

LOCKING THEM UP TO KEEP THEM “SAFE”

Criminalized Girls in British Columbia

A systemic advocacy project conducted for Justice for Girls



by Amber Richelle Dean

In cooperation with four young women
determined to make a difference

Co-sponsored by the Canadian Association of Elizabeth Fry Societies



“They can strip me of my rights, they can take every material possession away from me, but they can not and will not take away my spirit.”

– 18-year-old incarcerated young woman, Burnaby Youth Secure Custody Centre, April 2003

“The Spirit is Free”

Illustration by Tania Willard, Secwepemc Nation, 2005

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Layout & cover design by Terra Poirier. Illustration by Tania Willard.

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About Justice for Girls

Justice for Girls (JFG) is a feminist anti-violence organization that promotes justice and equality for teenage girls who live in poverty. The organization is located in Vancouver, British Columbia and was formed in 1999 as a response to local, national, and international calls for 'girl only' programs and services that address the specific needs and vulnerabilities of girls, particularly in relation to homelessness, poverty, and violence. Unlike other organizations working with young women in poverty, Justice for Girls locates our work within the overall project of women's equality. Justice for Girls believes it is necessary to eliminate violence and poverty in young women's lives in order to bring about equality. Recognizing and addressing the intersecting/interlocking forms of oppression that young women face is fundamental to our work toward ending violence against girls and young women. Also fundamental to the work of Justice for Girls is the feminist principle that, given the necessary support and resources, young women are more than capable of critiquing the institutional structures that shape their lives. For more information about Justice for Girls please visit www.justicefor-girls.org.

Abstract

This report provides a unique glimpse of young women's experiences of criminalization, presented in their own words. Four girls (aged 15-19) with first-hand experiences of being arrested, appearing in court, and spending time in prison share their stories through conversations with the author, and their words serve as a foundation for outlining the many injustices experienced by girls whose actions are criminalized by the state. The report also offers an overview of the history of girls' imprisonment in Canada. Through reflection on this history, along with the girls' experiences with the police, the courts, and the prison system, the author concludes that nothing less than abolishment of the practice of imprisoning girls will allow young women to escape the many human and equality-rights abuses they are currently subject to. Abolishment of girls' imprisonment represents an important step towards achieving the broader social justice, dignity, and equality that girls are entitled to under Canada's *Charter of Rights and Freedoms*. However, substantial changes in social attitudes and structural inequalities are also urgently needed: instead of investing significant economic resources into forcible means of protection or behaviour change, we need to begin to directly address the circumstances that compromise girls' safety (such as substance abuse and sexual exploitation) and invest in voluntary programs and supports that facilitate girls' development.

The young women's testimonies reinforce the findings of Joan Sangster¹ and others which suggest that girls are indeed being criminalized in the interests of trying to control their behaviour, including substance use, and/or to keep them "safe"

from men who are deemed to be dangerous to them. Unfortunately, the criminal justice system is seldom, if ever, a "safe" place for girls, as sexual harassment from police officers, male guards and inmates is common in these young women's experiences, and violence, segregation, strip-searches and invasive psychological assessments combine to put girls at as much if not greater risk within prison walls.

Young women are also resisting and challenging all aspects of their criminalization and speak poignantly about the transformative potential that lies in knowing and defending their rights.

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“Violent crime by females on the increase”

The Vancouver Sun. Vancouver, B.C.: July 23, 1998. pg. A.1.FRO

OTTAWA – A gang of girls swarmed into a Nanaimo home and severely beat a teenager, two girls were injured in a brawl in Winnipeg, and Victoria teen Reena Virk died after being beaten by a group of mostly girls.

All three incidents occurred within the last eight months.

Crime statistics released Wednesday by Statistics Canada show that violent crime by females increased in 1997, bucking declines in virtually every type of crime in Canada.

But experts say the significance of the trend is debatable.

Statistics Canada says that while the rate of violent crime among youth in general dropped by two per cent in 1997, the rate among females went up by five per cent. The number of females charged with violent crime has been increasing twice as fast over the last decade as the number of males, the agency reports.

However, despite the increase, the rate of female youths committing violent crime -- which includes homicide, attempted murder, assaults and sexual assaults -- is still only one-third the rate for their male counterparts.

Countering Widespread Panic about ‘Violent Girls’

As girls are demonized by the media, their genuine problems can be marginalized and ignored. Indeed, the girls have become the problem.

– Meda Chesney-Lind (1997) *The Female Offender*, pg. 57

If Canadians were to rely on the mainstream media as their primary source of information about youth justice, we would be influenced by headlines such as the one on the opposite page to believe that youth violence – and in particular violence by young women – is spiraling out of control. The headline and first statement in the article paint a picture of young women as violent, dangerous, and belonging to gangs which commit random and unprovoked acts of senseless violence on innocent and unsuspecting victims. It is only when we read further into the article that we discover that this “increase” in violence by young women does not amount to the vast, overwhelming and disturbing trend that we are initially led to believe.

Unfortunately, most Canadians *do* rely on the mainstream media for their information about youth and crime in Canada,² resulting in the mistaken perception on behalf of much of the general public that youth are becoming increasingly dangerous and that Canada is ‘soft’ on youth crime. This perception translates into public fears about the safety of homes, streets and communities, causing alarm that we are constantly at-risk of personally becoming a target of a youth crime wave. As a result, the relationships between youth and adults have become strained – adults approach youth with mistrust, and youth are frustrated and angered about the stereotypes influencing adult behaviour towards them. Indeed, hundreds of youth participating in workshops I facilitated over the past year have consistently indicated that the most common stereotypes they are plagued by are those that characterize youth as troublemakers, as vandalizers, as violent, or as being involved in gangs. Young people are increasingly frustrated about how these stereotypes contribute to dis-

crimination and injustices perpetrated against them in the name of ‘public safety.’ The increasing presence of police in Canadian schools only increases this frustration by placing youth under constant surveillance, implying that they can never escape our suspicions that they must be up to some type of wrongdoing or another.

The reality is that the number of youth in Canada charged by police dropped 35% in the 1990s,³ increased slightly in 2000 and 2001 and then dropped again in 2002.⁴ Violent crimes by youth declined from 1995 to 2000, rose in 2001 but then dropped again in 2002; violent crimes also account for only 24% of crimes committed by youth.⁵ Also, the bulk of youth violent crime is attributable to charges of common assault (assault without the involvement of a weapon, and often amounting to pushing, slapping, punching, or threatening someone⁶). Frequently, youth are charged with common assault against other youth with whom they are acquainted – violence against the elderly or against strangers is rare and unusual.⁷ This is especially true for young women, as charges of common assault constitute 64% of the violent crimes young women were charged with in B.C. in 1998.⁸ Some researchers also suggest that the ‘increase’ in violent offences may be the result of increased surveillance, policing, and charging of youth due to pressure stemming from public fears, and that the actual amount or level of violence may therefore not be changing significantly at all.⁹ As Dr. Mark Totten explains: “Ten years ago, the police, media, and the general public did not place much emphasis on reporting [minor assaults]. Physical fights and threats were dealt with outside the justice system. Today, there is a heightened sensitivity, verging on a moral panic, about

The reality is that the number of youth in Canada charged by police dropped 35% in the 1990s.

this issue.”¹⁰ According to the American Bar Association, supposed increases in girls’ violent behaviour in the U.S. might also be explained by:

the re-labeling of girls’ family conflicts as violent offenses, the changes in police practices regarding domestic violence and aggressive behaviour, the gender bias in the processing of misdemeanor cases, and, perhaps, a fundamental systemic failure to understand the unique developmental issues facing girls today.¹¹

Despite overall decreases in violent crimes committed by youth, Canadians remain overly influenced by the tendency in the media to sensationalize the

Canada has one of the highest youth incarceration rates in the Western world – higher even than the United States.

most rare and exceptional cases, such as the much-reported trial of Kelly Ellard (for the murder of Reena Virk in Victoria, BC in 1997). Violence by girls in particular is frequently misrepresented or misinterpreted by the media. Virk’s murder

received much hype from mainstream media as an example of increasing girl violence, when in fact it was a crime motivated largely by racism¹² (Virk was of colour while her primary attackers, both male and female, were white). Despite the enormous amount of media attention given to this crime, however, very little was said in the media about its racist underpinnings or about how Ellard’s actions – while completely heinous and intolerable – actually reproduced the relationships of dominance and power and the functionings of racist ideology that are reflected in society as a whole. It is somewhat ironic that the media was quick to jump on and play up the anomaly of a young woman’s violence while at the same time completely downplaying the role that racism played in the crime. The media representation of this crime was thereby decontextualized, making it appear to be about a subservient group (girls) becoming more violent, when in fact it was largely about a dominant group (white people) replicating and reinforcing their dominance through

violence. The media focus on Ellard as an example of the new ‘violent girl’ also severely downplayed the fact that her co-accused, Warren Glowatski, is male – a fact that many Canadians remain unaware of today.

While violent crime by youth receives significant attention from the mainstream media, the picture of youth as dangerously, randomly, and increasingly violent is not supported by facts. Sociologist Timothy Hartnagel argues that the general public has a tendency to “overestimate the frequency of murder or violent crime because [such cases] are easier to recall ... given the disproportionate attention given them by the media.”¹³ Kim Pate, Executive Director of the Canadian Association of Elizabeth Fry Societies and Canada’s foremost advocate for criminalized women and girls, recalls being asked by a reporter to comment on the increase in violent crimes committed by young women. The local police had advised this reporter that there had been a 200% increase in robbery offences by girls over the last decade. When Pate suggested that the reporter investigate further, it was discovered that “two young women had been charged with robbery – one about ten years earlier, the other had just occurred.”¹⁴ These two charges accounted for the 200% increase. When we look behind the statistics, the reality is that despite some increases in youth violence percentage-wise, very few numbers of actual youth are committing violent crimes in our country. In 2001, for example, out of a total of 485 people charged with manslaughter, murder or infanticide across Canada, only 5 (1%) were young women.¹⁵ Clearly, the notion of today’s ‘violent girl’ is more myth than reality. In instances when young women *do* use violence, they often employ it in self-defense¹⁶ or as a last-ditch attempt at resistance against the systemic, symbolic, or personal violence perpetrated against *them*. When three young women were charged with the murder of a young man with a criminal record for pimping in Burnaby, BC in 1995, for example, media attention focused on the case as an example of female aggression while almost no attention was paid to the sexual exploitation of young women and the context of ongoing and large-scale violence against girls in which this crime was committed.

The public perception that Canada is ‘soft’ on youth crime is also not supported by facts. Canada has one of the highest youth incarceration rates in the

Western world – higher even than the United States,¹⁷ a country notorious for its excessive reliance on incarceration. Many people remain unaware that keeping a young person in prison is extremely costly. In 1996, the National Crime Prevention Council of Canada estimated the cost of imprisoning a young person for a year at \$100 000,¹⁸ and that's before taking into consideration the costs associated with policing, sentencing, etc. Yet we continue to invest such large sums of money in this system despite the fact that, as Dr. Totten points out, “there are not any hard data supporting positive outcomes for this ‘custodial’ model of youth justice.”¹⁹

Youth in Canada also frequently receive sentences that are much longer and more punitive than those given to adults who commit similar offenses.²⁰ For example, 58% of youth sent to custody for a charge of theft under \$5000 in 1999 were sentenced to longer than one month in prison, whereas only 38% of adults charged with the same crime received a sentence greater than a month.²¹ There is at least one recorded example of a youth court judge refusing to transfer a youth to adult court “for the very reason that the youth will do more jail time in the youth system.”²² Youth are also frequently being sent to prison for charges of non-compliance, which often amount to being out past their court-appointed curfew or being in the company of other youth that the courts have ordered them to have no contact with. In 1991-92, more youth were sentenced to custody for non-compliance-related offences than for violent offences,²³ and in 1998-99, 48% of youth convicted of offences against the Young Offenders Act (non-compliance offences) were sentenced to custody as compared with 32% of youth convicted of a violent offence.²⁴

In the United States, young women are almost three times more likely to be incarcerated for non-compliance charges than their male counterparts,²⁵ and in Canada young women are also more likely than young men to be sentenced to custody for non-compliance offences or for child protection matters.²⁶ The tendency to incarcerate young women for non-compliance charges is related both to our society's lower toler-

ance for ‘disobedient’ females and our strong desire to control or limit the behaviour or freedom of young women ‘for their own good’ or for their protection. It has also been argued that non-compliance charges are used to control young women's sexuality, confining them to prison cells in an effort to maintain or reinstate the morality of those girls who are suspected of promiscuity.²⁷ Sociologist Annie Hudson suggests that behind the desire to lock young women up ‘for their protection’ lies “an almost inarticulated but profound fear of the young woman who is sexually active, sexually explicit, and who is not actually possessed by any one male.”²⁸

Racism is also a significant factor in the incarceration of young women. While Aboriginal youth make up only about 8% of the population of young people in B.C., one 2001 study found that 58% of girls and 36% of boys in custody in British Columbia identified themselves as Aboriginal.²⁹ According to Justice Canada's 2004 One-Day Snapshot of Aboriginal Youth in Custody, “while Aboriginal youth comprised approximately 5% of the Canadian population, 33% of youth in custody were Aboriginal.”³⁰ The over-representation

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of Aboriginal peoples in the justice system is a product of the legacies of colonialist oppression which continues to influence the current racist practices of police, the courts, and child welfare officials. This report outlines the many ways in which young women's encounters with the justice system only serve to further their marginalization on the basis of gender, race, class, and sexual orientation by punishing them largely for their failure to conform to social norms that dictate ‘appropriate’ white, middle-class femininity.

Clearly there is presently a crisis in youth justice

in Canada, but it is not the crisis that is commonly cited by politicians, the media, and the general public. Instead, the crisis lies in the fact that large numbers of young people who rarely pose a threat to our safety are being imprisoned on a regular basis. They are put into prisons where they frequently experience violence and unjust treatment, and where they are often denied the rights that they are entitled to under the *Canadian Charter of Rights and Freedoms*, the *United Nations Convention on the Rights of the Child*, and other provincial, national and international legislation and treaties. As this report documents, young women experience this injustice most intensely, as sexism, racism, and a harsh paternalism combine to trap girls in a system

from their testimony about the overall impact of imprisonment on their lives. The young women's stories also point to a number of ways in which social change would contribute far more to solving the 'problem' of youth crime than continued criminalization ever will. It is our hope that through the words and experiences of young women who have "been there," we can begin to build bridges between criminalized girls and those with a commitment to achieving broader social justice.

SECTION 1 NOTES

- ¹ Sangster 2002a
- ² Hartnagel 2002; Jaffe & Baker 1999; Mallea 1999
- ³ Statistics Canada, cited in Hartnagel 2002
- ⁴ Statistics Canada 2003
- ⁵ Statistics Canada 2003
- ⁶ Totten 2000
- ⁷ Tonkin and Murphy 2002
- ⁸ Statistics Canada Juristat, cited in Tonkin and Murphy 2002
- ⁹ Reitsma-Street 2004, Sangster 2002a
- ¹⁰ Totten 2000 pg. 11
- ¹¹ ABA/NBA 2001, pg. 3
- ¹² For a more in-depth analysis of the erasure of race in the Kelly Ellard trial, see Jiwani 2002
- ¹³ Hartanagel 2002, pg. 11
- ¹⁴ Pate 1999, pg. 39
- ¹⁵ Statistics Canada, CANSIM, table 253-0003
- ¹⁶ Totten 2000
- ¹⁷ CCPA 1999; Hartnagel 2002; Jaffe & Baker 1999
- ¹⁸ cited in Hartnagel 2002
- ¹⁹ Totten 2000 pg. 17
- ²⁰ CCPA 1999; Statistics Canada Juristat 2000
- ²¹ Statistics Canada Juristat 2000
- ²² CCPA 1999 pg. 2
- ²³ Reitsma-Street 2001
- ²⁴ Statistics Canada Juristat 2000, Table 8
- ²⁵ ABA/NBA 2001
- ²⁶ Totten 2000
- ²⁷ Reitsma-Street 2001; Hudson 2002
- ²⁸ Hudson 2002, pg. 298
- ²⁹ McCreary 2001
- ³⁰ Department of Justice Canada, 2004

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in which their access to justice remains a distant and unfulfilled promise.

The people least likely to be consulted about the 'problem' of youth crime are youth themselves, particularly youth who have been in conflict with the law. Youth involved with the criminal justice system – and young women in particular – receive almost no input into their sentencing or their day-to-day existence once sentenced, leading to frustration on their part and, not surprisingly, an unwillingness to comply with the conditions forced upon them. This lack of input from criminalized youth persists despite the fact that the right to provide input and be heard is a key principal of the *U.N. Convention on the Rights of the Child*, and despite a recommendation from the Ombudsman of British Columbia in 1994 that the right of youth to be heard must be ensured in youth custody centres throughout the province. The new *Youth Criminal Justice Act* (YCJA) also confers on youth the rights laid out in the *U.N. Convention on the Rights of the Child*, but despite this legislated obligation to provide youth with an avenue for meaningful input, their voices remain unheard. This report gives voice to four young women's experiences with the justice system as stated in their own words, and provides insight

Locking Them Up to Keep Them “Safe” A Brief History of Young Women’s Imprisonment in Canada

Late nineteenth-century reformers ... established an explanatory code that portrays girls as passive and in need of protection, but also as potentially socially dangerous if they do not conform to codes of sexual respectability and domesticity.

– Annie Hudson (2002) “Troublesome Girls,” pg. 297

The match between the expert discourses on juvenile delinquency and the actual apprehension of children is clear: boys broke the law, and girls violated gender and sexual conventions.

– Joan Sangster (2002a) *Girl Trouble*, pg. 69

There is a general consensus that, historically, under the welfare-based youth laws, female youths have been discriminated against by being disproportionately punished for status offences, such as immorality, incorrigibility, and promiscuity.

– Raymond Corrado, Candice Odgers, & Irwin Cohen (2002) “The Incarceration of Female Young Offenders,” pg. 425

The history of young women’s imprisonment in Canada has been well-documented elsewhere.³¹ However, a brief look to past practices related to the justice system’s responses to young women is essential to understanding the approach of many of today’s social workers, police, probation officers, and judges. The historical treatment of female ‘juvenile delinquents’ is steeped in racism and sexism alongside a pervasive fear of young women who show disregard for conventional norms dictating ‘proper’ femininity and sexuality. Unpacking this history is key to perceiving the values that underpin today’s approaches to young women who break the law.

2.1 The Juvenile Delinquents Act (JDA): 1908 – 1982

Under the Juvenile Delinquents Act (JDA), which

legislated Canada’s approach to youth crime from 1908 to 1982, youth could be charged with “status” offences such as truancy, running away, disobeying parents, or other forms of troublesome but typically non-criminal behaviours. Such behaviours suggested to the courts that a child was in danger of becoming involved in criminal activity and that intervention was therefore necessary to try to divert them from the road to a criminal lifestyle. The JDA’s mandate extended to youth considered to be “at-risk” as well as those “in need of guidance and supervision.”³² Thanks to a 1924 amendment to this act, the courts were given the power to charge young offenders – and young women in particular – with “sexual immorality or any similar form of vice.”³³ This amendment was developed specifically with young women in mind; it was brought about by pressure from two judges and the Canadian Association of Child Protection Officers, who were concerned that while a young man guilty of having sex with a girl who was a minor could

be charged with contributing to her delinquency, the young women involved in these cases were getting off ‘scot free.’ The authorities believed that they lacked adequate tools to deal with girls’ sexual immorality, and advocated for this amendment because they sought additional powers with which to legally condemn young women for what they perceived as promiscuous, amoral, and undesirable behaviour. Unfortunately the amendment, passed by parliament with barely a second thought, gave the courts tremendous powers to sanction and punish young women for their actual or presumed participation – consensual or not – in sexual acts, as numerous cases throughout the 1930s, 40s, 50s

The courts were given the power to charge young offenders – and young women in particular – with “sexual immorality or any similar form of vice.”

and into the 1960s indicate.³⁴

Tests for girls' sexual purity included a "physical exam to see if the girl's hymen was intact"³⁵ and girls taken to court on other charges, such as theft, were frequently questioned about their sexual history, which often became the central issue in their trial. The following comment made by a male judge in the 1940s while sentencing a young woman to training school is exceptionally telling of the courts' attitude toward young women's non-conforming behaviour during the first half of the twentieth century: "This world needs good women now more than ever before and there is nothing in the world that grows into good women except good girls ...".³⁶ Very few thought to question exactly what qualities would qualify one as a "good girl" or woman, nor did they question who had the power to define what good womanhood entailed. Ultimately, the picture of good womanhood upheld by the courts and promoted to the largely poor, racialized young women they dealt with was shaped by values and standards that were white, middle or upper class, and that positioned monogamous heterosexual marriage and female domesticity and motherhood as key

Attempts to 'rehabilitate' First Nations girls, mainly through incarceration in training and industrial schools, were embarked on with open admission that the aim of such ventures was to make the girls relinquish their cultural ties and embrace white, middle-class values.

achievements for young women. Of course, most of these ideals would have been utterly unattainable for many of the girls who were charged under the JDA, even if they *had* desired them.

