans.

Specific to the physical environment in which imprisoned women are housed, the Panel states:

Because of significant variations in the size of the women offender population and its unique risks and needs, there is a need to review current infrastructure gaps and develop appropriate alternatives to minimum-security penitentiaries and community residential facilities (p. 132).

However, the CSCRP does not delineate what these alternatives could and/or should be. This proposed change in environment is understood, again, through the lens of employability; inasmuch as the current housing of federally sentenced women is cited as a security problem, the Panel's recommendations to change the housing scheme for federally sentenced women are made in the context of increased punitiveness (i.e., earned parole espoused in the aim of rehab (employment)).

For the CSCRP, *employability* is the most critical aspect of programming, the one which all other rehabilitation efforts must support. However, the needs of federally sentenced women are identified by Statistics Canada as follows: "personal/emotional problems (82%), employment, substance use, and social interactions (74%)" (Hotton Mahony, 2011, p. 35); therefore employment is cited as a need below some, and on par with other needs. Hannah-Moffat (2008) argues that a holistic understanding of women in assessing their risk and needs is necessary in order for programming to be effective. The CSCRP does not do this, but positions employability as the solution to curbing offending and preventing

recidivism. Unlike the TFFSW, the CSCRP does not acknowledge socio-economic factors that would limit a person's ability to acquire employable skills.

The CSCRP blames the offender for his or her employment situation because he or she has a poor education and lacks vocational skills, as well as a lack of personal initiative. As such, they recommend the implementation of a "structured work day" to the regime of imprisonment "in order to prepare an offender to return to society as a productive, law-abiding citizen, and in order to ensure that a good work ethic is learned while incarcerated" (p. 63). Ilcan (2009) argues that this emphasis on employment is a tactic deployed in neoliberal frameworks to address poverty and marginalization that alleviates the state of responsibility, instead "The unemployed and underemployed are being encouraged to act responsibly by re-educating themselves in order to acquire salaried employment" (p. 208).

The CSCRP finds fault with what it believes to be the CSC's making other programming needs a priority at the expense of vocational and educational programming, a point they emphasize in regard to Aboriginal offenders. They further recommend that CSC Healing Lodges be tasked with "job-readiness responsibilities" (p. 92). However, given that the CSC assesses federally sentenced Aboriginal women as having more needs than non-Aboriginal women, and in multiple areas (Hotton Mahony, 2011), an employment-centric approach will not meet their rehabilitative needs. Hotton Mahony (2011) postulates that the CSC's inability to respond effectively to this population could be a factor in their ongoing overrepresentation and/or recidivism. The CSCRP's recommendations

will also be counterproductive in “reducing the gap in correctional outcomes” (Sapers, 2011, p. 54).

Monture-Angus (2002) describes this after-the-fact consideration of women’s and Aboriginal offenders’ needs as insufficient, “as the gendered consideration comes too late in the program development process” (p. 41). This aforementioned process also negates the consideration of prisoners who are both women and Aboriginal (Monture-Angus, 2002). Sapers (2011) states that the CSC’s provision of appropriate programs and services for Aboriginal peoples is inadequate, and that security concerns often trump access to spiritual ceremonies.

Inasmuch as the correctional system is, as Sapers (2010, 2011) contends, failing federally sentenced Aboriginal peoples, the CSCRP’s recommendations will have a more punitive effect on this demographic. Sapers (2010, 2011) reports that in comparison to non-Aboriginal offenders, both male and female Aboriginal offenders are assessed as having poorer rates of correctional performance:

[They are] released later in their sentence (lower parole grant rates); over-represented in segregation populations; more likely to be released at statutory release or at warrant expiry; more likely to be classified as higher risk and in higher need in categories such as employment, community reintegration and family supports (Sapers, 2010, p. 43).

Aboriginal peoples will therefore be more affected by the CSCRP’s stipulation that a prisoner’s employment prospects should be a factor in which parole is determined.

