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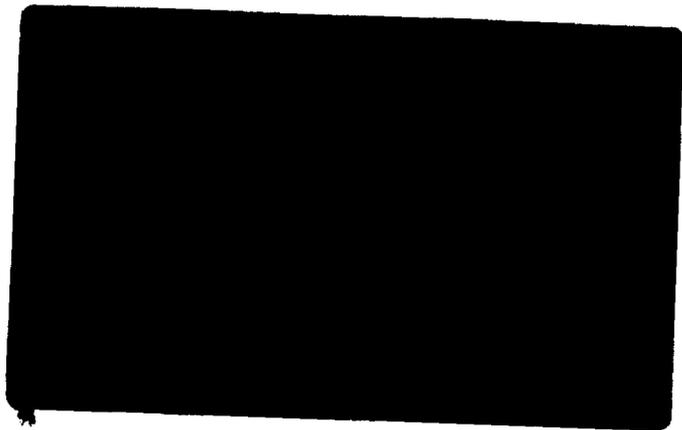
# User Report

**A MOTHERHOOD ISSUE:**  
The Impact of Criminal Justice System  
Involvement on Women and Their Children

No. 1992-03

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Shelley Wine

**A MOTHERHOOD ISSUE:**  
The Impact of Criminal Justice System  
Involvement on Women and Their Children

No. 1992-03

This report was prepared on contract for the Corrections Branch, Ministry of the Solicitor General of Canada and is made available as submitted to the Ministry. The views expressed are those of the author and are not necessarily those of the Ministry of the Solicitor General of Canada.

This document is available in French. Ce rapport est disponible en français, sous le titre: "Les conséquences de l'intervention du système de justice pénale dans la vie des femmes et de leurs enfants: Une question capitale pour les mères".

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## ACKNOWLEDGEMENTS

I feel very honoured to have been given the opportunity to write this paper. The field of research is a relatively new one to me. While I have been working for women in conflict with the law for a number of years, this project was the first period which truly allowed me reflect on the experiences of these women in a more sustained way.

It was my history as a front-line worker that led me to get involved in writing this research. It is indeed a difficult task to witness the daily hardships of women with whom you are working without being given the chance to speak out about some of the observed injustices. It is my hope that this research may help to move us one step closer to a collective readiness to redress some of the social and economic imbalances of our system.

Throughout the interviews for this project, I never ceased to be amazed by the unflagging courage and generosity of the mothers whom I interviewed. These women agreed to talk about some of the most painful experiences of their lives purely in the hope that some woman or child might be spared the same pain for the future. They gave me of their trust while speaking about a system which they felt had persistently failed them. I would like to thank these women for their faith; I hope that it is well served throughout this text.

There are a number of other people who helped me to complete this work.

I would like to thank my advisors Elizabeth White (The Council of Elizabeth Fry Societies of Ontario) and Karen Cannings (The Office of the Solicitor General) for their input. I was provided with as much support and guidance as I required while being given the latitude to formulate my own approach to this project.

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*Shelley Wine*

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## CHAPTER 1

### THE INTRODUCTION TO THE ISSUES

*I thought how unpleasant it is to be locked out; and I thought how it is worse perhaps to be locked in.*  
Virginia Woolf, A Room of One's Own, 1929.

In reviewing the current understanding of women and criminality, the compelling need for research related to the experiences of mothers in the criminal justice system speaks, or perhaps more accurately, shouts out for itself. To date, the only truly unequivocal statement that can be made about the female offender in Canada is how very little in fact is known. This research project seeks to address the concerns of an especially neglected group of female offenders - those with children. The research aims to document the impact that is presently being imposed on the lives of countless numbers of children whose mothers have come into conflict with the law.

#### **A. The Children are the Forgotten Victims**

Every year in this country, the mothers of hundreds of children are sent to prison for periods ranging from a few days to life. It is surprising that with such a large and increasing number of children affected in this way, so little research has been done to assess the impact of this occurrence on the children. This lack of interest stands in marked contrast to the efforts made on behalf of children of separated or divorced parents. While recent emphasis on issues such as child abuse and

the attendant rights of children as juvenile offenders and in society in general might lead one to view ours as a child centered society, scholars such as Edelman (1980), Strickland (1977), Horowitz and Walock (1981) have noted that the concern for children has always been selective: one's own children over others, the affluent over the poor, the 'worthy' poor over the 'unworthy' poor, and the children of non-'deviant' families over those from 'deviant' ones (as cited in Mitchell, 1982).'

Academic studies have repeatedly commented on the long-standing societal acceptance of mother-child separation as an inevitable consequence of incarceration (Bonfanti, Felder, Loesch & Vincent, 1974; Stanton, 1977; as cited in Mitchell, 1982). Indeed, the courts and legislatures have only recently challenged the legal and policy assumptions that mothers who commit crimes are necessarily unfit parents whose incarceration constitutes abandonment of their children (Carron, 1984).