The bulk of young women charged under the JDA were living in poverty or from working class backgrounds. This overabundance of low-income girls among those arrested and incarcerated may well be related to the intensive police surveillance of impoverished neighborhoods – a reality that is still very much the case in Vancouver today due to extensive police surveillance of the downtown eastside, one of the most socio-economically disadvantaged neighbourhoods in Canada. In fact, Vancouver social justice organization Justice for Girls has argued that "it is not an ex-

aggeration to say that the residents of the Downtown Eastside are currently living in a police state."³⁷ But increased surveillance alone cannot explain the tendency throughout Canadian history for girls living in poverty to be far more likely to appear before the courts. Middle-class reformers, often in the guise of charitable organizations such as the Big Sisters' Associations, played a significant role in the judicial involvement of poor and working class young women.³⁸ They believed it was their moral duty to instill the values of the dominant classes in the young women they came in contact with. These maternal protectors attempted to right the wrongs experienced by young women suffering from what they perceived as the 'bad mothering' of working class women and the 'lower moral standards' generally among the 'lower' classes. Their primary aim was to help girls "rise above unfortunate circumstances"³⁹ and assume their proper places as wives and mothers. Historian Joan Sangster documents how most of the BSA's success stories involved the transformation of girls whose lifestyles "screamed endangerment to proper passive femininity and sexual purity."⁴⁰

There is also evidence to suggest that the JDA was used as a tool to curb same-sex desire in young women. During the 1920s it became more and more common for 'experts' on adolescence to encourage heterosexual dating and even a certain amount of physical intimacy between

boys and girls, drawing the line sharply at premarital sex. Joan Sangster argues that this condoning of some heterosexual experimentation "may have grown in part out of increasing fears of sexual intimacy between young women."⁴¹ This normalizing of heterosexuality led to increasing surveillance and punishment of any indication of same-sex desire. An example comes from the case notes of a BSA worker who described a young woman on her caseload as "very masculine, mentally and physically," which was believed to be caused either by the young woman's "sexual inversion (indicating lesbianism) or extroversion (an aggressively sexual girl)."⁴² Both of these forms of sexual expression were deemed highly undesirable in girls, and were therefore labeled 'delinquent.' Given that 58% of girls in prison

in B.C. recently indicated that they identify as something *other than* 100% heterosexual, in comparison with only 16.5% of the female school population,⁴³ it seems evident that further research is needed to document the extent to which heterosexism functions in the present criminalization of young women.

Racism played an increasing role in the charging and sentencing of young women during the reign of the JDA. Very few First Nations girls were incarcerated in the early part of the twentieth century, but by the 1950s these numbers had increased dramatically.⁴⁴ First Nations young women were often perceived to be at significant “risk” because of what was believed by the courts to be a lack of discipline in Native homes, and also because of the lingering effects of colonialism – namely higher rates of alcoholism, violence and criminalization among First Nations people. Thus began a vicious cycle, whereby girls already coping with the ongoing impact of colonization were doubly afflicted through sentencing practices where they were more likely to be taken into custody simply *because* of these lingering effects. First Nations girls were also frequently accused of being either overly quiet and withdrawn or overly rebellious, and neither of these was looked upon favourably by the courts, psychiatrists, or training school supervisors. Attempts to ‘rehabilitate’ First Nations girls, mainly through incarceration in training and industrial schools, were embarked on with open admission that the aim of such ventures was to make the girls relinquish their cultural ties and embrace white, middle-class values, as evidenced by the sharp criticism of one early reformer who was frustrated that a First Nations girl in her care seemed to “wish to stick to her own culture.”⁴⁵ Given the ongoing overabundance of First Nations youth among the young people in prison in Canada, it is arguable that the practice of confining First Nations children to residential or training schools actually did not end in the 1960s as is often reported, but instead continues to the present day under the guise of the criminal justice system.

The incarceration of working class, First Nations, and sexually ‘deviant’ young women under the JDA was

largely motivated by a paternal desire on the part of the courts to protect these young women from themselves and others. However, this desire to keep young women “safe” from the many outside forces that might jeopardize their safety or purity was problematic for two primary reasons. First, the courts’ concept of safety was premised largely on morality rather than on physical or emotional well-being. For example, young women who associated with boys were frequently deemed to be

Under the YOA, youth for the first time were given rights to lawyers, and the law also indicated that incarceration of a young person should be used only as a last resort.

jeopardizing their safety even if there was no evidence of sexual activity between them. Girls who wished to stay out after dark, hitchhike, experiment with alcohol, or engage in consensual sex were considered to be putting themselves “at risk,” while boys engaging in similar activities were seen to be ‘sowing their wild oats’ or otherwise behaving normally. Even in instances where a young woman’s safety might have legitimately been threatened (for example, if she was spending time with much older or abusive men), the courts were unconcerned with the threat of male violence but instead focused primarily on the “immorality” of the young woman.⁴⁶ Secondly, there is now much evidence to suggest that many young women *were sentenced to* the very abuses that imprisonment was supposed to protect them from, as sexual, physical and emotional abuse have proven to be all too common in residential/training schools, custody centres, and other institutions for youth.⁴⁷

Many young women were sentenced to the very abuses that imprisonment was supposed to protect them from.

2.2 The Young Offenders Act (YOA): 1982 – 2002

The implementation of the Young Offender’s Act (YOA) in 1984 (adopted by parliament in 1982) saw the elimination of the status offences, and there were hopes that the sexism and racism so strongly influenc-

ing the sentencing of young women under the JDA would not continue under the new act. Under the YOA, youth for the first time were given rights to lawyers, and the law also indicated that incarceration of a young person should be used only as a last resort. However, it wasn't long before Canadians with a "law and order" agenda began to call for reforms to the YOA, which they believed was 'soft' on youth crime. Slowly, reforms began to erode the protection of youth rights, which had been a significant part of the original intent of the act. Contrary to the least-restrictive intent of the YOA, Professor Marge Reitsma-Street found that custody dispositions for young women actually *increased* under the YOA, from a low rate of only 7.8% of girls' sentences resulting in custody in 1982 to a high of 23.4% of sentences being custodial in 1995-96.⁴⁸ This number rose to see 28% of young women convicted of a crime in 1998-99 receiving a jail sentence.⁴⁹ Clearly the notion of custody as a last resort, while enshrined in theory in the YOA, has not played out in practice.

Another cause for concern regarding charges against young women under the YOA lies in the numbers of young women charged with failing to comply

The desire to forcibly protect young women 'for their own good' is largely motivated by the sexist assumption that it is easier to control the behaviour of young women than to confront both the men who commit violence against them and the social inequalities that put young women into danger in the first place.

with a judicial disposition. These charges could be applied if a young woman refused to comply with some condition of her bail, probation, or other community sentence order, and might involve charges for being in the company of other youth with whom the courts had deemed she was to have "no contact," for failing to follow the rules of her residence (whether it be the home of her parents, guardians, foster parents, or a group home), for running away, or for being out past

her court-appointed curfew. The number of young women charged with such offences rose from 6.1% of all young women charged under the YOA in 1985-86

to 33.8% of all young women charged in 1999-2000, a startling increase that led Marge Reitsma-Street to suggest that the "old status offences [under the JDA] have been replaced by new 'status-like' failure to comply offences."⁵⁰

There is some debate about the cause of this increase in non-compliance charges against young women. Is it the result of a carry-over of the sexist approach to sentencing young women under the JDA? Or are the authorities, at an ever-increasing loss about how to protect young women from substance use, violence, and sexual exploitation, increasingly inclined to incarcerate young women for their own safety? I would argue that these rationale are, at their core, one and the same – that the desire to forcibly protect young women 'for their own good' is largely motivated by the sexist assumption that it is easier to control the behaviour of young women than to confront both the men who commit violence against them and the social inequalities that put young women into danger in the first place. I recall a probation officer I met in the late 1990s recounting how relieved she was to be able to charge the girls she supervised with non-compliance offences. Since she felt there was little she could do about the adult men who were pimping and abusing these young women, she was glad that she could at least make use of the non-compliance offences to incarcerate girls for a period of time and remove them from immediate danger. While her actions are certainly understandable, they are also a good example of the justice system's willingness to criminalize and incarcerate girls primarily to protect them from violence and oppression. Rather than lobby for changes in how the courts deal with men who pimp young women, or consider the social injustice in the reality that sexual exploitation is increasingly the only viable survival mechanism for many young women, this probation officer (and, I'm sure, many others) was eagerly awaiting the passage of a secure care act in B.C., which would give the authorities even greater powers to lock girls up in the interests of keeping them safe. As summarized so nicely by Sociologist Annie Hudson, "to date the problem [of sexual exploitation] has always been framed as a problem of and for women; male power and responsibility barely enter the discussion."⁵¹ Until our focus shifts from controlling young women to a

broad-based, serious confrontation of male violence and of social inequalities, we will be left with more and more girls suffering the injustices of imprisonment ‘for their own good.’

2.3 The Youth Criminal Justice Act (YCJA): 2002 – Present

The YOA has since been replaced by the Youth Criminal Justice Act (YCJA), which was enacted in 2002 and came into force on April 1, 2003. The new act states that “all available sanctions other than custody that are reasonable in the circumstances should be considered for all young persons,”⁵² resulting in a sense of optimism among youth advocates that the numbers of youth in custody would diminish across the country. However, as noted by Kim Pate, the YOA made similar statements about the use of custody as a last resort, so one wonders about the likelihood that this practice will change with a mere change in legislation.⁵³ But there is evidence that the YCJA is having a positive effect: several youth jails have apparently already closed all or part of their facilities due to the significant reduction in youth being sentenced to prison.⁵⁴ However, while overall numbers of youth in prison may be decreasing, a corresponding increase in funding for supportive youth programming in communities has not been forthcoming. Since the new act appeals to youth court judges to first consider community-based alternatives to custody, there was hope that young women would no longer be sentenced to lengthy custodial sentences for non-compliance or other minor offences. However, the erosion of community services under the B.C. Liberal government’s “new era” also means that a youth court judge who is inclined to sentence a youth to a community alternative is faced with fewer and fewer community options to choose from. Cutbacks to the B.C. Ministry for Children and Families also result in the use of custody to deal with social problems faced by youth, despite the fact that youth custody is not supposed to be used for child welfare purposes.

While this section provides only a brief overview of some of the historical circumstances of girls’ imprisonment in Canada, it is nonetheless clear that the approach taken to young women who have been deemed ‘delinquent’ has roots in sexist, racist, and co-

lonialist thinking. Efforts to ‘protect’ young women through incarceration have been ineffective at best and positively counterproductive at worst, as many young women have experienced serious physical and psychological harm through their imprisonment. Unfortunately recent research, the testimony of young women, and the observations of Justice for Girls all indicate that in recent years little has improved in the criminal justice system’s approach to young women.

SECTION 2 NOTES

³¹ see Reitsma-Street 1989-90, 1991 & 1993 and Sangster 2002a & 2002b

³² Sangster 2002a pg. 19

³³ Sangster 2002a pg. 71

³⁴ Sangster 2002a & 2002b

³⁵ Sangster 2002a 82

³⁶ quoted in Sangster 2002a pg. 33

³⁷ Justice for Girls 2003

³⁸ Sangster 2002a

³⁹ Sangster 2002a pg. 45

⁴⁰ Sangster 2002a pg. 29

⁴¹ Sangster 2002a pg. 43

⁴² Sangster 2002a pg. 55

⁴³ McCreary 2001

⁴⁴ Sangster 2002b

⁴⁵ Sangster 2002b para 32

⁴⁶ Sangster 2002a

⁴⁷ Pate 1999; Totten 2000

⁴⁸ Reitsma-Street 2001

⁴⁹ Statistics Canada Juristat 2000

⁵⁰ Reitsma-Street 2001 pg. 287

⁵¹ Hudson 2002 pg. 301

⁵² Department of Justice Canada, YCJA, Section 38.d

⁵³ Pate 1999

⁵⁴ Neve and Pate 2004

A Harsh Paternalism: Policing Young Women in the Community

Policing means enforcing what is expected by those with the power to determine what is expected. If the expected behaviours, attitudes, and words of a good girl are not forthcoming, those who do the expecting monitor and punish the infractions.

– Marge Reitsma-Street (2001) “Justice for Canadian Girls,” pg. 294

The police all judge me, and they wouldn't care if I was being good, if I was working four jobs, if I had, like, my own house, whatever. They would still judge me . . .

– “Keera,” project participant

While we often think of ‘policing’ as an action undertaken by police officers in order to ensure the safety and security of our society, in fact, as the comment from Marge Reitsma-Street above indicates, policing actually takes on many different forms and is performed by many different actors. When we think of ‘policing’ as

When we think of ‘policing’ as behaviour which influences or constrains the decisions we make in our day-to-day lives, then it becomes clear that there are many different ways of ‘policing’ young women.

behaviour which influences or constrains the decisions we make in our day-to-day lives, then it becomes clear that there are many different ways of ‘policing’ young women, from isolating a girl for not conforming to social norms, to using violence to keep a girl ‘in line,’ right up to the use of the justice

system to formally ‘police’ a girl’s behaviour. Hence the behaviour of young women is heavily ‘policed’ in the community long before they come into contact with the actual justice system. Girls learn early on that conforming to expected codes of behaviour is necessary if they want to avoid social sanctioning – that they

will have to walk a fine line to maintain the image and reputation of the ‘good girl’ who will grow up to be a ‘good woman.’ From a young age, girls are socialized to care for others and frequently to put others’ needs before our own.⁵⁵ We learn that ‘good girls’ are good at balancing: they are smart but not *too* smart, sexy but not *too* sexy, assertive but not *too* assertive. These gender norms are reinforced by families, schools, and communities through the awarding or withdrawal of attention, praise, and acceptance. Young women who continually overstep the bounds of the gendered role proscribed to them quickly learn that our society has many other means of attempting to keep them in line.

Girls are constantly being judged by those around them, with slandering and shunning being the most common tactics used to punish a non-conforming girl.⁵⁶ Indeed, girls themselves are quick to make use of these tactics to distance themselves from other girls that they believe are likely to be sanctioned, as a way to avoid being ‘tainted’ through association with a girl believed to be ‘bad.’ Although much is being made these days of girls’ participation in what has been described as “relational violence,” little attention has been given to how girls’ participation in slandering and shunning other girls is often a tactic for their own survival, a way for girls to momentarily redirect the attention of the more powerful forces who might pass the same judgment on them. The most common method of slandering or shunning a young woman is to label her a ‘slut’ or a ‘ho’ – a tactic that is not new by any stretch of the imagination, nor should it be surprising given the long history of judging girls and women based on their presumed or actual sexual histories.

3.1 Violence Against Girls: A Mechanism of Social Control

If slander or isolation fails to get girls to conform to normative expectations for what a ‘good girl’ should

be, violence is another tool used to keep girls and women in our place. Girls are taught to fear violence at a young age. This fear functions to limit the behaviour and freedom of young women, whether through caregivers' attempts to control the behaviour of girls in order to keep them safe from violence or through a young woman's own decisions to curb certain behaviours and actions that she fears might put her at risk. Violence against girls tends to serve two functions: it is used to preemptively teach young women subservience and acceptance of our male-dominated culture, and it is used to punish girls who resist subservience or conformity to traditional female gender roles. In these ways, violence functions as a form of 'policing' of young women's behaviour as well. Ninety-six percent (96%) of girls in custody in B.C. report having experienced physical and/or sexual abuse, 63% of whom report experiencing sexual abuse specifically.⁵⁷ Clearly, young women in prison should have ample access to women's anti-violence organizations, which offer support and counseling that is appropriate for survivors of sexual abuse. Having access to such support and counseling through women's organizations that are based in the community is essential so that girls can continue to access this support once released, and also because the prison environment, which replicates girls' experiences of violence, is an inappropriate and unsafe venue for such counseling to take place. However, access to such programming is not regularly made available to young women in jails in B.C. or throughout the country.⁵⁸

Girls struggle to avoid the extensive violence, perpetrated by abusive men, that does legitimately threaten their safety. Unfortunately, their vulnerability to such violence is frequently only intensified through the often-good intentions of those who attempt to protect them. Attempts to protect girls by controlling or limiting *their* behaviour often isolate girls from those who genuinely care about them, pushing them underground and away from the supports that could otherwise help them to escape violent situations created by abusive boys or men.

Three of the four young women who contributed to this project through in-depth conversations report experiencing serious physical and/or sexual abuse from

an abusive male during their early teen years. "August" describes an experience of emotional abuse perpetrated by a much older boyfriend when she was fourteen:

Like he'd call me names and stuff, and then he'd be like "oh, I'm sorry, I'm sorry," but then five minutes later he'd be like "fuck you, bitch," but then "I'm sorry." It was just horrible.

Ninety-six percent (96%) of girls in custody in B.C. report having experienced physical and/or sexual abuse, 63% of whom report experiencing sexual abuse specifically.

Another older man was convicted of sexually assaulting August when she was thirteen years old. At fourteen, "Catarina" was regularly beaten by a boyfriend who was 21 years old. His violent behaviour persisted throughout the year that Catarina and this older man were together. Aside from the physical violence, he also supplied her with drugs and encouraged – sometimes forced – her to take them:

Catarina: There was also times when like ... I'd wake up to my boyfriend blowing speed up my nose with a straw and stuff like that.

Amber: That's pretty scary, hey?

Catarina: Yeah. I was like what the fuck! But I didn't wanna question anything he did because when I did I got hit.

Amber: Yeah, I think you said before that that was a pretty violent relationship?

Catarina: Oh yeah, daily. If something didn't go his way he'd take it out on me. He'd find things to hit me with ... like I remember this one time, I ah ... I didn't want to go out and party, I was like "No, I want to take a break," right? And he picked up rollerblades and smashed me across the head with them ... because I didn't want to go out and party.

"Keera" was also in an abusive relationship with an older man who became her co-accused in a serious charge. When asked about whether she would define the relationship as a healthy one, she responds: "Uh,

no. No. It was one of much, like, turmoil and, like ... yeah.” Later she relates how the police were called by neighbours to respond to a physical fight between them. When the police arrived Keera corroborated her boyfriend’s lie about his identity, as there was a warrant out for his arrest. Later, the police charged her with obstruction of justice for this lie, for which she spent three months on probation. Yet for Keera, the consequences of choosing NOT to lie to the police in this instance (increased harassment or violence from her boyfriend) would likely have seemed more severe

The criminal justice system continually fails to respond to male violence against girls in any meaningful way, and instead criminalizes the girls who experience such violence in the interests of trying to keep them ‘safe’.

than the consequences of lying to protect him at that moment. But because of the justice system’s utter failure to respond in a meaningful way to male violence, it is Keera’s understandable behaviour that is criminalized, not the violence perpetrated by her boyfriend.

The amount and degree of violence a young woman experiences is also often compounded by racism, homophobia, and poverty. Girls’ lived experiences of oppression often increases their vulnerability to violence, by isolating them from family and friends or forcing increased dependence on others due to being unable to care for themselves financially. Factors such as racism, homophobia, poverty, or disability may also cause an attacker to see a young woman as an even more justifiable target for violence and abuse due to what he perceives to be her “lesser” or more “submissive” status as racialized, or queer, or poor. Thus the social dynamics of power and dominance are replicated in young women’s personal relationships, although many would not identify the larger social context of the violence they are facing on a day to day basis.

Unfortunately, the criminal justice system continually fails to respond to male violence against girls in any meaningful way, and instead criminalizes the girls who experience such violence in the interests of trying to keep them ‘safe.’ While it is not our inten-

tion to advocate the further criminalization of any group of people, we nonetheless believe it is important to note the discrepancies between the criminal justice system’s response to young women’s breaches of probation versus its (lack of) response to men’s violence towards these same young women. Rather than removing young women from the community in an effort to protect them, perhaps the justice system should focus on the development of innovative ways to remove violent men from the community temporarily and in a manner that would facilitate their eventual return to the community as non-violent men. We are concerned, however, that the current prison system does *not* facilitate such changes in violent men, and instead often only increases their violence and hostility. Therefore, rather than recommending that the justice system should simply start to put violent men in prison more frequently or for longer periods of time, we instead believe it is essential that a method be developed for removing violent men from the community without violating their own human rights and dignity in the way that the present prison system frequently does.

Given the extent of the violence young women face, it is not surprising that their families might go to great lengths to try to protect their daughters. When faced with a young girl that we care about who is experiencing such horrible acts of violence, most of us would try just about anything to help or protect her. However, attempts to keep girls safe by controlling *their* behaviour, while well-intentioned, are often experienced by girls as unjust attempts to curb their freedom, especially as compared to the freedom of movement they observe in their male peers or brothers. While these attempts to keep girls safe are utterly understandable when made by those who love them, it is necessary to address the larger social problem of violence against women and girls in order to truly protect girls from violence in the long run.