The proportion of Aboriginal peoples serving federal sentences grows every year; between 2001 and 2011, the federally sentenced Aboriginal women’s population increased by 86%, whereas the men’s increased by 25.7% (Sapers,

2011). As well, 34% of federally sentenced women are Aboriginal (Sapers, 2011). As such, that the CSCRP does not make recommendations with this population in mind perpetuates the discrimination, in the form of culturally inappropriate services and programs, that occurs when programs and policies are not designed explicitly for Aboriginal women (Monture-Angus, 2002).

As well, the Panel states that the potential of the CORCAN program (manufacturing and trades employment training within the institution) is also limited by the institution's focus on other programming aspects, the regime of the institution, and an absence of resources. They also recommend that educational programs be redesigned to be more directly relatable to employment requirements. The CSCRP assumes that its employment recommendations, made for the general (male) population, should be applied to federally sentenced women, with the "unique operating environments in women's penitentiaries" (p. 76) in mind. This signals a return to the "add women and stir" (Comack, 2006) approach to prison administration.

Producing participation. While the CSCRP states that rehabilitation is the result of an offender's *personal* volition, it recommends that CSC place restrictions upon the conditions of prisoners' confinement in order to encourage offenders' motivation. These recommendations also demonstrate that the CSCRP explicitly recommends the use of punishment as a means of reformation. The CSCRP advises that the CCRA be modified so that prisoners are not housed under the "least restrictive" measures possible, but under "appropriate measures." This is made in the aim of having prisoners complete their correctional plans.

Furthermore, the CSCRP takes issue with prisoners who “wait out the parole system” (p. 109); if an offender is not behaving in ways that the Panel believes to be useful/productive, they are then understood as irresponsible.

The principles promoted in *Roadmap* are consistent with traits such as the entrepreneurial spirit and self-sufficiency, which are valued in a neoliberal framework: “Life inside the penitentiaries should mirror Canadian society, and the core concept should be the same: earn your own way” (CSCRP, 2007, p. 109). This understanding does not take socio-economic factors or lived histories into account, but is consistent with Brodie’s (2008a) claim that neoliberal policies result in a person’s “individualization”—defined as “plac[ing] steeply rising demands on people to find personal causes and responses to what are, in effect, collective social problems” (p. 179). Although the CSCRP’s recommendations appear to be gender-neutral, the traits they hope to instil in prisoners, when actualized, reflect masculine traits (Brodie, 2008b).

The concept of the responsible and accountable individual is gendered and classed (Brodie, 2008a, 2008b Minaker and Snider, 2006): “...neoliberalism’s promise of choice and self-sufficiency [is] although not named as such, [a] masculinist construct” (Brodie, 2008b, p. 161) inasmuch as it tasks women with taking-up the “male biography” (Brodie, 2008b) of the primary earner with little family and/or domestic responsibilities. However, many women (especially marginalized women) are unable to rely on the domestic labour (provided by “stay-at-home” wives) that supports this reality. As Minaker and Snider (2006) write, “the virtues of neoliberalism...are difficult to realize if you are poor,

young, female, uneducated, disabled, or marginalized by race or ethnicity” (p. 766). As such, the recommendations made by the CSCRCP for the entirety of the prison population will have a different impact on federally sentenced women and even more so on Aboriginal federally sentenced women.

Freedom is earned. As another measure to ensure that prisoners engage with correctional plans, the CSCRCP proposes the introduction of “earned parole” (p. 65) and advises that accelerated parole (at one-sixth of a sentence) and statutory release (at two-thirds of a sentence) be abolished¹² stating that: “the Panel is of the opinion that presumptive release is a key disincentive to offender accountability” (CSCRCP, 2007, p. 114). The Panel further recommends that a prisoner’s potential for immediate employment upon release, or the probability thereof, should be a relevant factor in the National Parole Board’s deliberation process. Again, the CSCRCP states that its recommendations will have to be viewed with attention to the needs of women and Aboriginal offenders.