Academic sources have argued that the concept of female deviance is predicated on the existence of a larger, socially-constructed female stereotype (Hatty, 1984). Thus, women who engage in crime are seen as transgressing not only the law, but social standards of acceptable feminine behaviour. These women

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. In a June 17th, 1991 article, "Don't Borrow from Kids to Fight Poverty", published in **The Montreal Gazette**, it is stated that recent budgets and tax changes have already taken an estimated \$3.5 billion dollars from Canadian parents. The cuts combined with increased taxes were stated to ensure that parents are the least capable group of making further sacrifices to poverty. Nearly one of every six children is reported to currently be growing up in poverty.

are therefore often approached by the legal system as de facto males who are devoid of maternal emotions. As a result, female offenders have traditionally been viewed as constituting a risk to the effective socialization of their children (Hatty, 1984).

According to this "traditional" position, it is not necessary or even advisable to foster the bond between incarcerated mothers and their children since contact with an unfit parent has never been viewed as beneficial for children. Over the past few years we have seen a growing emphasis on the rights of the victims of crime through victim compensation schemes; but the severe problems which befall the children of women who are apprehended by the criminal justice system are generally seen as an outgrowth of parental neglect and are largely ignored in correctional policy and practice.

The record shows that correctional policy and programming gives only the most minimal consideration to facilitating continuity in the inmate mother-child relationship. For example, decisions regarding mother-child visitation are typically left to the discretion of correctional and child welfare agencies (Beckerman, 1989). In a 1986 working paper commissioned by the Solicitor General of Canada, Linda MacLeod comments that "while many criminal justice officials may take discretionary interest in the problems of the offenders' families, no-one in the criminal justice system has official responsibility for the children of offenders."

The academic arena has similarly overlooked the plight of children who are separated from their mothers due to incarceration. While studies on maternal deprivation have typically dealt with children in orphanages, those experiencing wartime separations, and more recently with children who are hospitalized for long periods of time, Anne Stanton points out how very little has been written on separation due to the incarceration of a parent (Stanton, 1980). In addition, research in this area has, until fairly recently, concentrated primarily if not exclusively on the families of male offenders (Stanton, 1980). The dearth of Canadian research published to date concerning mothers in the criminal arena necessitated that American sources be heavily relied upon in the course of the literature reviewed for this report.

**B. Why This Research is Focusing on the Mother-Child Relationship, as Opposed to the Parent-Child Relationship in General ?**

**(a) The mothers are the primary caregivers:**

When a mother in the criminal justice system is incarcerated, the children will most likely be cared for by an alternate caregiver. While the exact demographic statistics on women in the correctional system have yet to be tabulated, it is generally recognized that a large percentage of women in the criminal justice system are young, poor, undereducated, single, sole-support mothers who are far more likely to be the primary caregivers of children than are their male counterparts. For

example, in Creating Choices, the 1990 task force report on federally sentenced women, it was documented that 69 of the 108 mothers interviewed had been single parents for part or all of their children's lives, and had often been the only significant adult involved with the children.

While incarcerated fathers generally rely on their wives/partners to care for the children and to maintain the family unit during their absence (Swan, 1981); incarcerated mothers, as the primary and most often sole providers for their children, are forced to search for alternate caregivers to look after their children during their period of separation (Mitchell, 1982).

**(b) The "special needs" of the female offender (i.e. children) have been overlooked:**

To some extent, the inadequate provision of services to female offenders can be explained by statistics; compared to men, women are under-represented in the criminal justice system.

The 1990 task force on federally sentenced women (Creating Choices) has extensively documented the inequities that result from there being only one federal institution in Canada for women, the Prison for Women in Kingston, Ontario. Where two out of every federally sentenced women are mothers who claim to have primary responsibility for the care of their children (Creating Choices, 1990), 52.4% of the women at the Prison for Women are residents of provinces other than Ontario (Correctional Services

of Canada: Offender Population Profile, 1990/09/30). The proximity to the Prison for Women of the children for whom these women assume primary responsibility remains unknown. It is suggested, however, that most women incarcerated for federal sentences suffer from the additional burden of being separated from their children by considerable geographical distances. Additionally, the fact that all types of offenders are incarcerated in one facility has led to the implementation of security rules which are geared to the highest security classification (of the institution itself rather than of the individual inmate), thus limiting the potential scope of programs which might involve those inmates' children who do reside close enough to the Prison for Women to attend (MacLeod, 1986).

While the distances are not as large at the provincial level, this report highlights the hardships that continue to plague incarcerated women at the provincial level. The current correctional structure requires women to be incarcerated at considerable distances from their homes at the sole provincial correctional facility for women, the Vanier Centre for Women in Brampton. The limited facilities for women requires the continued usage of antiquated detention centres which are lacking in suitable visitation opportunities for children.\* Women are

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\*. In a January 14th, 1991 article published in the Standard Freeholder, page 4, a Cornwall Ontario Court judge issued a suspended sentence to a woman in a case for which a custodial sentence might normally have been received. The judge found the local jail to be "antiquated". In commenting upon the fact that the woman would not have been able to see her children there, the  
(continued...)

struggling to maintain contact with their children in the course of being transferred from detention centre to detention centre as overcrowded facilities attempt to keep pace with the over-demands for bedspace for women.'