3.2 State Intervention in Family Efforts to Protect Troubled Girls

Under both the YOA and the YCJA, parents can be empowered by the courts to supervise a young person’s probation or community sentence order and report infractions to a probation officer or the police. Such leg-

isolation puts parents in the precarious position of being required by law to monitor and constantly be in control of their child's behaviour with all the force of the state behind them – in fact, in these situations, parents can face state sanctioning themselves if they choose not to report a child who has breached some aspect of an order's conditions. In her early adolescence, August began to have conflicts with her mom over wanting more freedom to be away from home. The conflicts intensified to a point where August spent some time in a group home and a couple of foster homes, when she was between the ages of 13 and 15 years old. She recounts the various methods used to control her behaviour while in these different residential settings, including a foster mom taking away her bus pass for missing the bus home, greatly limiting her ability to move about in her community. Another foster mom, who August describes as a “control freak – everything was her way or no way all the time,” locked August in the basement overnight for approximately two months, presumably to prevent her from leaving the house at night.

Throughout her early adolescence August would spend periods of time at home with her mother, but her mom was increasingly involved, through court orders, in policing August's behaviour as well. August recounts that the first time she was sent to custody she “was on a 7.1,” which she explains means that “your mom is responsible for all your actions and everything you do.” August had been sentenced to probation for a minor offence prior to this time, but since she was being “a real pain in the ass” her mom decided to “pull [her] 7.1,” which meant that August “automatically got picked up.” Hence August's incorrigible adolescent behaviour became a justification for two weeks' imprisonment. Again, August's mom, and most likely her foster-moms as well, are well-intentioned, and their actions come from a place of caring about August and being concerned about her safety – after all, only a short time before this August was sexually assaulted, and her mom and guardians obviously must feel a justifiable concern about August's safety in the community. However, criminalization of August's behaviour does nothing to address the violence that August experienced, and putting August's mom in the position of policing August's behaviour on behalf of the state only

serves to drive them further apart, isolating August from a source of genuine help and support.

“Cindy” also had her first experience of prison as a result of her troublesome – but not criminal – behaviour at home. She was living in a group home when she became angered at the treatment she was receiving and kicked some books off a bookshelf. As a result she spent a week in jail and a few months on probation stemming from a charge of “mischief.” She was thirteen years old at the time. Because girls are broadly expected to internalize their anger, the kind of non-feminine acting-out behaviour shown by both August and Cindy is quickly sanctioned with quite severe consequences, and one wonders whether similar behaviour from young men would receive similar sanctioning. In Cindy's case, it is also quite possible that stereotypes about the overly-aggressive nature of racialized girls played a part in the extensive sanctioning she received for such a minor act of aggression.

Catarina's family made significant efforts to try to protect her from the extensive and brutal violence she was experiencing from her much-older abusive boyfriend. One evening, Catarina's sister tried to prevent her from leaving the house to return to this boyfriend after Catarina had come home briefly to clean herself up:

I came home and my sister had saw that I had a black eye and my nose was bleeding and stuff like that and she asked what had happened and I told her that my boyfriend had hit me. And she goes ... I said ... she said “What are you doing? Like, OK so you're not going to go back to him, right?” I'm like, “No I'm just washing my face and I'm going to meet up with him.” So I washed my face and got ready and stuff like that and she stood at

Not only does male violence result in serious emotional and physical injuries to young women, but it also serves to isolate a young woman from the people who genuinely care about her – especially female relatives or friends.

the front door and said, “No, you’re not going anywhere.” And I’m like, “Why? What are you talking about?” And she said, “He hit you, obviously it’s gonna happen ... the first time is never the last,” right? And um, she had been in a situation ... she was in an abusive relationship and she kinda knew, right? And then there was me saying “Oh, he’ll change” and stuff like that, right? So we were arguing and stuff and I was in the bathroom fixing my hair and stuff like that and she came in and she goes “I’m not letting you go anywhere, you’re gonna have to get past me.”

Not only does male violence result in serious emotional and physical injuries to young women, but it also serves to isolate a young woman from the people who genuinely care about her – especially female relatives or friends. In this instance, Catarina’s sister is taking important steps to try to create safety for Catarina in

One social worker commented that once a girl had developed a ‘reputation’ for promiscuity, “it became very easy to say that she was actually involved in prostitution.”

a situation of immediate danger. Her actions are the opposite of policing – rather than trying to control Catarina’s behaviour unjustifiably or to keep her in line, here we see Catarina’s sister attempting to extend help to a young woman in a very dangerous situation. But Catarina is no longer able to separate genuine help and support from her frustration at the policing she has been subject to, and as a result all intervention (even the kind that might in other circumstances be seen as supportive or helpful) is interpreted by her as a form of control. Further, she likely interprets the consequences of choosing NOT to return to her boyfriend in this instance (his intensified violence) as more serious than the consequences of fighting with her sister to get back to him. Nonetheless, Catarina was charged with assaulting her sister after she used force to try to leave the family home and return to her boyfriend, a charge which results in further policing that in turn pushes her further away from those who would offer her genuine help.

3.3 Policing by Professionals

Young women who conversed with me for this project indicated that their behaviour has frequently been policed by social workers, probation officers and the police themselves. Collaboration among these forces is also not uncommon, and sometimes results in reliance on rumor or perception rather than on fact when determining a young woman’s fate. Sociologist Annie Hudson found that over a quarter of social workers participating in her study admitted that they based decisions on a young woman’s care on what others (particularly the police and parents) alleged about her. One social worker commented that once a girl had developed a ‘reputation’ for promiscuity, “it became very easy to say that she was actually involved in prostitution.”⁵⁹ Through their extensive court-monitoring program, Justice for Girls has observed that Crown prosecutors also frequently rely on information about girls that is premised on gossip or on a girl’s ‘reputation’ rather than on reality. Clearly we have not advanced much from the days when a girl’s reputation was adequate excuse to incarcerate her. In recent history, ‘expert’ testimony has continued to gain credence with the courts. Young women frequently report that individuals with the status of “expert,” such as psychiatrists, medical doctors, social workers, and probation officers may interpret allegations as fact with very little evidence, and their testimony is given far more credence by the court than a young woman’s own. Young women experience this policing of their behaviour as intensely frustrating and sometimes dangerous.

Once under the surveillance of probation officers, the policing of young women’s behaviour becomes more overt. Criminologists Raymond Corrado, Candice Odgers & Irwin Cohen suspected that probation officers frequently take steps to “protect female youth from high-risk environments and street-entrenched lifestyles.”⁶⁰ After undertaking a content analysis of predisposition reports (PDRs) completed by probation officers on their young female clients, their hypothesis was confirmed: they found that “the majority of probation officers (75%) made statements that were scored as protective responses.”⁶¹ They provide the following excerpt from a PDR as an example of a protective response on the part of a probation officer:

... short of a custodial disposition, which is not desirable at this point, the writer is at a loss as to how to control or assist this defiant young girl in the community ... her history reflects a continuous cycle of refusal to co-operate with treatment attempts and running away ... It is the fear of this writer that this youth is in grave danger of further victimization and self harm if no action is taken.⁶²

The young woman being spoken of received a 45-day jail sentence for two charges of breach of probation. The protective intentions of this probation officer must be assessed alongside his or her choice of language to describe the girl in question: she is uncontrollable, “defiant,” refuses to co-operate and continuously runs away – in short, she fails to behave like a ‘good girl’ should. Would we find the same characterization in the predisposition reports of male youth? This would certainly be an excellent area for further research. We do not receive enough information in this excerpt to determine the extent of the “victimization and self harm” that this girl is said to be at risk of. However, it is again interesting to note that the only solution this authority figure can come up with relates to controlling the behaviour of the girl herself as opposed to challenging the behaviour of those who allegedly victimize her. And given the extremely high rate of self harm by females in prison in B.C. (28% of incarcerated girls reported deliberately cutting or injuring themselves in custody, and 18% reported attempting suicide while in custody),⁶³ it seems unlikely that a jail sentence will prevent this young woman from causing herself harm. Yet numerous girls are incarcerated for breaches of probation as a result of such protective statements from their probation officers; indeed, one study found that probation officers recommend a custodial sentence based on the need to protect *society* from female youth only 4.5% of the time.⁶⁴

Young women report that the extent to which they are bound by the conditions of their probation depends largely on who their probation officer is. August had two different probation officers during the years she

was on probation. She explains the difference between their approaches this way:

August: Well, [female P.O.] maybe goes more by the book, whereas [male P.O.] goes more on trust. If he can trust you, the world is in your hands pretty much, but if he can't then you might as well be in jail.

Amber: Right, whereas with [female P.O.] she just kind of treats everybody as though she can't trust them?

August: Well if you screw up, like if you're not supposed to be with “Bob” and you're caught with Bob, [female P.O.] would be like “okay, that's a breach,” whereas [male P.O.] would be like “tell me you're not going to see Bob again and we'll let it go.” But if you get caught with Bob again, then you're basically ...

Amber: Then you're in big trouble?

August: Yeah. [Male P.O.] doesn't put in a breach unless he's going to ask for jail time.

Young women sentenced to probation are frequently provided with a long list of conditions that they must follow or risk further criminalization by the courts.

3.4 Conditions Placed on Girls' Community Sentence Orders

Frequently, when a young woman is sentenced to probation or given a conditional sentence to be served in the community, she is given a number of “conditions” which she must follow. Conditions can be assigned re-

Probation officers recommend a custodial sentence based on the need to protect society from female youth only 4.5% of the time.

gardless of whether the prohibitions they specify have any relationship to the original crime that a young woman was convicted for. The YCJA gives broad license to the courts to order youth on probation to comply with a number of required conditions as well as “any other conditions set out in the order that the youth justice court considers appropriate, including

conditions for securing the young person's good conduct and for preventing the young person from repeating the offence or committing other offences."⁶⁵

3.4.1 Prohibitions Against Drug or Alcohol Use

Most young women on a community sentence order or probation order receive a prohibition from consuming any alcohol or drugs, regardless of whether substance use was a factor in their original crime. For girls with

Despite the fact that the intention of this no-contact order is to protect Catarina from harm, her breaches of the order eventually mean that *she* is forced to spend eight months in jail.

a substance abuse problem, such prohibitions set them up to be found in breach of their probation and subject to further criminalization and potential incarceration. Yet this factor is seldom taken into consider-

ation by the courts. The lack of appropriate substance abuse treatment for girls, both in the community and while in prison, only exacerbates this vicious cycle further. For the cycle to end, it is essential that the courts start to recognize the consequences of young women's substance abuse and begin to address the problem with appropriate treatment as opposed to further criminalization.

3.4.2 No-Contact Orders

Young women on probation are also frequently given "no-contact" orders, meaning that they are prohibited from having any form of contact with an individual named by the courts. The intent of such a condition was originally to prevent people co-accused of criminal activities from continuing to associate with each other. However, girls are frequently given "no-contact" orders that have nothing to do with the crime they were originally charged with. August explains her understanding of the use of "no-contact" orders below:

Amber: And why would you get a no-contact order?

August: For doing something wrong with

someone else.

Amber: Okay. So it didn't matter what it was, just if you did something wrong with someone else one time you'd get a no-contact order, or did there have to be a pattern?

August: There had to be a pattern usually, unless that person was a really bad ... like if they'd been on probation a lot and had been in a lot of trouble, then in that case my probation officer would've been just like "oh, you know *him*, yeah, you're not allowed to hang out with him."

It is not surprising that August specifies a prohibition from associating with a '*him*' in her comment, as no-contact orders seem to be used quite regularly to keep young women away from boys or men whom the courts deem to be either a bad influence or a threat to girls' safety. Catarina had a similar experience when she was given a no-contact order for her abusive boyfriend on her first probation order. Since her boyfriend was only very indirectly associated with her charge, I was curious about how her boyfriend came to be on her no-contact list. As she explains:

Catarina: I actually had all these no-contacts put on my list ... a bunch of my friends and my boyfriend ... My mom and dad made up a list of people that was bad influences on me ... and of course I was totally choked, right? ... But I still went to see the boyfriend anyway.

Amber: So that maybe resulted in some breaches, did it?

Catarina: Yeah.

Her parents' request for a no-contact order between Catarina and her boyfriend is certainly understandable given the heinous level of violence he was perpetrating against Catarina. However, despite the fact that the intention of this no-contact order is to protect Catarina from harm, her breaches of the order eventually mean that *she* is forced to spend eight months in jail. Placing the no-contact order on Catarina's shoulders instead of on her violent boyfriend's shows a severe lack of awareness on the part of the courts of the dynamics of male violence, and indicates

another unsuccessful attempt by the justice system to control girls' safety through judicial means. No one seemed to consider that the physical beatings Catarina regularly received for disobeying this boyfriend, who was 21 to her 14 years of age, might perhaps be viewed by her as a more serious consequence for *following* the court's no-contact order than the consequences she might receive from the courts for refusing to follow it. If her boyfriend had been the one given a no-contact order, however, then *he* could be sanctioned for refusing to comply. Of course, placing such an order on Catarina's boyfriend would require that he have some type of criminal charge that had resulted in some sort of community sentence order. But despite the fact that the police were called several times to respond to physical assaults on Catarina by this boyfriend, the most sanctioning he ever received was a verbal warning from police – he was never charged for any of his assaults on her, even though the police are intended to take a “zero-tolerance” stance on ‘domestic violence’ and are empowered to lay charges of assault whether or not Catarina was willing to corroborate as a witness. Certainly the police, courts, and especially Catarina's parents were all extremely concerned about this relationship and the serious violence that this man was perpetrating against Catarina, and probably felt that any attempt to end it would be better than doing nothing at all. Their helplessness and frustration are utterly understandable. But again, the focus of their efforts is on controlling Catarina's behaviour rather than on addressing the larger issue of the violence perpetrated by her boyfriend.

Another striking example of the use of no-contact orders to try to keep girls safe comes from the story of Cindy, who at 13 years old was ordered by the courts to have no contact with her biological mother. Cindy's mom was her sole care-provider until Cindy was about 10 years old, and they had regular contact from the time of Cindy's apprehension at ten by child protection authorities until the time of this order. When asked why the courts would try to prevent her from seeing her mother, Cindy explains:

Um ... well, they said she just wasn't a well-suited parent ... called her a crack-whore, a

prostitute ... except at that time she wasn't prostituting and um ... she *was* doing crack, and people told um ... the police that me and my mom were doing crack together, so they put a no-contact order on us.

No doubt the mother's use of crack cocaine around or possibly with her daughter is cause for concern about Cindy's well-being. However, the oppressive context in which such a dramatic coping mechanism might have taken place is erased and only the alleged risky behaviour is focused upon. Further, one wonders about the logic of ordering a mother and daughter not to have any contact with each other, when it would be more helpful to address the more obvious but perhaps less easily ‘solved’ problem of the mother (and possibly Cindy's) substance abuse. And if the state's concern is that Cindy's mother doesn't dissuade (and perhaps encourages) Cindy's drug use when they are together, what harm could possibly be done by allowing them to continue phone or written contact? This condemnation of the mother's presumed ‘bad mother-

Many young women who live in poverty reside in the Downtown Eastside; it is unlikely that they or their families could afford to live elsewhere in Vancouver.

ing’ echoes early reformers’ concerns with what they perceived as the loose morals and poor parenting of the lower classes. As an attempt to keep Cindy safe, this condition certainly has the potential to do more damage than good, particularly since it does nothing to address the underlying causes of the alleged substance abuse problem, and, to make matters worse, if Cindy does initiate contact with her mother she'll be at risk of being further criminalized by the courts.

3.4.3 No-Go Zones

Other conditions that girls on probation or community sentence orders commonly face include “no-go” zones (areas or neighborhoods that they are ordered not to enter). Young women are commonly ordered to stay out of the Downtown Eastside in Vancouver, for example, a condition that sets those with drug addic-

tions or those who are sexually exploited up for further criminalization through added breach charges. It is a condition that also shows a lack of awareness on behalf of the courts that many young women who live in poverty reside in the Downtown Eastside; it is unlikely that they or their families could afford to live elsewhere in Vancouver. Aside from being court-ordered not to see

“Even the probation officer I have now even said it’s ridiculous, they’ve never seen that many conditions, even on people who’ve been charged with, like, murder.”

her mother, Cindy has also seen her entire hometown, a small city in the B.C. interior, designated by the courts as a “no-go” zone. This decision severed the young woman completely not only from family but also from friends and her entire network of support. While an adult would likely have had to commit several random acts of violence and essentially taken the city by storm

in order to receive such a sanction (and even then such a large no-go zone seems unlikely), in Cindy’s case there is no direct relationship between this condition and the crimes for which she was originally convicted. One can only conclude that this amounts to another attempt to keep her safe by preventing her from, as she puts it, “hanging around with the wrong kids.”

3.4.4 Curfews

Most adults have a story to tell about a time when they stayed out past their curfew as a teenager, risking the wrath of parents to taste the pleasures of independence and freedom that come from a late night out with friends. The consequences for this behaviour likely ranged from nothing at all (if we were lucky enough to have our parents sleep through our late homecoming), to a reprimand, to some curbing of our freedom through grounding or temporary loss of car privileges. Young women on probation frequently receive court-ordered curfews, however, and the consequences of being out past such a curfew can result in time spent in prison. In some instances, breach of a court-appointed curfew is apparently taken more seriously than other forms of breaches, as August testifies:

If I was breaching my curfew, if I, like, snuck out of my house or something and got caught by the cops, then I would go to city cells and then go to court and then they’d give me another court date. But if I didn’t get caught by the police but my mom breached me or something, or if my probation officer would be like “okay, that’s a breach,” it would take a few more of those before the cops would come and get me.

Girls find early curfews to be one of the more arduous conditions placed on them. Cindy states that she was given a daily curfew of 6pm. “There was no way I could make that curfew,” she says, “especially in the summertime ... it’s not even dark!” The temptation to break the curfew is great, especially since check-ins to see if the youth is at home are sporadic. Breaches of curfew can have serious consequences, though, as they have resulted in jail time for Cindy as well as an invasive psychological assessment ordered to assist the court in determining why she refused to comply with her conditions. “But I told them the reason,” Cindy reports: “because my curfew is 6pm and I don’t like my foster home!”

3.4.5 The Combined Effect of Conditions

Keera is one of those rare young women who was convicted of participating in a violent offence. After serving over a year in prison, she was released on a conditional sentence to be followed by probation. During her conditional sentence she was subject to 19 conditions. Even considering the seriousness of her offence, I was surprised at such a large number of conditions, as I couldn’t ever recall hearing of anyone having so many, even among adult offenders. When I inquired about this Keera explained:

Yeah, even the probation officer I have now even said it’s ridiculous ... they’ve never seen that many conditions, even on people who’ve been charged with, like, murder or nothing. And especially since it’s my first offence and I’m a girl too, right. Like they were blown away, nobody ever saw that before.

Keera was under the false impression that being a girl would automatically mean fewer conditions, when in fact the opposite seems to be true: young women are frequently subject to more conditions than any other group of offenders, and again these conditions frequently seem to have more to do with controlling the behaviour of the girl in the interests of keeping her 'safe' than they do with protecting the public. Further, Justice for Girls has observed that young women frequently receive far more conditions attached to their bail or probation orders than men who are convicted of violence against girls and women.

When Cindy was told in court that the conditions of her probation would include a no-go zone that covered her whole home town, a no-contact order with her mother, and a daily 6pm curfew, she warned the judge that she would not comply with these conditions, but the sentence was carried out anyway. Cindy was placed in a foster home in a very small community on the outskirts of her home town. As she explains:

I warned them that I would breach but they wouldn't listen. I stayed at the foster home a day and a half, then I stole a car to get out of there with, cause they're nice and everything, the foster parents, but they're pretty old and there's just nothing to do in that town, no people my age at all. There was nothing, like ... it was all retirement people. And I didn't even see a kid there, like that's pretty sad, right? They were my foster parents for, like ... five years, but they lived in a different place before. I called my P.O. every other day to check in while I was AWOL [literally 'Absent Without Official Leave,' frequently used to describe youth who run away from child welfare placements or custody centres, or who fail to show up for probation appointments] from there and I was in contact with my foster parents and my mom.

Regardless of her regular contact with her P.O. and family, however, Cindy was further criminal-

ized as a result of this breach, with two new charges: breach of probation and possession of a stolen vehicle. Having been set up for failure with utterly unrealistic conditions, Cindy is now further punished with an extended criminal record and an additional four months

The search for a psychological explanation for girls' resistance to unjust conditions only serves to pathologize individual girls.

in jail. The American Bar Association (2001) suggests that in the U.S. the large numbers of conditions girls receive, and greater likelihood that they will be imprisoned for violating these conditions, means that even though girls' rates of recidivism are lower than boys, they are more likely to be returned to custody. While there is not enough research to confirm such a claim in Canada, it is likely that the situation is not much different.