However, women under federal sentence are almost equally as likely as men to successfully complete day and full parole (Public Safety Canada, 2011), and are more likely than men to complete statutory release without incident (Sapers, 2010). As well, women are more likely to be conditionally released earlier in their sentences than are men. As such, the CSCRCP’s recommendation for earned parole, and its assumption that earned parole will apply to women in the same way as men, is mistaken. Women were and still are more likely to be

¹² The practice of accelerated parole has since been abolished. On March 23, 2011, Bill C-59, the “Abolition of Early Parole Act,” received Royal Assent (Parliament of Canada, 2011), the consequences of which are already being experienced by non-violent, federally sentenced women (see further Crawford, 2011).

released earlier in their sentences; these proposed changes would result in higher proportions of women serving longer inside than men.

In fact, Public Safety Canada (2011) reported that day and full parole grant rates are at their lowest in ten years, and although women have a higher likelihood of being granted parole, their rates are decreasing as well. Aboriginal prisoners are also less likely than their non-Aboriginal counterparts to be granted day or full parole and, consequently, serve more of their sentences inside the prison. However, the greater part of day, full, and statutory releases are successfully completed by both men and women, and rates of violent offending while under supervision have also decreased over the last ten years (day parole (0.1%); full parole (1.1%); statutory release (1.3%)) (Public Safety Canada, 2011). As such, it is possible that the effects of implementing the Transformation Agenda are becoming evident. Given that most individuals granted release do not re-offend (Public Safety Canada, 2011), the CSCRP's recommendations to abolish certain release programs is not a measure that will largely affect public safety. Instead, it can be understood as a measure of coercion made in the aim of garnering prisoners' participation in their correctional plans.

As Hannah-Moffat (2000) argues, freedom can be linked to individuals' adherence to traits and behaviour valued within a neoliberal framework; in this instance, according to the CSCRP, the release of prisoners from prison (prior to warrant expiry) should be dependent upon their realization of their correctional plans, and their potential for employment in the community (i.e., potential to be productive and self-sufficient): "If the point of incarceration is to truly prepare and

rehabilitate, then parole should be earned” (CSCRP, 2007, p. 111). As such, the CSCRP understands legal remunerated work as the foremost factor to reduce offenders’ recidivism (and levels of risk), and to thereby increase levels of public safety.

Both the TFFSW and the CSCRP contend that individual acceptance of responsibility for past behaviour is a necessary precursor to rehabilitation and that the environment and regime of the prison should better mimic “life outside” (TFFSW, 1990, p. 129) in order to facilitate inmates’ transformation into independent (i.e., employed and thus not reliant upon state-aid) and law-abiding citizens. However, the TFFSW understands women’s offending in relation to women’s social inequality and marginalization; the CSCRP does not, but instead suggests that increased employability and, thus, employment, will counteract criminality. The current trajectory of women’s federal imprisonment, as evidenced by the critiques of the implementation of *Creating Choices*, and the acceptance of the recommendations made in *Roadmap*, is one of individualization and gender-neutrality, in which it is believed that the needs of women prisoners can be met by adapting approaches designed for their male counterparts.

Chapter 5: Conclusion

I studied the composition of the TFFSW and the CSCR, their mandates (women's imprisonment vs. efficiency of CSC's "business"), and their consultation processes (incarcerated women as experts versus corrections employees as experts) and how these factors shaped their respective conclusions and recommendations. By doing so, I was able to compare the thrusts of the recommendations contained in *Creating Choices* and *Roadmap*. The results of my analysis indicate shifting discourses about women, gender equality, and imprisonment. It is evident that in terms of prison policies, the dominant conceptualization of imprisoned women has changed, from that of the "woman in trouble" to that of the "atavistic woman" (Snider, 2003). Consequently, the recommendations for the administration of imprisoned women have also changed, from principles based on the empowerment, choice, and equality of federally sentenced women, to recommendations made in the aim of constituting productive, accountable, and employable citizens.

At the level of policy, the trajectory of women's imprisonment is increasingly coercive and gender-neutral; very little attention is paid to issues of social inequality. Instead, facilitating employability is positioned as the foremost solution to women's offending. As well, in the aim of ensuring women's rehabilitation, coercive measures are now explicitly recommended at the level of public policy and public discourse.