In the course of interviews for this project, women discussed the limited institutional programs and community residential facilities that are available to them as women in the correctional system. As one woman stated: "If you are separated from your kids, it doesn't matter how far away you are, the point is that you are not with them".

In a study commissioned by the Ministry of Correctional Services of Ontario in 1980, Robert Ross examined the efficacy of the current models of correctional treatment. He discovered that most research on correctional treatment had not included female clients, and that those studies which had included women failed to examine the possibility of sex differences in outcome.

Ross' findings underline the general failure of correctional programming to consider some of the particulars of women's lives which may be significant to their criminality. He argues that few programs are based on an adequate conceptualization of the causes of clients' illegal behaviour or an objective assessment of their

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' (...continued)

judge stated that he would not sentence women to this facility until "conditions are made the same for women as they are for men".

. Council of Elizabeth Fry Societies, "Issues Affecting Women in Conflict with the Law in Ontario: A Brief Presented to the Honourable Michael Farnan Minister of Correctional Services", November 1990.

treatment and training needs. He found that very few programs adhered to a differential treatment model incorporating possible sex differences. Ross also discovered an almost total absence of adequate evaluation of the effects of child-care programs on either the offenders or the children of female offenders.

The invisibility of the children of offenders is symptomatic of a larger systemic failure to adequately recognize issues that are specific to women in society. This is the identical oversight which at the institutional level affords women unequal access to realistic employment training, and to temporary absences and parole opportunities in order to pursue their present work commitments i.e. their children (MacLeod, 1986). It is the product of the same system which ignores the economic inequalities in which single, sole support mothers live in society today, a system which continues to separate mothers from their children in large numbers due to their inability to pay for fines.'

Scholars have described the tendency to approach problems such as crime, child maltreatment and poverty as individual deficiencies rather than as social problems (Gil, 1975; Keniston, 1977; as cited in Mitchell, 1982). Social scientists have condemned as a "myth" the tendency to attribute these problems to individual deficiency. The ways in which this process maintains

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\*. According to the Ministry of Correctional Services of Ontario statistics for the 1989-1990 fiscal year, of the 3472 women sentenced to imprisonment, 1007 were sentenced for defaulting on fines.

the social status quo by diverting attention away from the origins of the problems, and thus absolving society as a whole from responsibility and accountability, has received a considerable degree of academic attention (see Ryan, 1971).

**(c) Due to societal definition of women as mothers, the effects of parent-child separation due to the incarceration of female offenders may be particularly pronounced for both the women and their children:**

While incarceration separates both men and women from their children, studies suggest that the loss of parental rights and duties has a much more profound effect on mothers than on fathers. (Calgary Elizabeth Fry Society, 1983). Ward & Kassenbaun (1967) found that male prisoners' self-definition centered on their occupational roles; their concerns were related to the loss of occupational status and wage-earning ability. Female prisoners, however, defined themselves in terms of their familial roles as wives and mothers. Through his experience as a therapist for offenders, Edward Scott (1977) found women to be very troubled over the loss of their children, and that this concern was the primary motivating force in a woman's rehabilitation. This was not found to be true for male offenders.

Linda Koban (1983) addresses the issue of whether incarcerated women were uniquely affected by the disruption of the family. Her study concludes that female offenders have closer relationships with their children prior to incarceration than do the men, and that the women's relationships with their children are more affected by incarceration. Koban concludes that any

alleged "disproportionate" concern related to the families of female offenders is justified according to her findings which reveal that the cost to the female inmate's family and to society is greater when females rather than male offenders are involved.

Koban's study illustrates some of the marked differences in childcare situations which result from the incarceration of mothers as opposed to fathers.

Koban found that the women in her study were more likely to be parents than were the men, and that a far greater number of the women had lived with their children prior to incarceration. While the men's children were more likely to be with their mother during their father's incarceration, the children of incarcerated mothers were more likely to be cared for by individuals in and beyond the extended family.

Koban found mothers to be twice as likely to be dissatisfied with the placement arrangements made. They were far less likely to relinquish legal custody of their children. A significantly smaller proportion of women than men thought that their children were happy during their period of separation. The women studied were also found to have experienced a significant disadvantage (compared to male inmates) regarding consistent contact with the caretakers and with the children themselves during the incarceration period-- a factor which was associated with problems which arose when they were reunited with their children after incarceration. Mothers returned more often to splintered

families due to the change in child caregivers than did the fathers in Koban's study.

### C. Whose Responsibility???

Underlying any debate concerning the advisability of fostering inmate mother-child bonds lies a whole other layer of uncertainty: whose responsibility is it to safeguard this relationship? Upon what grounds is this responsibility based? What constitutes fulfillment of this responsibility?

In order to defend the present state of correctional policies and programming with respect to the children of female offenders, it would be necessary to argue that the welfare of the children of prison inmates is outside of the jurisdiction of the justice system. The argument would be based on an assertion of parenting as a privilege rather than a right, a privilege which is forfeited upon the decision to involve oneself in a criminal act. The countering position, of course, argues that parenting is a responsibility rather than a privilege, and that mothers in the correctional setting must be afforded the opportunity to fulfill their child-care responsibilities to the fullest possible extent. (McGowan & Blumenthal, 1978).