3.5 Invasive Psychological Assessments

Another means of policing young women in the community is through the use or the threatened use of invasive psychological assessments. Cindy reports submitting to an inpatient psychological assessment because she was told by her probation officer and her social worker that if she refused the assessment she would be forced into an intensive rehabilitative custody and supervision order, which:

orders the young person to be committed into a continuous period of intensive rehabilitative custody for the first portion of the sentence and, subject to subsection 104(1) (continuation of custody), to serve the remainder under conditional supervision in the community.⁶⁶

It is striking that young women in conflict with the law are often referred to in documentation and by various professionals as being "manipulative," yet similar manipulation tactics used by professionals to secure youth compliance are never seen as problematic. Young women are frequently manipulated in much the same manner as Cindy explains above into submitting to invasive and highly personal psychological assessments

which are seldom of any benefit to the young woman, and often serve as justification for her imprisonment or intensified surveillance. A psychological assessment is frequently ordered when a young woman has not complied with the conditions of her probation or community sentence order. The search for a psychological explanation for girls' resistance to unjust conditions only serves to pathologize individual girls and minimize the impact of the many attempts made to control them as well as of the social conditions under which they live. The problem is conveniently located in the young woman, and no further thought about why she might be resistant to control is needed. As Sociologist Annie Hudson argues:

Girls' emotional responses need to be seen as a form of resistance or struggle against 'the inner hold' of their oppressive circumstances. Their responses should be legitimated as not 'unnatural' but as quite rational ways of surviving. To psychopathologize their emotions is to perpetuate the belief (one that is often internalized by girls themselves) that their troubles are their fault.⁶⁷

Nevertheless, great lengths are sometimes taken to determine an appropriate label or diagnosis for young women. August was subjected to a psychological assessment while incarcerated, but refused to participate because she found the questions too personal – a stranger was asking her about “stuff I'd only talk about with my mom or maybe a close friend.” Instead of respecting this display of strong and appropriate boundaries, the psychiatrist conducting the assessment concluded that while he could make no precise diagnosis, August's *resistance to participating in the assessment* was an indicator that she was clearly in the early stages of some form of mental pathology, the exact nature of which he was unable to ascertain due to her refusal to cooperate! Keera also expresses frustration with the lengths that professionals will go to pathologize youth in prison:

And even when you try to do something good, they think you're manipulating them, or that you must be doing it for your own good, or

there has to be something wrong with you, like you're antisocial or you're schizophrenic or you're gonna be a psychopath or ... like, there's always something, some clinical reason that you have for why you are the way you are and why you're doing what you're doing and everything, right? And they just have to, like, label everything, like black and white, right? And once I started knowing my rights and just knowing everything I could do, then they said I was manipulating and that the *real* [Keera] was coming out, and that I couldn't be trusted and was gonna backstab them and had to be watched constantly and was con-ning and ...

Attempts to label young women made by psychiatrists, psychologists, and other youth workers serve primarily to further individualize and pathologize girls' circumstances and function as just one more justification for increased policing of their behaviour. Indeed, the Burnaby Youth Secure Custody Centre Volunteer Manual warns potential volunteers to be aware that youth in jail are inherently manipulative: “They will try to manipulate you; they may manipulate your feelings.”⁶⁸ Such warnings serve to inspire an inherent mistrust in young people who are imprisoned, whether warranted or not.

3.6 Encounters with Police

Of course, young women are also policed in the community by the police themselves. Once a girl has been charged with an offence she is likely to experience intensified surveillance by police, particularly if she lives in a smaller town or community or low-income neighbourhood. Girls report mixed experiences with the police. Catarina was angered when the first police officer to arrest her said that she had a “bad attitude” and slammed her cell door, shouting “welcome home, sweetheart!” But she states that “other than that all my experiences of police officers have been really good because I learnt, like ... be polite with them and they'll be polite with you.” So Catarina's way of coping with her first negative experience with police was to learn to conform to their expectations of her, and she discov-

ered that compliance had its benefits:

Because I was polite ... so [next time] I just put my hands behind my back and said “uh huh, yeah, yeah, there’s a warrant for my arrest yeah, yeah, uh-huh.” The police were pretty nice, like they let me give my family ... let me hug my mom and my dad and stuff, when most of the time they’re just hauling you outta there, right?

Other girls report less positive experiences. Keera reports that the police attempted to take advantage of the fact that she might not be aware of her rights after her arrest:

They tried to get a statement out of me right away when they arrested me. I’m like, “Uh, like, I wanna call my mom.” I knew then I was allowed to call my mom right away too, right? And they were like, “No, no, no, you have to do this first.” I’m like, “No I don’t.” I’m like, I was on the phone with legal aid right at the moment right, so I’m like, “How about I ask them?” She [female police officer]’s like, “Oh well, we’ll see what we can do.” And like two minutes later they said, “OK, you can call your mom now.”

August was 13 the first time she came in contact with the law. She and a friend were caught shoplifting at a mall, but as August explains, a number of additional charges resulted from that incident:

August: Yeah, my best friend was caught shoplifting at the mall, and she was really upset about it, so she was like “[August] help me, help me, I’m going to get arrested!” So stupid me, I walked in front of the cop car and he arrested me.

Amber: What did you get charged with? Do you know?

August: Obstruction, times 2.

Amber: Times 2?

August: Because I stopped him at the door, I was like “don’t arrest my friend,” blah blah

blah. And assault on the security guard.

Amber: Really? What was that about?

August: Well he was trying to pull me away from the cop car, and I didn’t like hurt him or anything but ...

Indeed, in August’s pre-sentence report (PSR), the security guard in question goes to great lengths to point out that he was not in any way physically injured by August’s attempts to get out of his grasp, but she was nonetheless charged with assault in the incident. While the police officer and the security guard engaged in rougher and more direct physical handling of the two girls, neither of these authorities were charged with anything as a result of this incident, while August’s attempts to *escape* the grasp of the security guard result in an assault charge for her.

More serious mistreatment by police is also not uncommon. One young woman reported in a regular Justice for Girls outreach session at Burnaby Youth Secure Custody Centre that she had been driven far away from her Downtown Eastside home by police and then left to make her way home on a cold night with inadequate clothing and no money. Another young woman, 14 years old, reported being a passenger in a stolen car when the car was involved in an accident. The car was badly damaged and the girl’s arm was squeezed between the door and the seat such that she couldn’t move her arm and was in a great deal of pain. She stated that the police then pointed guns at the two youth (herself and the driver) and that they got angry that she wasn’t lifting her arm, which she of course couldn’t move. The girl reported that she was physically pulled out of the car and handcuffed and that the police used an arm twist hold that caused further injury to her arm. Another young woman reported being threatened by a Downtown Eastside police officer, who said he would smash her teeth out with a flashlight, while a young First Nations woman reported being physically beaten by police in the Downtown Eastside. Still another young woman reported that she was pepper-sprayed while already in cells after being arrested for running away from an open custody cen-

Serious mistreatment by police is also not uncommon.

tre. This young woman also reported being forced to trudge through snow, while shackled and wearing pajamas, to search for some items buried in the snowdrifts. During the same period of imprisonment she also

A young First Nations woman reported being physically beaten by police in the Downtown Eastside.

well-documented by Pivot Legal Society in their 2002 report *To Serve and Protect: A Report on Policing in Vancouver's Downtown Eastside*.

There are also examples of girls' resistance to the authority of police officers, as evidenced by Keera's assertion of her right to call her mother before making a statement, reported above, and by the following story from August:

Well this one cop ... I AWOLed (ran away, literally Absent Without Official Leave) with a couple of my friends to go camping, and my friends told them [the police] that I wasn't there, I was hiding in the bush, but my mom knew I was there, she said "yeah, she is there, those are her friends." So they [the police] came right back, but they came through the middle of the bush and this one guy was saying, "can you help me, can you help me, I'm lost!" and so I said, "yeah, okay," and he said my name and I was like, "no, that's not me," but they were like, "yeah it is, come with us." And he wanted to know my other friends' name, and I told him, but he thought she was someone else who had AWOLed, so he didn't believe me, and I said "if you give me a cigarette I'll tell you her name," and he did and then I told him her name again, the same name because I was telling the truth the first time, and then he got kind of mad but he didn't take the smoke away or anything.

Although August is of course forced to submit to the authority of the officers in this situation, she is able to subtly win at their own game through obtaining

the cigarette and then revealing the same information, which happened to be the truth. She asserts what resistance she can by attempting to show that she is not daunted by their show of force.

While resistance is always present in girls' responses to the many varied attempts to police their behaviour in the community, it is clear that this policing has a significant impact on their daily lives. The policing of young women's behaviour by social workers, probation officers, and the police themselves, as described throughout this section, can have the effect of making it difficult for a young woman to distinguish between attempts at control and the genuine desire to help of those who care about her. Further, attempts to control young women for their own good or protection often result in increasing criminalization of girls themselves, which in the long run serves only to intensify the significant problems of violence, substance abuse, and sexual exploitation that many of these young women face daily.

SECTION 3 NOTES

⁵⁵ for example, see Brown & Gilligan 1992

⁵⁶ Reitsma-Street 2001

⁵⁷ McCreary 2001

⁵⁸ Totten 2000

⁵⁹ Hudson 2002 pg. 300

⁶⁰ Corrado, Odgers & Cohen 2001 pg. 426

⁶¹ Corrado, Odgers & Cohen 2001 pg. 434

⁶² cited in Corrado, Odgers & Cohen 2001 pg. 435

⁶³ McCreary 2001

⁶⁴ Corrado, Odgers & Cohen 2001

⁶⁵ Department of Justice Canada, YCJA, Section 55.2.h

⁶⁶ Department of Justice Canada, YCJA, Section 42.2.R

⁶⁷ Hudson 2002 pg. 302

⁶⁸ *Burnaby Youth Secure Custody Centre - Volunteer Manual* n.date pg. 12

Encountering Injustice: Courtroom Experiences

The judge is like “Okay Ms. ____, we’ve come to the conclusion ...” And I’m like, “We? Um, no. You and my lawyer, not me.”

– “Catarina,” project participant

It’s just weird when you stand there and all these people are looking at you, listening to what you’re in there for and listening to why and what happened and ... they devise their own picture of you in their head, right, and they really don’t know.

– “Keera,” project participant

Contrary to the popular perception that young offenders in Canada are savvy to the law and regularly manipulating the legal system to avoid taking responsibility for their actions, Criminologists Michele Peterson-Badali & Christopher Koegl found that young offenders’ knowledge of the YOA was actually very poor. They point out that “a young person’s capacity to participate meaningfully in the youth justice system is compromised to the extent that he or she does not have basic information about how the system works.”⁶⁹ Rights only start having meaning when people know that they exist. Many young women entering courtrooms in Canada have little or no knowledge of their rights or of the procedures unfolding before them, and this lack of knowledge severely compromises their ability to participate in any meaningful way in the judicial process.

Young women often find their courtroom experiences both degrading and disempowering. As Cindy explains:

Cindy: When I went to court I asked for my own clothes and I asked to not be shackled, but they made me walk out of cells and up the stairs shackled and the guard said I couldn’t have my own clothes, so I had to go before the judge in YCC [youth custody centre] clothes.

Even when I got released I wasn’t allowed to wear my own clothes.

Amber: They didn’t give you back your own clothes?

Cindy: No, I was in greens [the standard YCC uniform is green sweatpants and sweat-shirts with a ‘YCC’ stamp on them] ... and I had to walk up Main street to meet my mom at Tim Horton’s and I was in YCC clothes.

Amber: Wow – did you have your own clothes when you came in?

Cindy: Yeah.

Amber: How come they didn’t give them back?

Cindy: I asked for them because I didn’t want to get out in my YCC clothes, but they wouldn’t give them to me.

Amber: They just said no?

Cindy: Yeah.

Amber: That’s incredible.

Cindy: It was embarrassing – the police were watching me, that was for sure!

Amber: Yeah, I bet ... they probably thought you just walked away from the jail!

Many young women entering courtrooms in Canada have little or no knowledge of their rights or of the procedures unfolding before them.

Catarina describes a similar experience:

Amber: And um ... did they let you wear your own clothes when you went to court or anything?

Catarina: No.

Amber: No, you were always in the clothes from the jail?

Catarina: Yeah.

Amber: And were you shackled when you went before the court, do you remember?

Catarina: Oh, before the judge? No. You get the shackles off ... I mean some people are if you're bad, right, they like ... body shackle you. But no, I was pretty good ...

Keera describes the lengths that she had to go to be able to wear her own clothing to court:

Amber: Did you get to wear your own clothes [in court] or were you in ...?

Keera: Well, see, I asked personally 'cause I knew that you could. So I asked personally for my lawyer to write um, [name of Youth Custody Centre] a letter saying that he ... that it would be advantageous to me if I wore my own personal clothes ... so I've worn them every single court appearance except for the last one because that was just a breach.

Amber: But lots of girls don't get to do that?

Keera: Yeah, lots of them don't.

Amber: Because they don't know to ask?

Keera: They don't know and their lawyers don't necessarily wanna take the time to write the letter and go through all the hassle to ... you know.

Amber: So your lawyer actually had to write a letter in order for that to happen?

Keera: Yeah, and fax it to the centre, because they have to go through all your personals again and make sure everything's still accounted for, and then when you come back they have to make sure everything's still accounted for and nothing else came back along with it and then this causes them, like, extra trouble and stuff like that.

“I was really confused. They're using, like, all these words that you don't understand, and ... I didn't really get to plead what I wanted.”

In regular outreach sessions to Burnaby Youth Secure Custody Centre to talk to girls about their rights, advocates from Justice for Girls frequently hear from young women that they have difficulty following what's happening in court and that they feel peripheral to the process. This is espe-

cially true if they are appearing in court directly from the prison and therefore have to make their appearance from the prisoner's box, a small cell-like enclosure at the side of the courtroom that prisoners stand in during their hearings. If girls go to court shortly after arrest some may also be detoxing from various substances, making it hard to focus on what's happening in the courtroom. The comment from Catarina at the beginning of this section and the following comment from Cindy sum up girls' overall reaction to the court process:

It was just the lawyers ... like, I was sort of out of it, like ... I was coming down, right? But I had had a lot of sleep, but I just didn't know what to do ... I was just so upset it was like ... I just couldn't talk. Like I was sort of comatose, just listening to what was happening, right? I was really confused. They're using, like, all these words that you don't understand, and ... I didn't really get to plead what I wanted. But ... I wish I would have, now.

When girls are asked during outreach sessions whether the Crown or their probation officer has ever said anything untrue about them in court, almost all of the young women present indicate that this has happened to them at one time or another. Some young women have stated that they were unaware that they can request that their lawyer come over and speak to them in the prisoners' box during the court proceedings. Many girls are unaware that they can ask their lawyer to object to unsubstantiated statements made about them by the Crown or a probation officer. The most commonly-reported unsubstantiated claim made against girls by a Crown prosecutor is that they are being sexually exploited or are believed to be at risk of sexual exploitation, which girls report is regularly given as a reason for why they should be incarcerated, even when it is untrue. While false claims about sexual exploitation are reported most frequently by young women, others have also reported that the Crown has overstated a substance abuse problem or suggested one where none exists. These allegations are made more frequently against First Nations girls, a clear indicator that reliance on racist stereotypes in the commission

of ‘justice’ is not only a historical practice but a present problem today.

Actually appearing in court and being sentenced is often a frustrating experience for young women, as already discussed. Further problems arise when girls are expected to appear in court on their own, as August testifies:

August: It was a joke. They make you sit there all day and sometimes you don’t get in until 2:30 in the afternoon. And the way they have it all set up is really stupid, like your first time there if it’s a new charge or a new breach or something, you have to go there the first day, you have to bring ID and stuff like that and you have to stand around and wait until this guy in an office calls your name, and then you have to go up and say you’re so-and-so and give him your ID, and then he gives you another court date and you have to come back another time ... like you can be going to court for almost a year before you get sentenced or before they even acknowledge when you’re there.

Amber: And then what was it like when you actually stood before a judge?

August: It was kind of intimidating, because he was up in this big chair and you’re so low down.

Amber: Was there a lot of people in the courtroom, most days?

August: Yeah.

Amber: How did that make you feel?

August: Well I didn’t really care because mostly they were just there for the same things anyways.

Amber: Oh okay, so it was mostly just other people waiting for their appearance?

August: Yeah.

The presence of a lot of unknown people in the courtroom was distressing to Keera, who worried about people passing judgement on her without really knowing her:

They, they just listen to the facts, not the cir-

cumstances, not ... not the emotion, not the feeling, not anything, right? And, um ... and it was just weird and your heart kinda races at the same time. And you’re like ... wanting to get out, but at the same time you wanna, like, just scream and tell them, like, you know, “listen to me!” right, because ... a lot of them don’t.

4.1 Interactions with Lawyers

Young women also frequently report that their own lawyer misrepresents them in court or collaborates with the Crown, their probation officer or their social worker in determining a joint submission on sentencing, rather than listening to the wishes of their clients. One young woman reported that her lawyer stated she had both Fetal Alcohol Syndrome and Attention Deficit Hyperactivity Disorder in court, even though the young woman had never been informed of such a diagnosis and felt confident that she did not suffer from these conditions. Many young women express dissatisfaction with their lawyers, but because these lawyers are frequently appointed by legal aid or by the B.C. Ministry for Children and Families (if the girl is in the care of the state), there is little a young woman can do about this fact, as switching lawyers tends to be a very difficult and convoluted process, particularly for young women whose lawyers are appointed by the state. Even basic communication with their lawyers is a real challenge for many young women. Cindy reported that her Ministry-appointed lawyer refused to return her phone calls for approximately two months. When asked what she thought of her lawyer overall she stated:

Cindy reported that her Ministry-appointed lawyer refused to return her phone calls for approximately two months.

He didn’t fight for me. I tried to call him between when I got arrested and my appearance but I got no response. I try to call him all the time but he never calls me back. He hasn’t called me back for two months now. He won’t call Justice for Girls back either.

Indeed, despite repeated attempts to advocate with her lawyer on Cindy's behalf, Justice for Girls reports making little progress, largely because it was difficult to get the lawyer to return their phone calls.

Catarina reports similar problems trying to communicate with her legal aid lawyer, who was appointed to her and has represented her throughout her conflicts with the law:

He doesn't know what he's doing. Like ... I'd be down in cells and he wouldn't even come talk to me, he'd just, you know, make up his own decision and I'd go up there and I'd ... like, I would have no idea what was going on ... I'd call him over and he'd just ignore me.

When asked if she ever tried to switch lawyers, Catarina stated "No. Not really. Just basically, my main concern when I was in jail was just getting out." The fact that Catarina does not even seem to consider that a lawyer could be useful in arguing for her release reveals a general lack of awareness about the purpose of a lawyer and a lack of faith in a lawyer's usefulness for arguing on her behalf.

Problems with lawyers stemming from potential conflicts of interest are also reported by some young women. Keera reports that her lawyer, assigned to her by legal aid, was also representing her boyfriend who was co-accused with her on a number of very serious charges. She explains the problem this raised when she states:

It was weird, it's kind of conflict of interest because at the same time he was making me look good, right, he'd be making [name of co-accused] look bad. And when he was making [name of co-accused] look good, he was making *me* look bad.

August also reported that when she contacted legal aid about getting a lawyer, they attempted to assign her a lawyer who had brutally cross-examined her only a

few months before when he was defending a man who was on trial for sexually assaulting her. In his cross-examination of her this lawyer attacked August's character and made several insinuations about her sexual 'reputation,' which angered and frustrated her and also made her feel extremely degraded. Nonetheless, it took a great deal of persistence and assertiveness on August's behalf and on behalf of her advocates to persuade the legal aid office to assign August a different lawyer to represent her on her own charges.

4.2 Interactions with Judges

The young women participating in this project tended to react more favourably toward judges than toward other authority figures such as police and probation officers. Keera pointed out that she "was lucky enough to have a really good judge, and she was really nice and really kind and so I kinda had some comfort there, you could say." The judge's decision-making when it came to sentencing Keera left a significant impression on her, as she explains:

The crown was asking three years for me at first and the judge was like, "No, that's ridiculous." And so she gave me, she didn't wanna even give me even two years. She was just like, um, "I have to." She's like, "Because of the charges," she's like, "I have to." ... So um, and she's like, "But I have to give you this and if I didn't it would be unfair to the court system and like, rule of precedence and everything," right? So, uh, she gave me two years but that ... she told me to come back like as soon as I was eligible to. So, she didn't want me to be, like, in jail that long. She knew I was a good kid, right?

A judge once rebutted an attempt by August's probation officer to use her failure to complete her community service hours against her in court, as she explains:

I had 20 [community service hours] the first time but then didn't do them. But [female P.O.] didn't breach me for it because I wasn't

In his cross-examination of her this lawyer attacked August's character and made several insinuations about her sexual reputation.

really doing anything wrong, like I wasn't doing anything bad. But then when I went to court one time she kind of tried to throw it at me, she said "well you didn't bother doing your hours either so there's another breach." But the judge was like, "you can't" How did she put it? It was a female judge, and she was like, "you can't smack a child six hours after it's done something wrong, it's pointless."