Further research regarding the implications of CSC's adoption and current implementation of the Transformation Agenda are needed. Interviews with

federally sentenced women could provide insight as to whether life inside prisons (e.g., programming, conditions of confinement, release) has changed, or whether this marks a shift at the level of policy only. Inasmuch as the CSCRP understands employability as the foremost factor related to potential release, and reports that women and Aboriginal peoples are less “skilled” for the workforce, the question as to whether this will lead to an increase of these populations being kept in prison longer than others (for example, white men who were skilled and employed prior to incarceration), should be considered.

Inasmuch as the recommendations made in *Roadmap* explicitly delineate coercive measures to have prisoners comply with the “rehabilitative” goals of the institution, the logic of *Roadmap* can be understood as consistent with the existing logic of the criminal justice system (Hogeveen and Woolford, 2006). As such, its implementation is already, and will likely continue to be, more faithful to its recommendations than the implementation of the recommendations made in *Creating Choices*. However, this trajectory does not fit into the “punitive turn thesis” (Moore and Hannah-Moffat, 2005; Pratt et al., 2005); although coercion is explicitly recommended by the CSCRP, it does so not in lieu of rehabilitation, but in the aim of it.

Creating Choices—in its calls for redistributing social and economic power to advance women’s equality, and for decreasing the use of imprisonment for criminalized women—is now in opposition to current political discourse, and to the discourse of the criminal justice system. The time at which the TFFSW carried out its work seemed to hold the promise of fundamental change for

imprisoned women (Adelberg, 1980; Adelberg and Currie, 1987), and members of the TFFSW “dared hope that *this* particular project would be the exception to those littering the wayside of penal reform” (Hayman, 2006, p. 251, emphasis in original). However, CSC has translated the Task Force’s recommendations in ways divergent from the intentions of the TFFSW: women still hold less socio-economic power than men, imprisoned women are tasked with remedying their inequality, Aboriginal women continue to be overrepresented in the prison population, and whether women “choose” to engage in the programs prescribed to them influences their release. In short, the power of the prison persists.

Furthermore, the methodology of the TFFSW and its resulting construction of imprisoned women as having high needs and presenting low risk is consistent with both post-war social welfarism in which there existed a political framework to advance group-based claims to equality (Brodie, 2008a, 2008b), as well as critical criminological literature which understood criminalized women in terms of their socio-political context and as both victims and offenders (Comack, 2006). Conversely, the CSCRP made its recommendations based on the entire federal prison population (in which men are the overwhelming majority), and without consultation with federally sentenced women.

This signals an approach that is consistent with current government rationalities in which social inequality is considered the result of individual shortcomings. Inasmuch as this current government contends that gender equality has been achieved, issues of gender inequality and thus gender-specific policy are seen as irrelevant (Brodie, 2008a, 2008b; Minaker and Snider, 2006). As the

CSCRP understands women's histories of offending as similar to (if not the same as) men's, the requirements for gender-specific services become superfluous. *Roadmap's* approach to women's imprisonment, based on the presumption of gender equality, raises the question as to whether imprisoned women, as a group, are once again considered by CSC as "too few to count" (Adelberg and Currie, 1987).

The effects of a neoliberal political and economic framework in Canada, characterized by a privileging of what appear to be gender-neutral traits (but which are inherently masculine), will adversely affect women, especially those who are socio-economically disadvantaged. As long as traits such as gender, race, ethnicity, and culture are understood to be aspects of individual identities (Brodie, 2008b; Patten, 2012), and individuals are tasked with improving their situations (regardless of structural impediments), it will be very difficult to realize collective organizing and to advance group-based claims to equality. As such, it is critical to call attention to and analyze the disappearance of gender from political and social discourse, made evident in gender-neutral policies. Marginalizing gender issues will serve only to perpetuate women's social inequality. Challenge must be levied against the credo that "we are all equal now" (Brodie, 2008b).

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