Currently, correctional policy is oriented toward the rehabilitation of the individual offender and ignores their family roles and responsibilities. Rehabilitative success is measured by the rate of recidivism rather than the degree to which the reintegration to the family occurs (McGowan &

Blumenthal, 1978; as cited in Hunter, 1984). While theoretical arguments advancing the maternal rights of female offenders do not challenge the use of recidivism as an evaluative tool, empirical findings (in studies dealing with male offenders) suggest that there is a consistently strong positive correlation between parole success (a common measure of rehabilitation) and the existence of strong family ties (Glaser, 1964; Holt & Miller, 1972).

Since a major part of a woman's social identity is linked to her role as mother, wife, or partner, a rehabilitation program that ignores this familial context is likely to be inadequate (McGowan & Blumenthal, 1978). In a 1975 survey reported by the American Bar Association measuring intra-institutional adjustment and the eventual outcome for the female offender, family ties were judged to be amongst the most important factors in successful rehabilitation (cited in McGowan & Blumenthal, 1978).

While the author is unaware of any attempts to replicate these findings with respect to parole success among women, a significant amount of academic speculation suggests that interventions which foster the maternal role and maintain the mother-child relationship during incarceration could serve not only to promote adjustment to incarceration but also rehabilitation, and would contribute to the preservation of the family (McGowan & Blumenthal, 1978; Bonfanti et. al., 1974; Chapman, 1980; Glick & Neto, 1977; Stanton, 1977).

Pueschel & Moglia (1977) state a growing concern which theorizes that a reason behind recidivism and embitterment in offenders may lie in the atrophy of the family (cited in Hunter, 1984).

Davis (1983) comments:

Those who uphold the prevailing legal and penal ideology cannot afford to consider what happens to prisoners' children, as any recognition of their plight strikes at the very notions of 'justice,' 'innocence,' and 'guilt' upon which this ideology is founded. As soon as the children of prisoners comes into focus, the major contradictions in the criminal system become glaringly obvious. When the legally sanctioned punishment takes the form of incarceration, the concept of individual punishment for individual law breaking collapses. Children become caught up in the web of punishment.

In fact, correctional authorities have acknowledged some of the problems that continue to face mothers involved with the criminal justice system. A 1977 report issued by the National Advisory Committee on the Female Offender (a committee created by the Canadian Penitentiary Service and National Parole Service) suggested that alternative community-based facilities might more effectively respond to the true rehabilitative needs of women prisoners. The report stressed the need to study the effects of incarceration on mothers and their children; the impact of holding pregnant woman or mothers of young children in custody; and raised the possibility of allowing small children to live with their mothers inside of institutions, or to have much-extended visiting rights (cited in MacLeod, 1986).

This research project does not seek to romanticize the female offender by idealizing the mother-child relationships that existed prior to a mother's criminal justice involvement. Within the context of lives that most often encompass economic hardship, destructive relationships, limited working skills, minimal education, the habitual use of drugs or alcohol as a means of escape, and often combined with maternal exposure to inappropriate parental role models as children, some of the women interviewed could too easily be judged to have neglected or abused their children. At the same time, other women from this same group, who may or may not have experienced the aforementioned hardships, would most likely be judged to have provided the highest standard of care to their children. What unites all of these women is that they gave their children the best care that they were capable of providing within the limitations of their personal and social circumstances.

While it may be unrealistic to expect correctional agencies to improve family relationships, it would seem reasonable to argue that these agencies have some responsibility to prevent the destruction of family life. Social justice requires that if the state deprives a child of parental care because of incarceration, it should assume an obligation to minimize harm to the child by helping inmates to meet their parental responsibilities and to maintain family ties.

Scholars have only begun to document the myriad ways in which "prevailing practices at every stage of the correctional

system tend to undermine the maintenance of strong family ties."  
(Carlen, 1990). Fundamental issues need to be addressed  
concerning the conflicting interests of children, parents and the  
state. This research project has been undertaken in order to gain  
insight into some of these crucial issues.

## CHAPTER 2

### THE RESEARCH METHODOLOGY

#### A. Introduction

This pilot research project was undertaken to gather preliminary information concerning the female offender in her caregiving role. It is a significant yet initial step in a larger process required before the issues that face mothers and their children in the criminal justice system can be addressed.

The research and experience of the Elizabeth Fry Societies has contributed to our recognition that the mother-child relationship is severely and often irreversibly altered when a mother comes into conflict with the law. Since no systematic examination of this problem has yet been attempted, this pilot research project was specifically designed to define the nature and scope of the problem, and to suggest possible intervention strategies which might be implemented to ameliorate the problems of incarcerated women and their children.

Underlying the focus of this study is the belief that a mother's entry into the criminal justice system may actually provide positive opportunities to improve her childcare relationships.

#### B. The Design of the Pilot Research

Ontario Ministry of Correctional Services sources reveal that there is no current, comprehensive, systematically collected

information on the female offender. No ministry-wide research on women in the criminal justice system has been conducted at the provincial level since 1979 (Ruhl & Loring, 1988). The primary focus of this research project is more narrowly focussed on the collection of data related specifically to the caregiving roles assumed by these women.