However, there are also reports of negative experiences with judges. An exchange between Cindy's probation officer and her judge resulted in a very different outcome for her than for August:

Yeah, what happened was I got arrested on a regular check-in appearance in court. I got arrested there for curfew breaches, but just before I went to court my P.O. said that she wasn't breaching me on the curfew breaches, but then I got charged with the breaches anyway and the judge set a date [two weeks away] and said they should keep me in custody because they said I was doing drugs and that it isn't good for me.

So while one probation officer is rebuffed for attempting to charge a young woman with a breach well after the fact, another young woman is actually sent to prison on breach charges that her probation officer had previously told her she *wouldn't* be charged with. Given the variation in treatment of these types of charges by the courts, it's not surprising that young women are perplexed and frustrated.

Cindy's court appearances were also frequently overseen by a judge whom she describes as having "dealt with other cases in my family." Historian Joan Sangster has documented how under the JDA "families themselves were frequently used as evidence against girls; their relatives' arrests for alcohol use, criminal records, illegitimacy, or sexual 'immorality' in the family all indicted the girl and were rationalizations for *her* incarceration."⁷⁰ Given this Judge's familiarity with

Cindy's mom's alleged drug use and sex trade involvement, it appears this practice is still very much in force today. As mentioned previously, these allegations about Cindy's mother were used in court to instill a condition of "no contact" between Cindy and her mom.

The authority figures involved in Catarina's case seemed to share the perspective that she should be

Catarina also recalls the judge stating that through sentencing her to jail she was hoping to 'teach Catarina a lesson because she comes from such a good family.'

"taught a lesson." After failing to comply with some of the conditions of her community sentence order, Catarina's probation officer said, "you know, you're gonna learn the hard way." Catarina also recalls the judge stating that through sentencing her to jail she was hoping to 'teach Catarina a lesson because she comes from such a good family.' Of the young women contributing to this project through in-depth conversations, Catarina is the only one who resides with both of her parents and comes from a middle-class background. It is interesting that the judge would equate this family structure with 'goodness'. The message is clear: Catarina has stepped outside of the behaviour acceptable not only of someone of her gender but also of someone of her class background, and therefore her infraction must be punished. In this case, the punishment was quite severe, as Catarina spent six months in prison for three breaches of probation, on top of the two months she was remanded to jail while awaiting sentencing – a harsh punishment indeed considering that only 6% of youth custodial sentences last for longer than 6 months.⁷¹

In this instance, the judge used his power and influence to rape, rob, and beat young Native women.

One of the most blatant recent examples of a judge's abuse of power is found in the case of *R. v. David William Ramsay*. Ramsay is a former B.C. judge who pled guilty in May 2004 to charges of sexual assault and sexual exploitation of four young women of First Nations descent, all of whom had appeared before him in his courtroom. In this instance, the judge used his

power and influence to rape, rob, and beat young Native women, and then threatened them with reprisals, telling the girls repeatedly that if they reported him no one would believe them because they were “whores.” The heinousness of this judge’s crimes is documented in a case study appearing on the Justice for Girls website.⁷² In June 2004 Ramsay was sentenced to seven years in prison, far shy of the maximum sentence of 14 years he was eligible for, but still an improvement on the three year sentence that the Crown and defense council had jointly submitted. The Ramsay case provides yet another example of the justice system’s complete and utter failure to respond effectively to male violence against young women.

Some young women are, understandably, resistant to the authority of the courts. Their feelings of being powerless to impact the outcome of the court process often results in a kind of ‘zoning out,’ which can be

interpreted as a form of resistance to the entire process. It is almost as though through their lack of participation young women are saying “this isn’t about me, and since no one seems to care what *I* think, I’ll just remove myself from the picture.” Other forms of resistance to the court’s authority are also possible, as the following story from August testifies:

While resistance in the face of such a powerful system is difficult, girls consistently find ways of asserting their individuality, and when informed of their rights they also frequently become their own best advocates.

Well this one time I was there for one of my friends, and we were sitting there, and this guy came out of the court cell, like he was in jail, in custody, and I made a comment to him, and everybody just kind of froze and looked at me, and the judge looked at me, and then [my friend] finished the sentence off, and everyone just cracked up laughing and the judge was like ... he was laughing, but he was like “Miss _____ and Miss _____” – and I thought that was kind of weird because he recognized us – and he said, “You’re going to

have to contain yourselves in my courtroom or you’ll be asked to leave.” That was kind of funny.

As when she tricked the police officer out of a cigarette in the previous section, August is again using humour to assert that she is not entirely daunted by the court’s authority – although she recognizes in both instances that the police and courts do have authority over her, her assertions can be read as an attempt to show that that authority is not going to entirely subdue her or completely control her behaviour. While resistance in the face of such a powerful system is difficult, girls consistently find ways of asserting their individuality, and when informed of their rights they also frequently become their own best advocates.

SECTION 4 NOTES

⁶⁹ Peterson-Badali & Koegl 2001 pg. 396

⁷⁰ Sangster 2002b para 19

⁷¹ Hartanagel 2002

⁷² www.justiceforgirls.org - “Court Case Summaries: R. v. David William Ramsay”

Out of the Frying Pan into the Fire: Prison Experiences

The arrest, detention or imprisonment of a child ... shall be used only as a measure of last resort and for the shortest appropriate period of time.

– UN Convention on the Rights of the Child, Article 37b

Once they enter the juvenile justice system, girls are vulnerable to physical and sexual abuse similar to and sometimes worse than they experienced in their homes and communities.

– American Bar Association (2001) *Justice by Gender*, pg. 7

Jail takes away all the things you look forward to ... it kind of just numbs you to a lot of things ... Like sometimes you'll get in trouble for laughing in there, like, "Shut up, what are you laughing for, you're in jail, it's not funny!" And you're so used to just, like, putting up with all this stuff, and not really caring about what happens in there because everything's done for you, and you kind of just get numb ... and when you get out it's just the same way ... It's like they send you there to get "corrected" and you come out worse than you were in the first place.

– "Keera," project participant

Consistent with a UN convention requiring that the imprisonment of children be used only as a measure of last resort, the Canadian government has made similar commitments under the YOA and now in the new YCJA. Despite this commitment, the rate of incarceration for young women "did not decrease as expected" during the term of the YOA,⁷³ and while rates of youth incarceration seem to have dropped in some parts of the country since the YCJA came into effect, a reallocation of funds to community supports for youth has not been forthcoming, such that many youth are still being sentenced to custody due to a lack of community alternatives. This section outlines the imprisonment

experiences of the four young women who contributed to this project through in-depth conversations. Due to the small number of girls participating in this project, their experiences cannot be said to be representative of all girls in prison: further, larger-scale evaluations of the impact and outcomes of imprisonment on young women are urgently needed.

Although the YOA dictated that there must be a distinction between "open" and "closed" or "secure" custody centres, the reality in British Columbia has been that girls who are sentenced to open custody are regularly serving their sentences in prisons where the distinctions between open and secure custody are minimal. This situation was first identified as a problem in 1994, when the Ombudsman of British Columbia reported:

Recent visits to youth custody centres have confirmed our concern that some youths, sentenced to open custody, are currently being held in secure locked facilities. Although designated as Open Custody Centres, these facilities have locked doors, or are situated in remote locations presumably to dissuade youth from escaping, creating, for all practical purposes, a closed custody setting.⁷⁴

Burnaby Youth Open Custody Centre, for example, is situated on the same property as Burnaby Youth Secure. The open custody centre is surrounded by razor

"Recent visits to youth custody centres have confirmed our concern that some youths, sentenced to open custody, are currently being held in secure locked facilities."

wire, and access is controlled through a series of locked doors. While open custody is intended to be the preferred facility, Cindy indicated that she preferred to

be in secure because “the time goes by faster ... there’s more programs. In Open, we sit down there and do nothing.” Under the new YCJA the specifications of “open” and “secure” custody have been replaced by a

ally by themselves, which contains only a toilet and a mattress. The cell is monitored by camera 24 hours a day by whomever happens to be on duty, so when she uses the toilet a young woman has no way of knowing how many guards/police she is being watched by or whether they are male or female. The same is true when she changes her underwear or clothes, if she

is given an opportunity to do so. The lights are often left on at all times, even at night. Young women are entitled to a minimum of one hour out of their cells per day to attend to their basic hygiene, but many young women report that this right is denied them while in city cells. The single blanket that they usually receive is often reported as being inadequate to keep young women warm overnight. Often, they are denied any items that might help them to pass the time, such as pens, paper, books or magazines. Meals are brought to prisoners to eat in their cells and often come from nearby fast-food establishments.

Frequently, young women report that they are denied basic necessities in city cells, such as the opportunity to wash, shower or brush their teeth. Even when requested, young women report that they are often denied feminine hygiene products such as tampons and pads. One young woman reported being told to just “use toilet paper” when she requested menstrual products. A medical health professional who attended an outreach session by Justice for Girls reported treating a young woman who arrived at the youth custody centre from city cells with her pants covered in blood because she was refused menstrual products.

Keera sums up her city cells experience like this:

They take away everything, *everything* from you, man. And like, after two days you’re supposed to get a shower but I never got one, didn’t shower, didn’t wash, nothing. The cell had a toilet in it and a camera, every single cell there had a camera, every cell. And they never turn off the lights, like the lights are on 24/7 ...

She is echoed by Cindy, who reports: “I ... spent 6 days in city cells in _____. When I was in there they

The treatment they receive in these cells is frequently inhumane and utterly contrary to their dignity as persons.

requirement that custody centres formerly referred to as “open” or “secure” will now all be known as “youth custody facilities.”⁷⁵ The elimination of the distinction between these two types of custody is cause for concern that the YCJA principle stating that the “least restrictive measures” should be used for the imprisonment of youth is merely an act of lip-service.

5.1 City Cells and Remand Time

Many young women’s first experiences of imprisonment take place in “city cells” – holding cells that the police use for prisoners who are on remand (awaiting a court appearance or sentencing) or who are waiting to be transferred to another prison. When a young woman is arrested in a small community, she may

spend several days in city cells awaiting her appearance and sentencing before she is transferred to a youth custody centre. Or she may be transferred to a youth custody centre while remanded, only to have to make the trip again a short time later for sentencing.

Young women consistently report that their rights are violated while they are in city cells, and that the treatment they receive

in these cells is frequently inhumane and utterly contrary to their dignity as persons. When young women are held in city cells they are kept in a small cell, usu-

A medical health professional who attended an outreach session by Justice for Girls reported treating a young woman who arrived at the youth custody centre from city cells with her pants covered in blood because she was refused menstrual products.

wouldn't give me no soap, and I had no shower for 6 days even though I asked them over and over." Catarina describes the cell she was held in while awaiting a court appearance as being "cold, it's just a cement room, with a cement bench ..."

Cindy has also detoxed from drugs while in city cells, which she describes below:

Cindy: Well, I just sleep and ... you're always hungry, and it's just like ... you want drugs so bad that, like, your body's hurting for it.

Amber: Do you get any help in there, like any support at all for going through that?

Cindy: No.

Amber: Do you think they know?

Cindy: Oh yeah, yeah, I think they just don't care. Like ... "don't do drugs then," that's sort of the attitude they give you.

This lack of support and lack of understanding about substance abuse was echoed by another young woman who reported to Justice for Girls that she was forced to watch an adult male vomiting from drug withdrawal while in city cells because the police wanted to teach her a lesson. Despite the fact that young women are frequently being sent to jail in the interests of protecting them from ongoing substance use, it is well-documented "that youth custody institutions are not properly equipped to deal with ... the severe drug addiction from which the majority of these young women suffer,"⁷⁶ and city cells, apparently, are even less well-equipped.

August's testimony suggests that young women's treatment in city cells may vary from district to district or even from girl to girl. When asked to describe city cells, she exclaims:

It's hurting! I hate city cells. You're in this tiny little cell, you have this little mat and three blankets, you don't get a pillow. I was always spoiled, though, I got magazines and my diary and pens and stuff like that. [But] a lot of people don't even get blankets!

The fact that a young woman would consider herself "spoiled" for having access to some magazines and

pens is a testament to the stark reality of day to day existence in city cells.

The *UN Convention on the Rights of the Child* article 37c and Section 30(3) of the YCJA both state that youth in prison should be separated from adults while detained or held in custody.⁷⁷ However, Keera reports that an attempt was made to lock her in with adult women and was only avoided through her active assertion of her rights:

"When I was in there they wouldn't give me no soap, and I had no shower for 6 days even though I asked them over and over."

You're usually alone, but sometimes they'll put you in with women if they want some room in their cells ... But every time they would try to do that to me I'd be like, "You can't do that ... you know that right? You can't mix adults and children." And they'd just look at me and they'd get so mad ... They tried to tell me, "Oh no, no, it's okay." I'm like, "It's not, and I'll have my lawyer down here you know, and you can ask him." Then they're like, "Oh, oh, no, no, no, it's okay we found some extra space now."

Further research is needed to determine whether locking youth in cells with adults is common practice in pre-trial and city cells in various centres.

Young women also report spending significant amounts of time remanded to prison while awaiting trial for their charges. Frequently, young women spend time remanded to prison while awaiting a hearing on a breach of probation charge. August has only ever been sent to prison for breach of probation charges. The first time she spent time in jail was after she was arrested for failing to follow the rules of her house as her mom and probation officer had laid them out for her:

August: I got picked up on a Monday, and they took me to court and they were just like "Oh, well bring her back in two weeks on remand," and I was like, "What!" So they took me to _____ jail [four hours away] for two

weeks and then they brought me back, and I don't know ... that was kind of stupid.

Amber: Just to take you for two weeks, you mean, was stupid?

August: Yeah. But whatever, and then the second time ... oh, I got picked up ... for just breaches I guess, I had a warrant out. So yeah, we went to court, and they were just like "yeah, bring her back in a month and we'll deal with her then." So they brought me back after a month of being in jail and they were just like "yeah, bring her back in another month and we'll deal with it then."

Amber: So they sent you to jail for a month and then they brought you all the way back

are being transported to jail or to court appearances. Regardless of the fact that the overwhelming majority of young women in prison pose no threat to the general public, girls are routinely shackled during transport. August describes what this shackling is like:

They chain you up so bad. Like you have handcuffs that come around your wrist, and I don't know why, I always had ... like not very many people did, but a couple times they'd put them on me, they have this big lock thing in the middle, you can't even move your hand, it's not like normal handcuffs, and they have handcuffs on your legs, like your ankles, and they're chained together. But they don't put a

All of these young women have served a significant amount of time in prison for these types of non-criminal offenses before even being found guilty.

up to [name of hometown], and then they just sent you back down for another month?

August: Yeah. Just on remand. And, ah ... and then finally they brought me back up, and released me on time served, but with more probation. It's kind of stupid the way they do it though, because if you have court on a Monday they bring you up on a Friday and make you sit in city cells all weekend.

So August spent a total of 10 weeks in prison remanded on breach charges prior to sentencing. Doing prison time while on remand is common to all of the girls: Catarina spent two months in secure custody while remanded on breach charges before being sentenced to an additional six months, Keera spent a month in secure while remanded on a breach, and Cindy has also spent periods on remand totaling more than a month. Hence all of these young women have served a significant amount of time in prison for these types of non-criminal offenses before even being found guilty of the breaches themselves.

5.2 Being Transported While In Custody

Young women also report harsh treatment while they

lock on there because you have to be able to walk. And one time they put this chain and they hooked it on from my handcuffs all the way down to my ankles, and that was kind of stupid because I almost fell getting out of the van. They didn't do that the first time, maybe because I was the only female in a whole van full of guys ...

Catarina reiterates that in her experience everyone is shackled during transport, and that youth are regularly transported with adults and males and females are transported together. She explains that "you're in your own little cubicle but they're, like, clear and you can see the person and stuff. Sometimes they put you in cubicles with girls and stuff like that." August describes the different methods of transport like this:

Well, from here to _____ is just a normal Sheriff's van that you see around, like what they take people to court in, and it's just got a big cage mostly for adults, or if there's three females, like young females, they'll put them in there and put whoever else in two separate cages. And it's got no padding or anything but they let you listen to the radio, until you

get to _____ and then they put you in this paddy-wagon thing, you can't even ... there's tiny little windows you can barely see out, it's just horrible. [There]'s a seat, but it's not really, it's like a little tiny bench. And then in the real ... they call it the paddy wagon, it's just like metal benches, all the way around your little cage, and those are the ones that are really uncomfortable ... the other ones are plastic.

Keera reports that she was once left in shackles for an extended period of time after transport because she was put in a room outside of the courtroom and forgotten:

They shackle you as soon as they come into admissions ... they handcuff you and then they shackle you all the way 'til you get to court and then they shackle you when you leave again. Sometimes they'll shackle you in court. One time they left me shackled for like an hour and a half, 'cause they forgot about me. They stuck me in, like, an interview room off to the side, and every time a cop would walk by or a sheriff, right, I'd, like, try and knock and they just don't pay any attention to you. Finally I started banging and somebody came, and I'm like, "Take these off!" Yeah, so I couldn't do anything man, like, nothing, I still had my cuffs on too. Like I couldn't, like ... get my hair out of my face or itch or get comfortable.

During outreach sessions young women reported to Justice for Girls that Sheriffs also use other tactics to diminish the comfort or dignity of prisoners during transport, such as turning up or down the heat in the back of the paddy wagon. They indicated that one particular Sheriff regularly trips girls while they attempt to get in and out of the van or walk in shackles, and one young woman reported having her handcuffs tightened by a Sheriff after she had requested that they be loosened. These abuses are especially egregious when we consider that most often girls are enduring this transport, lasting sometimes for several hours, for

very minor offences, and frequently for non-compliance-related rather than actual criminal charges.

August also indicates that events during transport could worsen one's treatment upon arrival in prison:

August: They started strip-searching me more and more often, because I got caught with cigarettes in the Sheriff's wagon. There was me and three other guys, and another girl, and then two older guys [adults] who actually gave us the cigarettes, and I had them, I was holding it, and I shared with whoever, and then um ... they [the Sheriffs] were like, "Put that out right now!"

Amber: You were in the van smoking it?

August: Yeah. And they were like, "We're gonna pull over!" and all this stuff, but they can't pull over though, they're not allowed, so we were like "Okay, whatever," right? And we just kept smoking. And then they stopped in _____ at the detachment, and they took us out and lined us up in the cell doors, like just inside the doors ... me and this other girl and then the three guys,

and the two adults didn't even get searched. I was so mad, they gave us the smokes! And we were all lined up and strip-searched, and there was one staff, and then ... 'cause a female staff can search a guy ... there was a wall, right, and it had cells all along it, and the lady stood in front and we were all in the rooms. We were all inside the doors, but still we were all lined up and they did it at the same time ... they were like "take off your clothes" and then we all had to do the motions at the same time. They were like "lift" and we had to lift our tits and the guys had to lift ... you

"We were all lined up and they did it at the same time ... they were like "take off your clothes" and then we all had to do the motions at the same time. They were like "lift" and we had to lift our tits and the guys had to lift ... you know ... and i don't know, i don't know, it was weird."

Given that such a significant percentage (63%) of young women in custody have a history of sexual abuse, routine strip-searching should be prohibited.

know ... and I don't know, I don't know, it was weird, but it was ... I didn't really care. 'Cause we were inside the doors ... in each cell. But the doors weren't closed or anything, we

could've just walked out and showed ... And [name of male youth] of course, he goes, "Hey [August] look at this!" standing outside whipping his cock around (snickers disgustedly).

Amber: And so where were the staff when he walked out?

August: The Sheriffs?

Amber: Yeah.

August: Right there, and there was only one and then the guy was over there searching through our belongings

Amber: Oh, okay. So did he get in trouble for walking out like that?

August: Yeah, she [Sheriff performing the search] ... well, she yelled at him, but what could she do?

The ineffective response by the Sheriff in this instance is unfortunately actually an improvement on what girls describe as the typical response by staff to

Male guards routinely do "pat-downs" on teenage girls.

inappropriate sexual behaviour and sexual harassment in prisons, as will be outlined later in this section. In this instance, strip-searching both male and female youth in such close proximity to one another could certainly be seen as a contravention of the law.

5.3 Strip-Searches

Regular strip-searches are a standard part of prison life, despite a Supreme Court of Canada ruling which states:

Strip searches are inherently humiliating and degrading for detainees regardless of the manner in which they are carried out and for this reason they cannot be carried out simply as a matter of routine policy.⁷⁸

In British Columbia, a class-action suit has been launched to challenge the routine use of strip-searches at the Vancouver city jail; if successful, such a case might be useful in challenging the routine strip-searching of young women as well.

Given that such a significant percentage (63%) of young women in custody have a history of sexual abuse, routine strip-searching should be prohibited not only on the grounds that it is "humiliating and degrading" but also on the grounds that it has the potential to re-traumatize young women. While young women generally put up a brave front and suggest that they become desensitized to strip-searches, there is evidence that this practice has harmful effects. As August explains:

Um ... I was really upset the first time, but after awhile you get used to it. She wouldn't ... she told me that ... I was crying, and I said I wasn't going to get strip searched, and she said that I'd have to spend my entire stay in admissions because they couldn't let me on a proper unit, so I did it.

Keera also describes strip-searching as just part of the day-to-day routine of being in prison:

They strip search you every time you come back from court, every time you come back from visits ... they do it all the time, all the time. Male staff will pat you down, and sometimes some of them will go too far ... but female staff are the only ones who actually strip search you. I've asked for a female for pat-downs a couple times when I haven't felt comfortable with the male, and they say "Well, there's not one available," and I've said, "Well that's bullshit buddy and I'm not moving until I get searched by a female." So then they're like, "OK, we'll try and find one," and

two minutes later when there was no female staff available one just happens to show up, and they act like it's such a big deal to come down a flight of stairs to search you ...

Other young women confirm that while they've only ever been fully strip-searched by female staff, male guards routinely do "pat-downs" on teenage girls. August reported that youth received "pat-downs" after every program at the jail she was in. When asked if this patting down was done only by females, she stated:

Not always, but only female staff could check your bra and stuff. Like, the guys could go underneath but they couldn't do anything else, females could lift it up and stuff.

A senior staff member at one youth jail confirmed to Justice for Girls that it is policy for both male and female staff to pat down female prisoners. Several young women have expressed discomfort with this practice or have indicated that they felt the "pat down" they received from a male guard was inappropriate. Further research on the short and longer-term effects of routine strip searches and pat-downs, particularly for young women with a prior history of sexual abuse, would be very valuable to understanding the full impact of this practice.

5.4 Daily Routine While in Prison

Once imprisoned, young women are subjected to a mind-numbing daily routine which they can easily recount by memory. For those who are incarcerated for longer periods of time, like Keera, who spent over a year behind bars, the prison routine can have a lasting impact even after being released. When asked about what her life was like after she was released, Keera explains:

Keera: Well it was just ... it was weird because when I was in jail I'd lie in my bed at night and I couldn't wait to be home in my own bed, and I'd think about what that would be like. And now ... well, not necessarily now but when I first got out, I'd lie in bed at night

and look at my ceiling and think about what it'd be like to be back there. Like, I couldn't even go to a mall or I'd have a panic attack, I'd start shaking because there was all these people around ... I think that somebody's gonna attack me, or somebody's watching me, or somebody's trying to, like, set me up or something ... you get friggin paranoid, man, so easily ... You get really creeped out, man, and like ... the times are different, like you get your days mixed up, like ever since I've been out, if it's a Thursday I'll think it's a Friday, if it's a Friday I'll think it's a Saturday, if it's a Monday I'll think it's a Tuesday or Wednesday ... you're always just, like, "What's the date today?" Because in jail you just, like, don't pay attention, like a day is just another day there, right? And on the outs it's so weird ... like being able to work things by myself right, like even making something, even making my own food is just like, weird, it's just weird. And I've knocked a couple of times ... I've gotten up at night and knocked on my [own bedroom] door, right, and then I realize what I'm doing, because [in jail] you have to knock to get out. Or I'll wait, I'll wait too for a door to be unlocked, or even if I'm in the mall or anywhere, right, I'll just wait for someone to open the door for me, until I'm like, "oh yeah, I can open it myself!"

"I've gotten up at night and knocked on my [own bedroom] door, right, and then I realize what I'm doing, because [in jail] you have to knock to get out."

Getting used to the routine can make it very difficult to adjust to a life that is less regimented, as Keera continues:

You don't want to be away from all the people that you're out here with, you don't want to lose all the stuff you have going on out here, and like everything, right, like your freedom, right? But at the same time you want to be somewhere that you know and that you're

comfortable with, like that's your comfort zone, right, and even if you hate friggin' being there, it's like you don't mind it, because ... I can't explain, it's just ... you care that you're in jail and you want to get out ... so bad, right, but there's just that comfort zone, it's just like, "Okay, I know this, I know what's going to happen every day, I know what programs I'm gonna have" ... I can still tell you, right about now the girls are in church and it's Saturday, it's 2:41 and they'll be in church, they get out of church at 3 o'clock and then the boys will have church until 4.

The fact that some young women miss being in jail once released or talk about how jail is 'not so bad' is frequently read as an indicator that jail is too 'soft.' However, such statements should instead be looked at

A lack of healthy food and an inability to control food choices or portions only exacerbates some young women's already tenuous relationships with food.

as a testament to the harsh conditions of marginalized young women's lives in the community, where many young women face homelessness, unemployment, hunger, poverty, violence, loneliness, and the effects of drug addiction, sexual exploitation, racism and discrimination on a daily basis. An

acceptance of prison life is also an obvious outcome of institutionalization, which can have a lasting impact on a young woman's life once released from prison.

When asked about the daily prison routine, August recounted the following details despite the fact that she had not been in prison since approximately two years prior to the time of our conversation:

August: On a typical day ... like we got up in the morning, I don't remember what time, but they just turned on your lights, and then this buzzer went off on your door that opened it so you could come out. And you had to clean your room: make your bed, sweep the floor, wash the floor, and tidy up anything that was on your desk.

Amber: Every day you had to do that?

August: Yep. Except for on Sundays where we had major cleanup, where everyone was assigned to clean their room and then you had to clean something else like a bathroom or something – I hated that. And then ... we'd have breakfast, and then we went to program. Programs consisted of school, gym, arts and crafts, work duty, which was just cleaning up, and ... like, they had special programs once in awhile like dance or something like that.

Amber: And how did they decide which programs each person went to?

August: I don't know. Sometimes they already decided for you or other times they'd just call your name and you'd go to it. But usually we'd go down, because we were ... everybody went to this one area, cause we were in separate rooms ... like not separated, but different wings. Like I was on girls wing, which was south, and we were in this one room, and then everyone else was in other rooms, and then you could ask staff, you could say "what are my programs?" and they'd have this sheet and they could tell you, and then when each program gets going a staff collects each kid that's going to it and takes them.

Amber: Okay.

August: Yeah, and then ... we'd break for lunch ... we'd go to first program and then it was lunch, or no ... then it was water break, and they brought you this tray of water (laughs) in cups. And then you'd go to second program and then it was lunch, and then third program and then shift change for an hour.

Amber: What did you do while they did shift change? Were you locked up?

August: They put you in your room, yeah. And then, it depends, half-way through shift change some kids would go to an extra program like arts and crafts, and you had to sign up for it because if you didn't sign up then you spent the whole hour and a half sitting in your room. And then you had ... I can't remember ... like an hour, maybe two hours

of free time before dinner, and then they gave you dinner at five.

Amber: Did you have dinner on your unit, your sleeping unit, or did they have a hall or something?

August: No, on my unit. Well, they had a cafeteria but it was for ... east wing and west wing had dinner ... like all their meals were in the cafeteria, and then we just ate in our unit. And after dinner was six o'clock news. If you had lockdown or any time you had to spend in your room you did it then.

Food in prison frequently causes problems for young women, who are already highly susceptible to disordered eating as a result of the intense pressure they feel to conform to an idealized female body image. A lack of healthy food and an inability to control food choices or portions only exacerbates some young women's already tenuous relationships with food. As Keera explains:

The food out there is so gross, too, it makes you sick and you can't eat it, and it's so unhealthy and it just makes you fat. A lot of girls would develop eating problems, like bulimia, anorexia, because they don't want to eat it because it makes you sick ...

Young women have also reported to Justice for Girls that their food has at times been contaminated with bleach that has not been thoroughly removed from their dishware after the sterilization process.

While youth report that they are encouraged, and sometimes even forced, to attend Christian church services within the confines of the prison, youth are subjected to shackling during First Nations sweat lodge ceremonies that take place within the prison compound. Since the *Burnaby Youth Secure Custody Centre Operations Manual* provides no explanation for the necessity of shackling youth during the Sweat Lodge program but not during Christian church services or any other program that youth participate in, this practice appears to constitute a racist use of shackling that is enshrined in prison policy.⁷⁹

Although she was imprisoned in a different jail

than August, Catarina describes a very similar scene when asked about the daily routine:

Catarina: Hah! (Authoritative voice): You wake up in the morning, you have a shower and you start sweeping out and mopping up your room and if your room is not clean, you will receive an early bed, and you will have to not only do that, you will have to scrub the walls with a toothbrush.

Amber: Scrub the walls...of your room or...?

Catarina: No, of the building.

Amber: Of the building?

Catarina: (Authoritative voice) They'll pick a room in your unit and you will scrub it with a toothbrush until you learn that being clean is very important.

Amber: Wow. And what about, do you have to clean other parts of the unit?

Catarina: Um ... you have chores, which are living room, um ... me, I'm laundry rep, so I have to do all the laundry and make sure the girls have their clothes for the morning, and then there's dining room and dishes ... um ... there's staff office, there's, uh, day room, games room, stuff like that. Everybody is responsible for their own room, though, but every morning the routine is you wake up, you have a shower, do your chore, and after the chores and all the showers are done you will sit down and eat breakfast, clear your breakfast, get ready for school and you line up at the door, then you walk single file through the hall. If not, you will receive an early bed as well. If you talk in the halls, you will receive an early bed. If you say, "Hey, how's it going?" you will receive an early bed. And an early bed can be, like, seven o'clock at night until the next day. And if the staff's really an asshole, they'll turn off your light and won't

“They’ll pick a room in your unit and you will scrub it with a toothbrush until you learn that being clean is very important.”

let you sit up in your room, and you'll just have to go to bed.

Justice for Girls has observed that male inmates are given more frequent access to recreation facilities, such as the gym, weight-lifting equipment, and outdoor field. August also confirmed this as standard practice in another jail:

Amber: Did the guys ... were there any more programs for them or did they get more freedom to move around and stuff or more access to the gym or anything?

August: Well actually, I didn't really care about the gym, but yeah they did. Sometimes they would, like if it happened where

they couldn't, where it wasn't co-ed and they had to switch, guys always got first pick of the gym and of course they always took it. And if you got ... once in awhile depending on the staff you could ask for a certain program,

and they'd mark you down if they could, but mostly they went to the guys first and asked them if they wanted gym.

August reports that the primary boys unit at the jail she was in was known as the "honour wing," whereas the girls unit was just "girls' wing:"

Okay, there was four units, east wing, west wing, boys unit, and girls. Boys unit was like the honour wing if you were a good guy then you got to go there, and girls were always on one unit usually, if they were packed then there'd be more than girls on the unit ...

Tensions also arise from having male and female prisoners in the same programs and sometimes even on the same living unit, another practice that is contrary to the *UN Standard Minimum Rules for the Treatment*

of Prisoners, which states:

Men and women shall so far as possible be detained in separate institutions; in an institution which receives both men and women the whole of the premises allocated to women shall be entirely separate.⁸⁰

Regardless of this regulation, girls and boys are regularly in programs together and are also on occasion housed in the same living units. Cindy reported that while she was in prison there were male inmates housed on the girls' living unit, which she stated was a problem for the girls because the guys were "messy" and would also "try to control everything." She and several other young women submitted a formal complaint in writing to the prison director about this situation, but despite policy to the contrary, they received only a verbal response rather than a written one. Further, the verbal response was less than satisfactory, as Cindy reports:

He talked to us and said, "Yeah, they [the guys] will be out of here in a week or so." But they moved the guys back [to their own unit] two weeks later, for only, like, two days, and then they were back on our unit.

Unfortunately, this situation was only remedied when Justice for Girls intervened by sending a letter to the director on the girls' behalf.

As the above descriptions of the daily routine while in prison indicate, young prisoners are subjected to a number of formal and informal punishments throughout the course of their days. The following sections describe some common forms of punishment that girls experience while incarcerated.

5.4.1 Punishment – Cleaning

The use of cleaning as punishment for non-compliance is a daily occurrence in youth jails in B.C. On top of the common practices described above by the young women as part of their daily routine, Keera also reports that:

they'd like make you clean the blood off the floor if there was a fight, or make you ... take you to the boys unit when it was empty, when the count was low, and make you scrub snot, and like bodily fluids, and everything off the walls and change the bed linen. They'd send girls down to the unit with lice, um, not tell anybody they had a scabies outbreak in there

...

When asked if young men were required to clean as frequently as young women, Keera stated that girls were normally asked to do cleaning first, and were sometimes bribed into cleaning by guards who used candy, pop, or pizza pops as rewards. This form of punishment, then, is thinly disguised as an effort to encourage young women to conform more willingly to traditional feminine gender roles.

5.4.2 Punishment – Lockdowns

The use of an early lockdown as punishment for perceived 'poor behaviour' is a regular practice in jails, as August explains:

Amber: Why would people have lockdown?

August: Like for carrying notes and stuff, if you got caught ... like we used to stick notes in our socks or in our bra and then when we got patted down after each program they would be like "oh, well look at this ..." And there was different things ... like, they called it a grand slam was an hour in your room after shift change, an hour after dinner, and an hour early bed.

Amber: And why would people get that?

August: If you got caught with a note.

Amber: Oh! And what would the notes be, like from one person to another person?

August: Yeah, we used to pass them to different people if we had like ... if I had a program with John and Elizabeth was dating John she'd give me a note to give to him and stuff like that.

When asked if she had ever been locked down,

August stated:

Um, the most I was ever locked for was four hours, but that was because I got a double grand slam and they forgot to give it to me, so they locked me after dinner and I couldn't go to program, I was just locked for the rest of the night.

Cindy described a similar experience of being locked down for non-compliance in school:

Um, the teacher kicked me out of class cause I was just ... I walked out of class to go to the washroom, and I forgot to ask, so he kicked me out and then I had to go to the quiet room, because that made me mad.

Girls also frequently report to Justice for Girls that they are locked down for a myriad of non-compliant behaviours. Recently, three First Nations girls were locked in isolation for several hours as a form of school discipline, a punishment that would never be tolerated in the public school system. This use of segregation to respond to non-compliance brings us back to the training schools of the JDA, where First Nations girls in particular were frequently punished for their hostility to the ways of the dominant culture.⁸¹

Youth also routinely see their daily schedule interrupted as a result of lack of compliance from other youth, sometimes resulting in everyone being locked down. As August explains:

They had these pendant alarm things, and they would go off through the whole freakin' thing, and sometimes you'd be watching a movie and someone would get in a fight on a whole different wing, and we had no idea what was going on, and when the pendant alarm went off everybody had to go to their doors, really fast, so everybody was running around all the time. It was weird.

Three First Nations girls were locked in isolation for several hours as a form of school discipline.

An advocate at Justice for Girls also reports once having her outreach session cancelled after her arrival at Burnaby Youth Secure Custody Centre as a result of a lockdown of the entire prison for several hours due to the behaviour of a few young men. The alleged unruliness of these young men was caused, however, by bringing in a drug dog to go through the prison-

the effects of this practice on the well-being of suicidal prisoners and of young women in particular.

Segregation is also used at times for administrative purposes (for example to keep a youth in protective custody who might be at risk in the general population or to segregate a prisoner who is withdrawing from drugs) as well as for punitive, disciplinary pur-

It is common practice in the prison system to segregate those prisoners who engage in self-harm (slashing), who attempt suicide, or who are believed to be at risk of suicide.

ers' cells and possessions – an action described by one staff member at the Centre as a chance to “scare the kids.” The advocate from Justice for Girls stated that she was shaken by the presence of the dog, who was large and pulling wildly on its chain, and that she could certainly understand how bringing such a large animal into a small confined space could cause some youth to act out. Nonetheless, the youth's predictable response to the dog's presence is used as an excuse to punish them further.

5.4.3 Punishment - Segregation

One of the most severe forms of discipline inflicted on young women while imprisoned is the use of segregation. Aside from the shorter periods of locked isolation described above, girls are also disciplined by being “segged” for much longer periods of time. The practice of segregation has documented short and long term negative psychological effects on adult women.⁸² Research on its impact on youth, and in particular on young women, is virtually non-existent.

It is common practice in the prison system to segregate those prisoners who engage in self-harm (slashing), who attempt suicide, or who are believed to be at risk of suicide. In theory, this practice is intended to protect the prisoner. It is difficult to imagine, however, how hours or days alone in a small cell with little human contact can be helpful to someone experiencing such intense emotional pain. One wonders whether in reality the practice of segregating suicidal prisoners has more to do with protecting the liability of the institution than with protecting or helping the prisoner. Further research is urgently needed to determine

poses. Prisoners can be “segged” on their own living units, where they are locked in their own cells for the duration of their segregation time, or they can be locked in a cell on a special segregation unit contained within the prison. Cells on segregation units usually closely resemble city cells: a mattress on the floor, a toilet in the room, and a camera that monitors the cell 24 hours a day. Prisoners are entitled to a minimum of one hour out of their cells per day, usually to attend to their personal hygiene. Phone calls and visits are prohibited; check-ins from staff are about all the human contact one has while in segregation, although resistance to this is sometimes possible by shouting to other youth segregated nearby. After getting in a physical fight with another youth, Catarina spent three days in a cell on the segregation unit. She describes the conditions like this:

Catarina: I got segged for three days over in secure ... you're locked in a room for three days ... um, basically there's a toilet in there and stuff like that, they let you out an hour a day to shower and do all your hygiene, and other than that you're just stuck in that room with a book.

Amber: And was there anybody else on the seg unit while you were there?

Catarina: Yeah there was a bunch of kids in there for fighting.

Amber: Mostly guys or...?

Catarina: Yeah.

Amber: And so you had seg for three days that time, how was that, was that hard?

Catarina: Long.

Amber: Yeah. Long. Did you sleep a lot or...?

Catarina: Yeah.

Amber: That's coping, hey?

Catarina: Yeah. It passes the time.

Cindy was also locked in segregation for three days. In her case, she was segged because she was threatening to run away from an open custody centre and was accused of encouraging other youth to run away with her. This maneuver pushed her to actually run away once released from segregation. As she explains:

Cindy: I told them that I was going to AWOL [run away, literally 'Absent Without Official Leave'] in [name of open custody centre], though, because ... I was having trouble. And I told my dad that I was going to AWOL ... And then they accused me of, um ... getting, ah ... everybody else to AWOL with me, and they locked me in seg for ... four ... three ... days ... I can't remember, three or four days, I think it was three days. And um ... I was really mad when I got out of seg, I didn't think that was fair ... they locked me in there because they said that I was trying to get everyone else to AWOL, and [when I got out of seg] I had done something ... I got ... I almost got into a scrap with this girl, she called me names, but I never touched her, and then they locked me up again right after I got out of seg, and [then after I got out again] I told my dad and everyone on the phone that I was going to AWOL, because I didn't like the staff there at the time, and I didn't think it was fair, some of the stuff they were doing to the kids, you know, like keeping kids in seg for too long. And ... then I AWOLed.

Amber: And when you were in seg up there was it 23 hours a day in lockdown?

Cindy: Um, we were allowed out an hour a day, in the courtyard.

Amber: And were you locked in your room or was there a different seg unit?

Cindy: You were locked in this room.

Amber: But it wasn't your bedroom?

Cindy: No, it was a different room. It was up in the control centre.

Amber: And so you were on camera all the time?

Cindy: Uh huh.

Amber: And did it have a toilet in the room?

Cindy: Uh huh.

Cindy's decision to follow through on the behaviour she was put in segregation to try to prevent is entirely consistent with the findings of a Study Group established by the Solicitor General of Canada in 1976 to study the impact of segregation. In their review of both administrative and punitive segregation, this group concluded that "prolonged segregation enhances the inmate's anti-social attitude and, in general, constitutes a self-fulfilling prophecy."⁸³ Despite her status as a youth and despite this documented awareness of the effects of segregation practices dating back almost thirty years, Cindy is still being set up to live out such a "self-fulfilling prophecy."

“The apparent permanence of segregation as an assumed way of doing things in prison has relieved us of the need to reflect deeply on it.”

An advocate from Justice for Girls also reports the following observation in relation to the segregation of young women prisoners:

Upon entry into the institution I saw a young woman in isolation/solitary unit being monitored on video from the control desk. The male guards were joking about how she at least had her clothes on again. The young woman was sitting in an empty room on the floor, head down.

Further research about the use of segregation with young prisoners and the potential short and long-term effects of such practices is urgently needed. Sociologist Joanne Martel notes that "the apparent permanence of segregation as an assumed way of doing things in prison has relieved us of the need to reflect deeply on it."⁸⁴ It is essential that steps be taken to remedy this

situation and to question the continued use of this practice with youth in prison.

5.5 General Treatment by Prison Guards

In their survey of B.C. youth in custody, the McCreary Centre found that 30% of youth surveyed disagreed with the statement “Staff are respectful and fair,” while an additional 39% chose either the “neutral” or “don’t know/does not apply” options. In addition, 33% of youth surveyed indicated that they had experienced discrimination or unfair treatment by staff.⁸⁵ Unfortunately, the youth were not asked if they had experienced

harassment from staff, and there is also no breakdown by gender reported for these questions.