This project is intended to provide the data-collection instrument(s) and methodology which can be used in a broader-based future study, and to provide preliminary profile and needs assessment data. The following types of data-collection instruments were used in the process of collecting information related to a sample of female offenders who are mothers.

**(a) Research Instrument #1: APPENDIX 1**

The first research instrument was used to gain an overview of some of the statistical issues involved in this equation. Elizabeth Fry Society workers across the province were asked to survey all clients with whom they came into contact over the (arbitrarily chosen) week of March 11 to 15 by asking them to answer four questions: (1) Do you have children?; (2) What are their ages?; (3) Who has legal custody of the children; (4) If the child(ren) are in custody of the Children's Aid Society, did this occur before or after your conflict with the law?

These questions were aimed at determining the childcare related demographics of this population, as well establishing the inter-agency links which exist between the child welfare and

correctional systems. In the course of this stage of the research, 221 women across the 5 correctional regions were consulted. In referring to the findings from this portion of the research, the related data is referenced as Sample Population #1 (see **Diagrams 2 to 5** at the end of Chapter 3).

**(b) Research Instrument #2: APPENDIX 2**

The second research instrument (the mother's interview) was administered in person by the author to the group of mothers who participated in the study. The questions were designed to provide a factual picture of the shape of the client's family as it evolved over the legal process related to the last criminal offense for which a mother had been apprehended. In referring to the findings from this interview portion of the research, the related data is referenced as Sample Population #2 (see **Diagrams 6, 7, and 8** at the end of Chapter 3).

Mothers were asked to provide information concerning the changes that occurred in their childcaring relationship over the span of their criminal justice system involvement. This chronology was divided into four stages: (1) pre-charge; (2) charge; (3) pre-sentence; and (4) sentenced data. Women were asked to describe the changes they experienced in the following areas: (1) the structure of the caregiving roles; (2) living arrangements; (3) financial arrangements; and (4) the nature of the caregiving relationship. These four descriptive categories

were used to determine the status of the childcare relationship along a time-continuum.

The primary goal of this project is to identify future approaches to intervention strategies which might enable mothers to contribute to the maximum welfare of the children notwithstanding their involvement with the law. Accordingly, during the interview, mothers were asked to both evaluate the childcare assistance they received while involved in the criminal justice system and to comment on other intervention strategies which might have been useful had they been available to them.

This research project is concerned with the childcare processes which are associated with mother's involvement in the criminal justice system. It attempts to identify differences in childcare arrangements that may occur among this group of subjects. Since the purpose of the research is not to compare the childcare procedures of women in conflict with the law with women who have not been in legal conflict, this project does not include a control group of mothers outside of the criminal justice system.

**(c) Research Instruments #3: APPENDIX 3**

The overriding goal of this pilot research project is to gain as broad a perspective as possible on the issue within a very limited period of time. In the initial stages of the project, significant effort went into identifying the various

categories of people who are involved with, or knowledgeable about, mothers in conflict with the law.

The third category of research instrument employed was a series of 12 questionnaires which were designed to gain information from individuals within the 12 categories identified: (1) Institutions; (2) Parole Adjudicators; (3) Parole/probation Officers; (4) Residential Supervisors of (C.R.C.'s/ C.R.A's); (5) Criminal Judges; (6) Family Judges; (7) Criminal Lawyers; (8) Family Lawyers; (9) Family Court Consultants; (10) Workers in the area of Criminal Law; (11) Workers in the area of Family Law; and (12) Criminal Court Consultants. Questions were designed to portray a cross-section of existing policies, procedures and personal opinions related to the issue of caregiving and the female offender.

The chart at the end of this chapter (**Diagram 1**) illustrates the breadth of sources drawn on in the course of this research project. The initiative was taken to begin this larger consultation process by gathering input from select individuals within the 12 identified categories. As the sheer volume of information received clearly exceeds the scope of this pilot research report, the questionnaire responses have not been analyzed for this pilot research report but have been included in their full form in Appendix 3 along with a series of graphs which illustrate the strength of the initial research findings.

**Diagram 9** reveals whether formal and/or informal childcare policies are in existence in the various service sectors. **Diagram**

10 measures the degree to which service providers view childcare issues as being relevant to their area of work. **Diagram 11** asks whether mothers in the criminal justice system are experiencing particular problems related to their childcaring roles. **Diagram 12** asks whether sufficient attention is presently being accorded to childcare issues in the criminal justice system. **Table 1** asks service providers to rate the degree of importance associated with various intervention approaches.

It should be noted that the institutional responses include combined data from all correctional facilities (i.e. detention centres and the Vanier Centre); women are currently serving out their sentences in both types of facilities.\*

#### **C. A Description of the Interview Participants**

The interview portion of the research involved women at every stage of the criminal justice process. Since this project was undertaken as a preliminary investigation, the scope of the sampling was relatively narrow. Interviews were conducted with a total of 41 women, a combination of whom were serving bail in the community, were being held on detention, were serving sentence in the detention centres, the correctional facility or community resource settings, and/or were being supervised in the community

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\*. Council of Elizabeth Fry Societies, "Issues Affecting Women in Conflict with the Law in Ontario: A Brief Presented to the Honourable Michael Farnan Minister of Correctional Services", November 1990.

on probation/parole and/or were completing community service orders.