Some young women speak positively of their interactions with guards and in particular with

programming staff at the prisons, but they express regret that despite developing positive, supportive relationships with these adults, they are unable to maintain contact with these supportive staff when they leave the jail. When asked the general question, “what were the staff like at the jail you were in?” the four young women participating in this project unfortunately had few positive comments.

During their outreach sessions and individual advocacy visits with young women at the youth prison, Justice for Girls often hears reports about harassing behaviour perpetrated by guards and expressions of concern from young women about having male guards working on their living/sleeping unit. Aside from

would do certain things to assert their dominance over the youth:

Like just ... if the staff was joking they’d come up and twist a kid’s arm behind their back, and be like “does that hurt? Does that hurt?” or squeeze your pressure points and bring you to your knees in the middle of the friggin’ hallway and shit, just to embarrass you.

When asked what the staff were like at the jail she was in, August relates the following incidents:

August: Most of them were really nice, one of them was a real jerk (laughs). They used to tease us all the time though ... like this guy, um ... me and [name of other prisoner] were sharing a room and he came and ... underneath our door was like this much (gestures with hands) and every night before you go to bed, you go to bed at nine and then there’s two hours of lights on before they turn them off. Well, we were talking to him through the window of our door and he had a cigarette in his ear, and we were like, “Oh my god, you jerk, how can you do that?”

Amber: Because you weren’t allowed to smoke in there?

August: Yeah. And then he was like, “I’ll make you a deal.” And he put it on the floor just outside of our cell, with a lighter beside it, and he said, “If you can reach it, it’s yours.” So we were both under there trying to grab it. And finally we got it, too, and he let us smoke it.

33% of youth surveyed indicated that they had experienced discrimination or unfair treatment by staff.

“One of the male guards, uh ... grabbed me by the throat, carried me out of the room off the ground like, by my throat ... and slammed me against the wall.”

sexual harassment (discussed in further detail below), young women also report verbal attacks from guards and other types of unprofessional or inappropriate conduct. Girls report being called “bitches” by one guard on a regular basis. Keera reported that guards

Amber: Huh. And what about the other staff, you said one was a real jerk?

August: Yeah, I don’t know what his problem was. He made me cry a few times but then he’d feel bad and come to my room and be

like, “Oh, it’s okay.”

Amber: What did he do to make you cry?

August: Well he was just ... I don’t really even remember, I miss him though, he was one of my favorites, he just ... I don’t know, he just had this attitude.

Amber: He was a jerk but he was one of your favorites?

August: Yeah, he was ... I don’t know.

August clearly has mixed feelings about her relationships with male guards, feelings that echo her descriptors of boys her own age who she develops crushes on. It is not surprising that girls may have mixed feelings about male authority figures, including guards. However, it is obviously inappropriate for guards to encourage any kind of ‘special feelings’ between themselves and the girls they are supervising.

Some young women also report experiencing physical assaults from guards while in prison. Catarina describes how a guard intervened when she was involved in a physical fight with another young woman:

Um ... I was grabbed by the throat ... And then um ... yeah, uh ... he turned around and uh ... one of the male guards, uh ... grabbed me by the throat, carried me out of the room off the ground like, by my throat ... and slammed me against the wall. I was sore ... I was like, I had bruises on my neck and stuff like that ... I think I got slammed the hardest ‘cause I was on top but still I think ... like he could’ve grabbed me a different way or whatever, right?

Catarina filed a formal complaint in writing about this incident. When a youth files a formal complaint in writing jail policy dictates that they must receive a reply in writing within five days. However, youth rarely seem to get responses to their complaints in writing – most often a response is delivered word of mouth from a senior staff person. In this instance, Catarina was told that the male guard grabbed her by the throat because he was concerned that if he grabbed her on any other part of her body he would be accused of touching her inappropriately. As she explains:

I filed a complaint form but nothing really came of it, they just used the bullshit excuse that ‘Oh, it’s hard when you’re slamming a girl because you don’t want to end up touching them in one of their private areas.’ But [senior staff] said ‘it’s their job to restrain the fights so whatever they need to do, they’ll do.’

Apparently, no female guards were in the vicinity to intervene in the fight. As punishment for her part in the fight, Catarina spent three days in segregation.

Other physical assaults by guards reported to Justice for Girls have included a young woman reporting being kicked in the head by a male guard while she was lying on the ground, a young woman being grabbed and physically shaken by a female guard, and a young woman being physically grabbed and forcibly pushed into her unit by a male guard. Again, further research on the extent of physical assaults on youth by guards is urgently needed.

Men work as guards in all youth jails in British Columbia and are frequently alone in the presence of young women.

5.6 Sexual Harassment by Prison Guards

Aside from feeling uncomfortable with regular pat-downs by male guards, young women also report a number of concerns stemming from their constant contact with male guards while they are incarcerated. The *UN Standard Minimum Rules for the Treatment of Prisoners* states that:

53. (1) In an institution for both men and women, the part of the institution set aside for women shall be under the authority of a responsible woman officer who shall have the custody of the keys of all that part of the institution.
- (2) No male member of the staff shall enter the part of the institution set aside for women unless accompanied by a woman officer.
- (3) Women prisoners shall be attended and supervised only by women officers. This does

not, however, preclude male members of the staff, particularly doctors and teachers, from carrying out their professional duties in institutions or parts of institutions set aside for women.

Despite these rules, men work as guards in all youth jails in British Columbia and are frequently alone in the presence of young women. As a result, young women report experiences that range from subtle to overt forms of sexual harassment from male guards. Particular concern is expressed about those instances when young women are alone under the watch of a lone male guard. Keera gave the following response when asked if she had ever felt “creeped out” while she was in jail:

Oh yeah, all the time, they just ... especially when the male works night staff, cause there’s only one staff down there, right? And I was always up late cause I had laundry job and I was onto the highest level⁸⁶, right? And it’s just ... and you get creeped out by them, sometimes they talk about like ... weird things like sex that they shouldn’t talk about to, like, somebody, right? And ... like ... you know there’s just some things I don’t wanna know! You know, and just like ... they’d ask your

“I’ll have staff, like (demonstrates by looking me up and down suggestively), and winking at me and stuff like that.”

advice, and they’d be like “Well, what if I do this, what if I do that ...” about sex, about relationships, about, just about their life, just about, just weird stuff. But some of them would just be too touchy-feely ...

Like, always like, “Oh yeah, that’s so good. Yeah.” Like, like even though they were doing it in like ... sometimes they’d do it in a buddy-buddy way ... but you knew it wasn’t, ‘cause you just ... knew, right? And some of them just get ... like some of the male staff *ask* to work down in the girls’ unit.

She also indicated that a lot of “funny stuff” happens when youth are in segregation, because, as she explains, “there’s only one staff, like, on night shift, and nobody comes on that unit much, right, it’s the seg unit ... the penalty box.” Catarina also raised concerns about male guards when asked if she had ever felt “creeped out” in particular by anyone while in jail:

Catarina: Yeah. There’s certain staff, and stuff like that, that kinda ... you know. But I mean ... what can you do, right? There’s nothing you *can* do, so...

Amber: No? But what happens? Can you describe...

Catarina: Like, you know, I’m level 4 and stuff like that, so I’ll be wearing my personal clothes sometimes, and I’ll have staff, like (demonstrates by looking me up and down suggestively), and winking at me and stuff like that, and it’s kind of like, ‘Whoa, creep.’

Amber: Uh huh. Like male staff?

Catarina: Uh huh.

Amber: Yeah?

Catarina: Yep.

Clearly, further research into young women’s experiences of sexual harassment from guards is warranted, and immediate steps must be taken to prevent young women from continuing to experience such harassment while incarcerated.

5.7 Sexual Harassment and Violence from Other Inmates

Young women also face harassment and assault from other youth while in prison. The McCreary survey of B.C. youth in prison found that 26% of young women reported experiencing sexual comments or jokes while in prison, while 22% reported being touched or grabbed in a sexual way without their consent. A smaller number, 11%, reported being punched, hit or beaten up, but a higher number, 45%, reported experiencing verbal abuse. The report unfortunately does not specify either the gender of the perpetrators of these assaults or whether they were perpetrated by guards or by other youth, although it does indicate that 24% of

young men admitted to harassing others with sexual comments or jokes.⁸⁷ Such high rates of victimization of young women are cause for concern, particularly considering that self-reports of abuse tend to be significantly lower than actual rates of victimization, due in part to the stigma associated with disclosing that one has been abused.

When asked about whether she's aware of any sexual harassment of girls by male youth in prison, Catarina said:

Catarina: Yeah. For me, yeah. Um, I guess I'm ... more developed for a fifteen year old, I guess, as they perceive it, and, um ... I'd get comments everyday like 'Hey baby, how you doing?' and they'll be like 'Hey, you want a show?' and like, stuff ... and they'll like, grab me as I walk by and stuff like that and ... yep.

Amber: So how does that make you feel?

Catarina: It's totally disgusting. It's disrespectful not only towards you but towards your body, and ... it's just wrong. But staff's response to it is 'well, don't come to jail then,' which I think is total bullshit.

Keera reported overhearing a male guard tell a group of young men: "Yeah, the girls fuck themselves with cucumbers and stuff they grow in the garden, and stuff like that, and 'with bananas and they'd freeze them.' Oh yeah, it was, it was horrible." When asked how she came to overhear this conversation, she explained:

Keera: 'Cause I was always around the guys all the time, right, 'cause I was always in special programs. And you'd hear how the male, males would talk to each other, right, and you'd just hear like, everything, they'd tell you, right, so I was like one of the guys and it was just like, fuck. Like the stuff that came out of their mouth, I don't even wanna repeat, you know it was just like ... total like, defamiation of character and just like ... oh it was

just so bad, man. They're totally disrespectful and rude and just vulgar and, and it's dirty, that's what it is, it's dirty. And girls are walk-

26% of young women reported experiencing sexual comments or jokes while in prison, while 22% reported being touched or grabbed in a sexual way without their consent.

ing down the halls and sometimes it probably just gets to the point where they probably want to kill themselves sometimes, and they just drive 'em nuts, man. They'll spit on them, they'll like ... throw stuff at them, like pull their hair, cut their hair, spit in their hair, spit on their back, trip them, like ... it can get pretty brutal.

Amber: And are staff aware of that?

Keera: Yeah. Staff doesn't really care. They say "Hey, what can we do, it's jail." That's their excuse. "It's jail. If you don't like it, don't come here." That's what they say. Every single time, it never fails. That's what they say, that's their excuse for everything.

August reports that she also had no assistance from staff when dealing with sexual harassment from a male youth. When asked how she got along with guys while in jail, she stated:

August: Oh, the guys were just thrilled with any girl that they got to see.

Amber: So you didn't have any problems with them?

August: Well, this one guy ... we were in this foods class or something like that, and he put his hand ... like we were sitting on the couch and I had my legs underneath me and he was sitting right beside me, and he put his hand up my pants, and then I was like "What're you doing?" and I just let him get so far before I smacked him. And the teacher was laughing

"Sometimes it probably just gets to the point where they probably want to kill themselves."

at us.

Amber: The teacher was laughing at that?!

August: Well, she thought it was hilarious that I smacked him. She didn't know that he'd...

Amber: That he'd done that?

August: Yeah.

Amber: Oh. Did he stop after that?

August: Yeah.

The guards' apparent lack of concern and awareness about sexual harassment indicates that the prisons do not take sexual harassment – and therefore girls' safety and dignity – very seriously. The irony is that these young women are frequently being sent to jail *in order to keep them safe* from exactly these types of experiences.

5.8 Coping with the Prison Environment

Young women cope with incarceration in various ways, and all of their methods of coping can be understood as ways of resisting the attempts made by the institution to assert total control over their lives. Unfortunately, some ways of resisting the power of the institution can be very hurtful to the young woman herself. When asked about how kids seemed to cope with being in jail, August states: "I don't know, some girls had some weird problems ... one girl used to pull her hair out."

The guards' apparent lack of concern and awareness about sexual harassment indicates that the prisons do not take sexual harassment – and therefore girls' safety and dignity – very seriously.

Other ways of coping that result in self-harm include slashing and cutting. Other methods of coping with or resisting the control of the prison regime include writing letters to friends on the outside or, as August related, continuing to pass notes to communicate with peers on the inside despite the possible consequences. Some, like Catarina, learn to cope by conforming to what is expected of them:

I've had a very good relationship with staff because, you know, I was always raised to

treat your elders with respect ... so 'please and thank you,' you know, and 'may I' and stuff like that and 'sure I'll help you with that' and stuff, right? Some people would refer to it as brown-nosing but really it's not it's just ... you know, fuck, it makes your time go by quicker. What's the point of sitting there arguing with the staff ... you lose in the end, right?

Another way of coping is to replicate the power dynamics within the prison itself. August describes one such situation when asked about ways that girls would cope with being in prison:

I don't know, when you're in jail for so long it just kind of bugs you, I don't know, this one time we pushed the couches together and everybody that was, like, popular, we all got on the couches, and then the victims that everybody teased all had to sit around and pretend they were pushing the boat and we were in the middle of the ocean, stuff like that. Staff used to think we were a little bit nuts.

Acting more powerful than they really are or replicating the power dynamics of the jail are forms of resistance strongly embraced by young women, who remain the most powerless within the institution. The McCreary survey found that 72% of young women confessed to having bullied others while in prison, while 28% confessed to having been bullied by other youth.⁸⁸ Through in-

terviews with 15 young women about their experiences while in prison, Sociologist Mark Totten discovered that "all but one of these young women reported feeling unsafe in custody as a result of abuse and harassment by young men."⁸⁹ By contrast, the young women participating in this project consistently denied ever feeling afraid or unsafe while in prison – not surprising since the development of a tough exterior is essential to surviving life 'inside.' A young woman prisoner whose anonymous letter was posted to a B.C. youth custody centre website explains the phenomenon like this:

A lot of us have attitude because of the way that we are treated and of the way we grew up. What people don't realize is it's an act ... I try to make myself out as a tough girl, who doesn't care, has way too much attitude, and feel I have to prove that I am better than everyone. But really underneath, I'm super sensitive, I cry easy, I'm very insecure and self-conscious, and care too much about what people think of me. So I play the Tough Girl Syndrome ... But it's a game I'm stuck playing.⁹⁰

Unfortunately, the coping mechanisms that girls develop to survive while in prison can have serious negative effects on their lives once released.

5.9 Overall Impact of Imprisonment

When asked to describe the overall effect that being in jail had on her, Keera states:

(Pause -voice goes quiet) Ah ... It made me hard. Not hard, it just made me like, I don't really ... a lot of things don't bother me, a lot, right? I'm like a sensitive person, right, but now it's just like, it's like, whatever, I'm like, yeah okay whatever, like, I don't care. Like ... and it'll come back to me later and I'll think about it ... you know, or I'll like ... I just blurt out a lot of things, like I'm really blunt now, right, and I'll tell people ... I don't care if they want to hear it or not, I'll just tell them what I think, right. Like [people] walk across the street and they bump into somebody and they, like, keep walking, but with kids in jail, right, it's like so different because if somebody did that in jail they'd be like "fuck, watch where you're going man!" and like "do you have a problem?" So everything that you use in jail, right, when you come out you relate to being in there, so if someone looks at you the wrong way, you're like "what, you got some beef with me? You want to solve this right now?" you know? And a lot of kids from jail get together on the outs, too, so then that shit starts all over again.

Amber: So you take on that posture to survive in there, but then you can't just put it aside when you get out?

Keera: Yeah, because you're so used to it, right?

Some members of the general public might believe that regardless of these various abuses, sending youth to prison is still the only way to 'teach them a lesson.' However, the "lessons" that young women say they learn while in jail hardly seem worth the amount of suffering or, for that matter, the amount of money spent to teach them. While young women all spoke quite highly of the lifeskills programming that they participated in while in prison, and particularly of the opportunity to meet people from organizations that might be able to assist them or offer them support when they leave, the overall effect of imprisonment is anything but positive. As August tells us, "jail is just basically a place where you wait." Some young women *do* seem to internalize the message that prison is intended to get across. When asked about the overall effect of her imprisonment, Cindy states "Well, I just think, like ... what am I doing? Like being locked up in here is just ... stupid. I don't want to come back. I want to go back to school and stuff." However, the unfortunate reality is that even if young women leave prison with a strong desire to change, they find that the supports that might make change possible for them are often either not immediately available or are entirely non-existent.

"I don't know, some girls had some weird problems ... one girl used to pull her hair out."

SECTION 5 NOTES

- ⁷³ Corrado et al 2001 pg. 426
- ⁷⁴ Ombudsman of British Columbia 1994
- ⁷⁵ Department of Justice Canada, YCJA, Section 165.6.b
- ⁷⁶ Corrado et al. 2001 pg. 436
- ⁷⁷ It should be noted that Canada submitted a reservation on statute 37 (c) of the *Convention on the Rights of the Child*, stating that “The Government of Canada accepts the general principles of article 37 (c) of the Convention, but reserves the right not to detain children separately from adults where this is not appropriate or feasible.”
- ⁷⁸ Supreme Court of Canada R. vs. Golden 2001
- ⁷⁹ *Burnaby Youth Secure Custody Centre – Operations Manual* 2001 Section E, Page 15b, 15.08
- ⁸⁰ *UN Standard Minimum Rules for the Treatment of Prisoners* article 8a
- ⁸¹ Sangster 2002b
- ⁸² Martel 2000
- ⁸³ cited in Jackson 2002 pg. 295-96
- ⁸⁴ Martel 2000 pg. 28
- ⁸⁵ McCreary Centre 2001
- ⁸⁶ Most youth custody centres operate on a “level” system, whereby youth must exhibit good behaviour at all times in order to progress through the various levels and receive certain privileges or awards associated with a certain level.
- ⁸⁷ McCreary Centre 2001
- ⁸⁸ McCreary Centre 2001
- ⁸⁹ Totten 2000
- ⁹⁰ “Letters,” *Prince George Youth Custody Centre – Youth Talk*.

Conclusions: Disrupting the Increasing Criminalization of Young Women

Only a change in social attitudes will give girls any real chance at justice.

– Annie Hudson (2002) “Troublesome Girls,” pg. 307

Since the bulk of the research cited throughout this report suggests that prison *reform* will do little to benefit young women in the long term, I hesitate to even make suggestions in this area. As prison abolitionist Angela Davis points out, the most significant challenge facing prison activists involves finding ways to “do the work that will create more humane, habitable environments for people in prison without bolstering the permanence of the prison system.”⁹¹ There are important lessons to be learned from the attempts in the early 1990s to reform the federal prison system for adult women. Instead of the integration of a feminist, “woman-centred” approach, the Correctional Service of Canada has co-opted the language of the many feminist activists who participated in this process of reform and used it to justify, among other things, a significant increase in the number of prison spaces for women in Canada. As Kim Pate has argued: “In retrospect, a number of participants [of the Task Force on Federally Sentenced Women] have indicated that the mandate, recommendations and subsequent consequences, both intended and unintended, have exacted far too great a toll.”⁹² The solution to the injustices in the lives of young women does not lie in more prisons. Nor does it lie in better prisons. It *is* essential, however, that the human and equality rights abuses occurring in prisons be stopped immediately. The Ombudsman of British Columbia has already made a number of excellent recommendations in the area of prison reform in their report on youth custody centres 10 years ago, and many of these recommendations are still awaiting implementation. The changes to prison that would be advantageous to stopping human and

equality rights abuses would not require significant changes in law; rather, they would require that prisons begin to conform to the various laws, conventions and treaties that they are already subject to. This will likely only happen if prisons become subject to far greater scrutiny from society at large, which is an essential step for stopping the human rights abuses happening behind prison walls.

The qualitative difference of violence committed by young women as compared to violence by young men must be recognized and acknowledged: since the literature confirms that young women use violence primarily for self-defense,⁹³ we must begin to see this violence as a method of survival for girls rather than as an indication of their dangerousness. As Lisa Neve and Kim Pate suggest, “instead of making it a priority to lock up youth, we must begin to try to deal with the factors that compel young women to behave violently.”⁹⁴ One way in which the justice system could contribute to dealing with these factors and to improving the quality of young women’s lives would be to start to take violence against girls and women seriously and to work with other sectors of society to develop an effective response to this violence. Instead of imposing a number of conditions on young

The solution to the injustices in the lives of young women does not lie in more prisons. Nor does it lie in better prisons.

As Lisa Neve and Kim Pate suggest, “instead of making it a priority to lock up youth, we must begin to try to deal with the factors that compel young women to behave violently.”

women who have committed relatively minor crimes in order to try to keep them safe from violence, the justice system could begin to work with other sectors to confront and challenge the violent men who put young

women 'at-risk' in the first place, and find innovative ways of removing these men from the community so that girls can live in safety in their own homes and neighbourhoods. Furthermore, rather than perpetuate

Many young women have little to look forward to in their day-to-day existence in a world constructed on sexist, racist, classist and homophobic values – a world in which their opinions and their experiences are undervalued or ignored.