Interviews were conducted at 3 detention centres and at the one provincial correctional facility. Referrals were received from Elizabeth Fry Society workers (56%); probation/parole offices across the province (23%); from CRC's (other than Elizabeth Fry) (2%); from the institutions (2%); and from the women themselves after learning about the project through a variety of channels (17%). Interviews were conducted at mothers' homes (16.2%); at detention centres (29.8%); at the correctional centre (16.2%); at Elizabeth Fry offices (18.9%); at C.R.C's other than Elizabeth Fry (13.5%); and at the mother's place of employment (5.4%).

In order to better co-ordinate efforts in light of time constraints, referrals were pursued only in those cities with Elizabeth Fry Societies. The study was limited to 4 correctional regions (all regions but the western region). Mothers were interviewed in the following proportions: Metro (21.7%); Central (37.8%); Eastern (24.3%); and Northern 16.2%).

While the nature of the selection process of many other studies effectively exclude the participation of women who are eventually acquitted, such women were not excluded from this project.

#### **D. The Information Gathering Procedure**

The purpose of the research was fully described to referral sources (see documentation in **Appendix 4**) who then informed the

potential participants on their caseloads. Once participation was agreed upon, the names of potential subjects were forwarded to the researcher who then made contact. Women who were not institutionalized were permitted to choose the location of the interview (e.g. home, probation office, or other neutral place).

The interviews were conducted by the author who has received extensive training in interview techniques. Interviews were based on the standard interview questions included in Appendix 2A, with additional time being allotted for open-ended responses (N.B. the data collection instrument found in Appendix 2B was formulated from the qualitative responses provided by mothers, and was used by the researcher in the data analysis stage to generate a quantitative approach to the issues). The interview time ranged from forty five-minutes to two hours (including time for preliminary introduction of procedures). The interview responses were recorded by hand in order to ensure the maximum ease and comfort of respondents. Code numbers rather than names were used on all transcripts in order to respect confidentiality.

The nature and purpose of the study was reviewed with every woman before beginning the interview. They were told clearly that the study was not being done under the auspices of the correctional system, and therefore that participation will neither improve nor jeopardize a respondent's position in the correctional system. The confidentiality of these interviews was also emphasized to all respondents.

Individuals were reminded that participation in the study was voluntary. They were also told that they had the right to refuse to answer any particular questions or to withdraw entirely from the study at any point in the interview process. In fact, no participant availed herself of either of these two options.

Ample opportunity was provided to ask questions of the interviewer before the interviews began. Upon satisfaction, participants were then required to provide both oral and written consent to acknowledge their understanding of and agreement to the terms of their participation.

Throughout the interview process, the interviewer tried to gather information on an emotionally-charged topic as objectively as possible without becoming actively involved with the subjects. The overriding intention was to avoid influencing the interviewee while still being sensitive to her emotional needs.

#### **E. The Analysis of the Research Data**

Both the design of the research instruments and the interpretation of the data collected was informed by a thorough and detailed review of the relevant literature. It is understood that it is individuals whose lives are directly affected by an issue who are best situated to teach us about the changes required to a system. As the primary emphasis of the research was on consultation with mothers in the criminal justice system to define and document the specifics of the existing problem as they perceive it, women's own words are used as frequently as possible

throughout this report. The contents of these statements have not been verified for accuracy -- they are the personal positions held by those women consulted for this report. While the statements have been included because they express the general nature of the impressions held by those mothers consulted, this has not been assessed in any statistical way.

The data generated from the mothers' interviews was analyzed to provide detailed descriptions of the childcare arrangements associated with mothers' involvement with the legal system. As mothers were asked to comment on the effects of their criminal justice involvement on their children's care and adjustment, the findings include data related to the outcome on children of maternal legal conflict, at least as perceived by the mothers.

The data gathered in the course of this pilot research allowed for initial exploration of factors associated with changing childcare relationships over the course of mothers' involvement with the criminal justice system. The childcare status variables were measured against the stage of criminal justice system involvement in order to describe any changes to childcaring and to determine its significance relative to the stage of the criminal justice system involvement.

The research examined the relationship which appears to exist between childcare difficulties and mothers' involvement in the criminal justice system. While these problems may well have pre-dated mothers' conflict with the law, we were able to examine

possible effects of incarceration upon childcare activities at least as reported by the mother.

This approach is intended to address the dearth of information about the female offender in her caregiving role. A factual picture emerges of the changes in family structures which have occurred over the span of mothers' criminal justice system involvements along with suggestions related to the specific points at which changes occurred. Mothers' perceptions of intervention approaches have also been documented.

The findings generated from this research model are preliminary in nature. As the data is based on a small, limited sample of female offenders, many of whom were prior clients of the Elizabeth Fry Societies (and so do not represent an entirely random sample), it is necessary to exercise caution when attempting to generalize the findings to the general female offender population who are primary caregivers. Nevertheless, the research findings will help locate the gaps in existing services, and suggest possible strategies for rectification.

In order to formulate more effective intervention models, we must begin by examining the multiplicity of factors which might be related to differential outcomes in the relative stability of childcare arrangements. This pilot research is a first step in moving toward this goal.

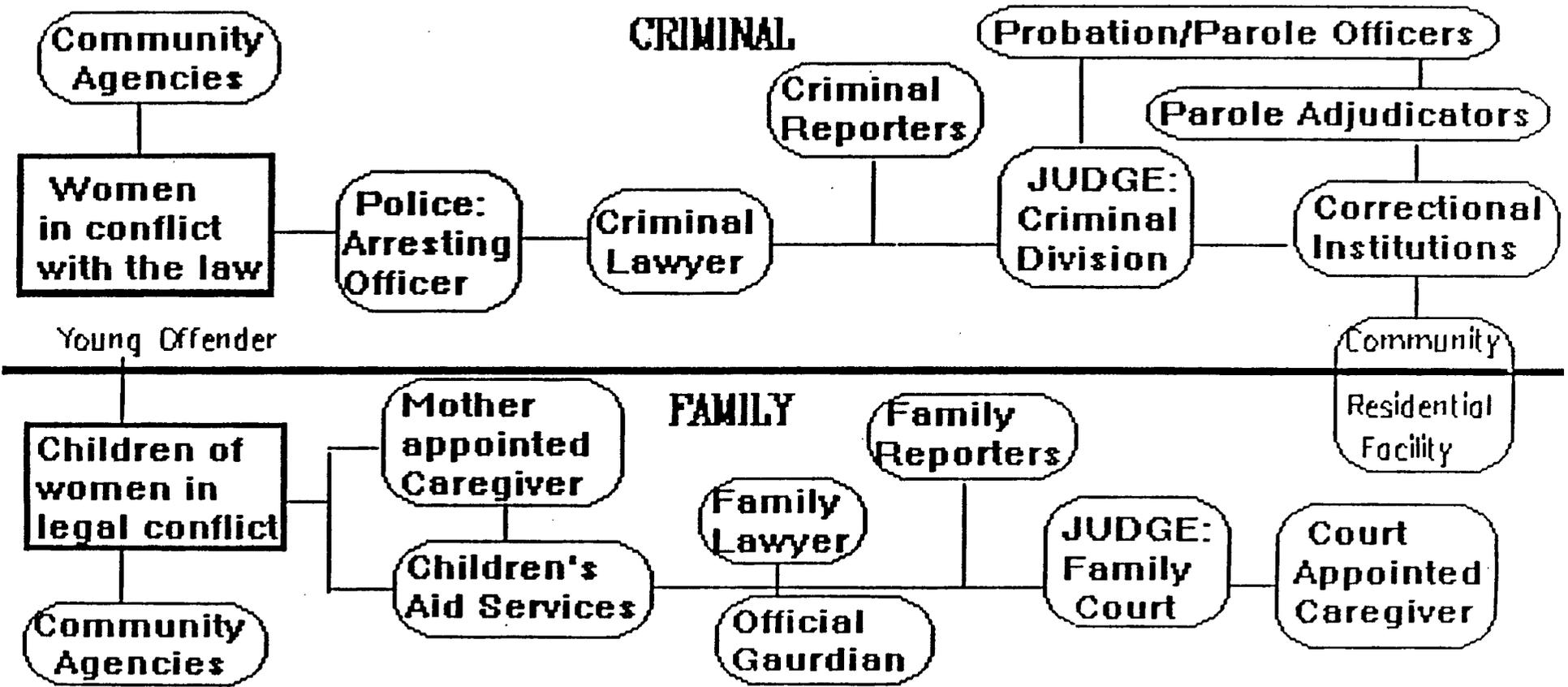


DIAGRAM 1

## CHAPTER 3

### THE FINDINGS OF THE STUDY

#### A. How Many Women in the Criminal Justice System are Mothers ?

All of the 41 women who participated in the interviewing stage of this pilot research project were selected precisely because they were mothers. A supplementary research instrument was therefore necessary in order to assess what percentage of the general population of women in conflict with the law were mothers (see Research Instrument #1 in Appendix 1). Two hundred and eleven women at every stage of the criminal justice process were surveyed by Elizabeth Fry workers across the 5 correctional regions. The data gathered in this portion of the pilot research project revealed that 55% of the female offenders surveyed were mothers (as illustrated in **Diagram 2** to be found with all other charts at the end of this chapter).

In 1979, Sally Rogers and Catherine Carey conducted the last ministry-wide research on women in the criminal justice system that has been undertaken at the provincial level. The findings of our pilot research are consistent with their findings which approximated that 50% each of all incarcerates across the province, and a selected group of probationers, had borne children. This figure was reported to be even higher in the preliminary findings of the Ruhl and Loring (1988) study in which it is stated that 65.5% of women surveyed reported to have given birth to children.