True change in the lives of young women will only be achieved by greater social justice. Corrado et al have argued that something must be done to mitigate young women's "intense attraction to street life and drug addiction."⁹⁵ While I would argue that few, if any, young women end up involved in street life or addicted to drugs merely as the result of an "intense attraction" (this neo-liberal framework implies that young women 'choose' street life or drug addiction, which decontextualizes the many social factors contributing to these problems), there is perhaps a kernel of truth in this statement. Many young women have little to look forward to in their day-to-day existence in a world constructed on sexist, racist, classist and homophobic values – a world in which their opinions and their experiences are undervalued or ignored. A world in which their attractiveness is prized above all

Is it possible that imprisonment is itself a cause of crime?

of the other wonderful contributions to society that they have the potential to make. A world in which the gaps between rich and poor are expanding to such a degree that many people in Canada and around the world now have to struggle to meet their most basic needs of food, clothing and shelter. The reality is that young women have a lot to feel hopeless about! And as

Lisa Neve and Kim Pate point out:

It is ludicrous and unrealistic to tell women and girls not to take drugs to dull the pain of abuse, hunger or other devastation, or tell them that they must stop the behaviour that allowed them to survive the multi-generational impacts of colonization, poverty, abuse and disability without providing them with income, housing, medical, educational or other supports.⁹⁶

Such supports would be easily affordable if the financial resources currently funneled into prisons were redirected to these more meaningful and effective means of supporting young women in the community.

Since imprisonment is at best doing little, if anything, to facilitate change in the lives of young women and is at worst subjecting girls to increased emotional, physical, and sexual abuse, then why not stop sending girls to prison? There is evidence that such a move might have a positive effect: for example, Dr. Jerome Miller oversaw the closure of all the juvenile correctional institutes in Massachusetts in 1969.⁹⁷ Follow-up research, conducted as recently as 1997, indicates that the Massachusetts recidivism rate has declined while other states with ever-increasing youth prison populations experience an increase in youth crime. Is it possible that imprisonment is itself a cause of crime? Keera thinks so. When asked about the long-term effects of her lengthy prison term, she states:

I don't know, I get more aggressive, more, like ... not necessarily violent, but just more like, "Oh, if you don't shut your mouth I'm gonna fucking smash you!" and now it's like, when it reaches that point I feel so much more like I have to do it whereas before I would just blow it off. And now if anyone looks at me the wrong way I'll be like, "What the fuck you looking at, bitch," you know, cause it's like jail right, it's like you can't change like that, right? Like it's [so many] months of conditioning, right, like boom!

In a study on the special needs of females in Canada's youth justice system, the young women interviewed by Dr. Mark Totten also reported "that their aggression, violence and criminal activity only worsened after entering young offender custodial facilities."⁹⁸ Perhaps there is no clearer argument for prison abolition than evidence that prison contributes to *increasing* violence, crime and aggression in society: further research assessing outcomes for youth after their release from prison would be useful to establishing how common it is for youth to be affected in these negative ways as a result of their incarceration.

Similar to the Massachusetts example, the Howard League for Penal Reform was successful in persuading the British government to place "15 and 16 year old girls in local authority care, not in prison."⁹⁹ Abolishing the imprisonment of girls 16 years and under might be a good place to start in the process of decriminalizing girls in British Columbia.

But aside from decriminalization, what *would* make a difference in the lives of young women? To answer that question it is imperative that we ask young women themselves. In fact, young women should be at the forefront of any decision-making about changes that would help to improve the quality of their lives. As Marge Reitsma-Street argues, "the political nature of listening means development of policies and practices that incorporate what girls say is important in their lives."¹⁰⁰ Girls should be supported to work collectively to develop creative means of meeting their own needs as they define them. Sociologist Annie Hudson argues that such collective action by girls could "encourage a recognition of the possibility of girls providing more effective support to one another than huge armies of professional 'helpers.'"¹⁰¹ The young women interviewed by Dr. Totten, for example, emphasized the value of peer support programs, and suggested that support and mentorship from peers who had 'been there' helped to give them hope that change was possible.¹⁰² Without young women's direct involvement and leadership, any attempts at change are doomed to fail. Keera has the following to say about adults who are interested in helping youth:

They need to take a look at more of the kids' view than of what their view is, like their bias,

and they're very judgmental, and that's even harder, because if you're trying to get help then those aren't the people to be around, right?

When asked about what might make a difference in their lives, the young women contributing to this project indicated that meaningful support was at the top of their priority list. Keera is very clear about why she thinks so many youth move back and forth between jail and the community:

Keera: And so people just kind of go straight [while they're in jail] and then they just end up, like, nowhere when they get out, and they're like, back what they were doing because they have no...they have no support, and even the support that comes in [jail], it's not like *support* support, it's just like ... people have just come to talk, to volunteer cause it looks good on their resume. There's a couple really good people that come there, right? But most of them come because they need it on their resume or they want a job there or they're going to [university] or, or it just looks good, right ...

Amber: And, afterwards none of that support is there...

Keera: Yeah.

Amber: Like once you get out?

Keera: It's not, like it's all gone, right? They don't want staff, like, they don't want any of them associating with kids, they don't want any of the one-to-one volunteers, or anybody associating with none of the kids or nothing ...

Amber: So even what little support might be there is taken away when you get out anyway?

Keera: Yeah, yeah.

Trust is a significant issue for young women – they

Girls should be supported to work collectively to develop creative means of meeting their own needs as they define them.

indicate that they value relationships with adults they can trust who also trust them in return. In fact, they suggest that an expression of trust or faith from a caring adult can make all the difference. When asked about which people in her life have had a significant impact on her, August explains:

Um ... my probation officer I guess, because he trusts me, and a lot of people don't so when somebody does it's kind of like a big thing. Like I haven't done anything wrong to lose his trust, for a really long time, because of the fact that he gave it to me. If he didn't give it to me I don't know ... like I don't know if I'd still be in trouble.

August also believes that having someone believe in you and continue to offer support even when you're angry with them is also very important. In describing the qualities she admires in a supportive youth worker, she explains:

He was just always there, like he didn't give up. And he just made me see... like something would happen and I would say "Oh, it wasn't my fault" or "I didn't start it" and he would say, "but you had a part in it," and eventually after him pushing that through my head, after a while I started to make connections and realize what I was doing wrong. And I'd be like, "[name of youth worker], I hate you" and he'd say, "That's okay because I still like you." And he just didn't give up.

"He trusts me, and a lot of people don't so when somebody does it's kind of like a big thing."

Keera also believes in the importance of extending trust to young people who are often treated with fear and suspicion in our society, as she explains while describing what she'd like to do when she finishes school:

Well, I might be a social worker, youth worker, P.O., 'cause so many kids get screwed over, and

just set up for failure. And I totally wouldn't do that to somebody, right, like if they need a chance then I'll give it to them. And even if they might screw up over and over again, right, they're always going to remember that somebody actually cared enough to give them those chances. Like, sometimes kids just need somebody to care, right, and it makes a huge difference. And even if they're still doing what they're doing, if they have a person that they can trust and confide in and come to when they need somebody to talk to, that can make all the difference.

These qualities in a supportive adult are also advocated by August. The differences between staff at a community-based program and staff at the jail are all too clear to her:

August: [Staff at the jail] were just there, like they were just there to watch and make sure you didn't do anything wrong.

Amber: Okay. And what was different about the staff at [name of community program]?

August: They were more involved. They cared. The guards [in jail], they just sat there and if a fight broke out they got up. Like we'd talk to them but it wasn't about, like, problems or anything.

Amber: Whereas at [name of community program] the staff were just more directly involved with everything?

August: Yeah.

Amber: Okay. Um... and so why was that important to you? Why did that make a difference?

August: I don't know. I guess because all the other times that I've been like ... attempted to rehabilitate, they weren't involved, like jail for instance, or [name of foster parent], just different stupid things that people do that aren't really any help.

Amber: So, the people at [name of community program], I'm getting the picture, seemed to actually care what happened to you...

August: Mmmhmm.

Amber: Is that the thing that made the difference?

August: Yeah.

Amber: So why do you think that mattered more? Like you just needed someone to care?

August: Well I think because you didn't care so much yourself and then when you saw that other people did, it made you want to care more.

August believes that young women need to be given opportunities that might change their lives for the better, but that ultimately it's up to them: "If they're going to change it's up to them," she says, "you can't make them."

Several researchers and advocates for youth argue that the tremendous amount of economic and human resources that we currently commit to the youth justice system should be reallocated to "preventative

must move away from policing young women's sexuality:

There is no reason why having had several or no sexual partners in adolescence should prejudice a girl's enjoyment of adult life. Her enjoyment and satisfaction as an adult woman is much more likely to be related to other factors such as decent housing, employment, and adequate child care provisions.¹⁰⁶

So long as we focus much of our energy on controlling young women's behaviour, including their sexuality, we continue to obscure and therefore avoid dealing with the significant social justice issues that continue to impact the lives of girls and women. Instead, we must shift our focus to responding to these social inequalities and also to confronting and challenging male violence against girls and women.

"Sometimes kids just need somebody to care, right, and it makes a huge difference."

approaches to addressing crime within the context of socio-economic, gender, racial, and ethno-cultural realities."¹⁰³ Certainly there is a serious need for more extensive and effective gender-specific programming to address substance abuse and trauma-related effects, and such programming, if widely accessible, would help to prevent youth crime. Ruth Morris, one of the world's leading spokespersons for penal abolition, advocates for a shift to "transformative" models of justice, which she suggests would allow us to see "crime as an opportunity, as a symptom of deeper ills" and which would involve "all directly affected by the crime in building creative solutions."¹⁰⁴ In her book *Stories of Transformative Justice*, Morris outlines both the theoretical underpinnings and the practical application of transformative justice, a model for justice which deals with "both distributive injustice and the injustice of being victimized by a crime."¹⁰⁵ Transformative justice, Morris contends, encourages us to also recognize the significant amount of unsanctioned corporate crime in our society and the toll *it* takes on our lives, and ultimately the model leads us towards broad social transformation.

Sociologist Annie Hudson also argues that we

The need for girls-only space is also an important element of creating change for young women. The creation of safe housing for young women, accessible to them on their own terms, could mitigate the need to imprison young women 'for their own protection.' Girls are desperately in need of space that is all their own, to create safety from sexual abuse and harassment but also to counter the "invisibility and misrecognition of girls' needs."¹⁰⁷ While some young women prefer a mixed-gender environment, others also stress the advantages of having a space of their own, even when they feel torn about it. When August was asked about what changes she might make to the various programs, group homes and jails she's been in, she stated:

August: I don't know, I can't really answer that, because the biggest one I would say would be that I'd make them co-ed, like all of them, but then I don't know if it would've turned out the same way as it did, like if I would've cooperated as much. It probably wouldn't be the best 'cause, like, then there'd be more drama ... like there's enough drama as there is ... without guys and who's dating

who and...

Amber: So you think actually having ... a separate place probably helped you to focus on yourself rather than all the guys and all the drama?

August: Yeah.

The young women interviewed by Dr. Totten also recommended that youth custody centres and support programs should be gender segregated.¹⁰⁸ Having access to girls-only space not only enhances

Having access to girls-only space not only enhances young women's safety but also facilitates opportunities for them to work collectively, become politicized, and support each other.

young women's safety but also facilitates opportunities for them to work collectively, become politicized, and support each other. Such space could also provide opportunities for the kind of sharing that Catarina states has been the most helpful part of any attempts to rehabilitate her: "Just hearing everybody ... other people's stories."

Finally, attempts by outsiders to 'help' young women are far less effective

than attempts to work collectively with young women in ways that encourage and support their leadership when it comes to addressing the injustices that they live with on a daily basis. To help create understanding of what this kind of work would look like, Kim Pate often quotes the following words of Lilla Watson, an aboriginal woman from Australia:

If you have come here to help me,
you are wasting your time.
If you have come here because
your liberation is bound up with mine,
then let us work together.¹⁰⁹

Justice for all cannot be achieved without addressing the many injustices experienced by criminalized girls, so those of us committed to social justice and equality must take steps to support and advocate for young women's voices to be heard in all movements for social change.

SECTION 6 NOTES

- ⁹¹ Davis 2003 p. 103
- ⁹² Faith and Pate 2000 pg. 141
- ⁹³ Totten 2000 pg. 51
- ⁹⁴ Neve and Pate 2004 n.page
- ⁹⁵ Corrado et al. 2001 pg. 439
- ⁹⁶ Neve and Pate 2004 n.page
- ⁹⁷ cited in McKnight 1995 and Reitsma-Street 2004
- ⁹⁸ Totten 2000 pg. 36
- ⁹⁹ Howard League for Penal Reform 2004 pg. 3
- ¹⁰⁰ Reitsma-Street 2004 pg. 22
- ¹⁰¹ Hudson 2002 pg. 303
- ¹⁰² Totten 2000 pg. 49
- ¹⁰³ Pate 1999 pg. 42; Jaffe & Baker 1999
- ¹⁰⁴ Morris 2000 pg. 19
- ¹⁰⁵ Morris 2000 pg. 19
- ¹⁰⁶ Hudson 2002 pg. 301
- ¹⁰⁷ Hudson 2002 pg. 308
- ¹⁰⁸ Totten 2000 pg. 46
- ¹⁰⁹ cited in Faith & Pate 2000 pg. 147

About the Project

But that's ... that's my story. It feels good to talk about it too, right, because like ... you just keep that inside you all the time, and you don't want to talk about it all the time, but you just want to sometimes.

– “Keera,” project participant

I initially became interested in the experiences of criminalized girls through my work as a lifeskills instructor in a residential program that was intended to offer an alternative to prison for young women in conflict with the law. As I read through the pre-disposition and psychiatric reports on young women in preparation for their arrival at the program, I began to notice two distinct themes: a paternalistic desire to send young women away from their present circumstances in order to keep them safe, and a tendency on the part of professionals to pathologize young women's resistance to injustice. Once young women began to arrive at the residence I was struck by the contrast between the descriptions of the girls I had read in reports – which consistently characterized them as manipulative, violent, angry and defiant – and my own perception of them as articulate, bright, fiercely independent, and strongly resistant to the sexist attempts made by those around them to control their behaviour ‘for their own good.’ After realizing that young women were being sent for significant lengths of time to this remote wilderness camp primarily for breaches of probation or minor charges, and that they were being sent to us with the expectation that we would teach them to control their willfulness and transform them into ‘good girls,’ I could not with conscience continue working for the program. I also suspected that if more people knew about the conditions of young women's lives and the context in which

they are being incarcerated, then calls for more severe punishment might be diminished and we could hopefully move on to discussing the kinds of social transformations that might actually be of benefit to young women.

Rather than frame this project as a research project, it was decided early on to frame it as a systemic advocacy project, for our goal is that this report will contribute to creating change for girls as opposed to merely documenting their experiences. Instead of interviewing young women, the participants and I

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met and had informal conversations about their experiences, although I did have an outline of topics I wanted to discuss and I did take on the role of asking direct questions and making clarifications. I originally set out to have five in-depth conversations with individual young women, but was pleased to arrange four after becoming aware of how challenging it is to secure young women's participation, given the level of commitment I was seeking: a minimum of two meetings for the conversations, plus ideally a follow-up meeting to review the write-ups and check for errors and an additional reading of the report once completed. Given the stressful and often chaotic nature of the lives of criminalized girls, often through no fault of their own, it is phenomenal that the four young women who participated in this project were able to see the project through to its end. The conversations also involved revealing a lot of personal information and discussing

very painful memories that were still quite fresh, which is a tremendous amount to ask of young women working hard to survive in the day-to-day. When I asked her if talking about “this stuff” made her uncomfortable, August very pragmatically explained, “It’s a lot easier to forget it if I don’t bring it up.”

Young women’s consent to participate in the project was obtained in writing, and they were made aware that they could withdraw their stories at any point right

reports of this nature. There is, however, a fair amount of diversity among the young women, given that they are four in number: they come from quite dramatically different class and familial backgrounds, from both urban and rural communities, and at the time of our conversations they ranged in age from 15 to 19 years old. Only one of the young woman is racialized, however, and none of the young women identified themselves as anything other than heterosexual

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up until publication. After the initial conversations were written up, the participants were asked to review the write-ups for accuracy. Some parts of the conversations were recorded on tape and some were not. Young women were paid a small honorarium for their participation. Two criminalized young women also offered very valuable input into the topics that should be covered by the project. All efforts have been made to secure the confidentiality of the young women who participated—the names you’ve read throughout this report are pseudonyms, and dates and names of locations have been removed. Nonetheless, there is always the risk for the young women that people familiar with their stories will be able to identify them. This risk is compounded for young women who remain involved or are at risk of further involvement with the justice system, for the potential for their stories to be used against them or to incite discrimination or harassment on the part of police, guards or others in the justice system poses a significant danger. Justice for Girls has consulted legal counsel about acting on behalf of any of the young women who feels that she is experiencing retaliatory discrimination or harassment based on her participation in this project. Despite full awareness of this risk, the young women still opted to participate and to have their stories told, which is a testament to their bravery and also to their dedication to trying to improve things for themselves and other criminalized girls.

Due to the risk of possible identification by a reader, little information has been offered in the report about the backgrounds of the young women or about other useful demographics that is often provided in

(although they were not asked specifically about sexual orientation), nor did any of them disclose the presence of a particular disability. The relative lack of diversity in these areas is a definite limitation of this report—conversations with a larger and more diverse group of young women might provide an important next step in understanding and transforming the conditions of criminalized girls’ lives.

Justice for Girls was a logical choice for a partnership for this project, for they too are committed to social change as the primary means of achieving justice for young women. Justice for Girls is a social justice organization and thus promotes systemic change, with the feminist belief that young women in poverty are the experts of their own experiences. The organization was created out of the reality that young women living in poverty and criminalized young women face barriers in youth-serving organizations that do not deal with gender issues and in women’s organizations that do not address issues relating to youth. The work of Justice for Girls involves monitoring the criminal justice system and looking at how girls’ rights are responded to and acted upon by police, the courts, and corrections. They also provide individual advocacy for girls in the care of the Ministry for Children and Families and to imprisoned young women. Public education is also a significant part of their work, for without raising public awareness little improvement will be seen in young women’s experiences of oppression and discrimination. Through the promotion of justice and equality for girls, and through support of projects that allow young women’s voices to be heard, Justice for Girls is making a difference for young women everywhere.

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This report provides a unique glimpse of young women’s experiences of criminalization, presented in their own words. Four girls (aged 15-19) with first-hand experiences of being arrested, appearing in court, and spending time in prison share their stories through conversations with the author, and their words serve as a foundation for outlining the many injustices experienced by girls whose actions are criminalized by the state. The report also offers an overview of the history of girls’ imprisonment in Canada. Through reflection on this history, along with the girls’ experiences with the police, the courts, and the prison system, the author concludes that nothing less than abolishment of the practice of imprisoning girls will allow young women to escape the many human and equality-rights abuses they are currently subject to. Abolishment of girls’ imprisonment represents an important step towards achieving the broader social justice, dignity, and equality that girls are entitled to under Canada’s Charter of Rights and Freedoms. However, substantial changes in social attitudes and structural inequalities are also urgently needed: instead of investing significant economic resources into forcible means of protection or behaviour change, we need to begin to directly address the circumstances that compromise girls’ safety (such as substance abuse and sexual exploitation) and invest in voluntary programs and supports that facilitate girls’ development.

“Highly accessible, and well-stocked with revealing quotes from the girls in her study, Dean’s report represents both careful scholarship and activist advocacy of justice for girls. The report is highly informative, enlightening, unexpectedly enjoyable to read and **makes a very strong case for a reconsideration of prison as the most appropriate place for girls who have been sexually and physically abused, the majority of whom have not hurt anyone.** People who work toward community justice, people who are employed by the criminal justice system, and those who just like a good read, will all appreciate what Amber Dean has written. In my view, it is one of the best books ever published about girls in prison, and what they mean to our society.”

- *Karlene Faith, Activist, Author, Professor Emeritus, Simon Fraser University*

“If there is one thing that is striking for me about this report, it is how much historical themes remain current problems, even if they are re-invented in new forms. It is tragic to think that we have not learned from the past. The girls’ interviews are especially powerful as **personal accounts of the inability of the system to deal with systemic inequality,** or even LISTEN to their needs effectively.”

- *Joan I. Sangster, Director, Frost Centre for Canadian Studies & Native Studies, Trill College, Trent University*

“The report penetrates into the **actual experiences of what girls live through as they encounter police, court and correctional officials.** It is replete with nuanced, rich stories of how the four young guides try to make sense of what they do and what happens to them as they struggle to make friends, survive, get ahead, have fun, deal with the justice system, and keep in touch with their families and those they love.”

- *Marge Reitsma-Street, Professor, Studies in Policy & Practice, University of Victoria*

“By honouring and privileging the voices of those with the lived experience and combining their narrative with a crisp analytical framework, Amber Dean and Justice for Girls provide us with **a vital and fundamental window into youth justice issues and realities for young women and girls in Canada.**”

- *Kim Pate, Canadian Association of Elizabeth Fry Societies*