**B. Who Has Custody of These Children ?**

**Diagram 3** reflects the custody arrangements that were found to exist in Sample Population #1 (211 women surveyed at every stage of the criminal justice process across the 5 correctional regions).

Unlike the data gathered in the interviewing stage of the pilot research (in which interviewed mothers were asked to associate the changes that occurred in childcare custody arrangements with the particular stage of criminal justice involvement), the childcare custody findings for Sample Population #1 is a snapshot view of the general childcare arrangements which were found to exist within a given population of female offenders at a given point in time.

**Diagram 3** reveals the relative proportions in which the custody of the children of mothers in Sample Population #1 is distributed. The data reveals that mothers are the largest custodians of children, with the second largest custodian being the child welfare authorities.

**C. Do Mothers Lose Custody of Their Children When They Enter the Criminal Justice System ?**

**Diagram 4 and 5** provide information concerning the changes to childcare custody which were reported to occur in Sample Population #1 when mothers entered the criminal justice system.

**Diagram 4** reveals that the child welfare authorities were in custody of 20% of the children of mothers interviewed in Sample Population #1. 11% of the children were placed with the child

welfare authorities before mother became involved in the criminal justice system, and 9% were placed after mother's legal conflict. **Diagram 5** illustrates the distribution of child welfare custody according to the number of children in a family unit.

According to these pilot research findings, mothers are not more likely to lose custody of their children to the child welfare system upon their involvement with the criminal authorities. Nevertheless, the findings suggest the disproportionate involvement of the children of this group of mothers in the child welfare foster care system relative to the general population.

Statistics for the population at large approximate that 0.5% of the child population of Ontario are in receipt of some form of child welfare services, with an estimated 53% being in some form of foster care.\* The fact that 20% of the children of mothers surveyed for the pilot research are in foster care can be compared to an approximation that 0.265% of the general population of children are reported to be in foster care.

Rogers and Carey (1979) reported that 11% of children were placed in foster care during mother's incarceration. Ruhl and Loring (1988) findings revealed that a greater proportion of incarcerated women (27.8%) than probationers (12.5%) had children who were wards of the court.

It is estimated that the general incidence of involvement in

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\*. These figures are as yet unofficial for the 1991 year, as disclosed by representative of the Ontario Association of Children's Aid Societies.

the child welfare system of the children of mothers in conflict with the law is significantly larger than the pilot research findings of 20% for this figure only refers to cases in which child welfare custody was assumed. In fact, Rogers and Carey's study (1979) reveals that 56% of incarcerates and 43% of probationers had some type of child welfare involvement, whether it be adoption, wardship, or counselling.

It seems quite clear on the basis of the pilot research findings (that are consistent with other research in the area) that a large proportion of mothers in the criminal justice system are regular service users of a wide range of child welfare services.

**D. How Many Children Are Being Affected By the Issue of Mother's Involvement in the Criminal Justice System ?**

The pilot research benefitted from data collected with both Population Sample #1 (the random survey of 211 female offenders) and Population Sample #2 (the interviews with 41 mothers) to answer this question.

The data from both sample populations reveal that mothers in the criminal justice system have an average of 2.0 children per mother. Sample Population #1 indicated that 55% of female offenders are mothers. Statistics gathered by the Ministry of Correctional Services of Ontario approximate that 4,949 women were admitted to institutions in the 1989-1990 fiscal year. Based on these calculations, it is estimated that 5,444 children were

separated from their mothers when mother were admitted to institutions in the 1989-1990 year.'

In fact it is suggested that the total number of children who were negatively affected by mother's criminal justice involvement far exceeds the 5,444 figure. The pilot research findings reveal the large degree of negative impact that is felt by children whose mothers were involved in the criminal justice system but who never actually served time within an institution; this group of children are not included in the institutional calculations above. There is also the distinct likelihood that the per centage of women who are mothers in fact exceeds the 55% figure, thus increasing the total number of children involved.'

While the percentage of women who are mothers can be expected to stay constant for the next many years, the number of women who enter the criminal justice system seems to be increasing on a yearly basis." If current trends continue (i.e. if appropriate interventions are not undertaken), we can predict that the numbers of children affected by mother's involvement in the criminal justice system will increase every year.

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' . It is acknowledged that these figures are merely approximations: the Ministry's admission totals have not been adjusted for the double-counting that occurs when women are admitted to institutions more than once over the fiscal year.

' . Statistics gathered by the Vanier Centre for Women in 1987 indicate that 66% of the residents had borne children.

" . According to statistics gathered by the Ministry of Correctional Services of Ontario for the 1989-1990 fiscal year, the increase in female admissions were up from the 1988-89 period for the fourth year in a row (13.4% change as compared to 5.7% for men).

**N.B. The subsequent findings are all based on the data collected in the course of interviews with Sample Population #2.**

**E. Who Are the Mothers Who Were Interviewed ?**

"I was taken from my mother by Children's Aid Society at age eleven, put into foster homes but I kept running away from them. Eventually my mother agreed to let my grandmother take me in and I stayed with her for five years. When she died, I went onto the streets, and then I got into trouble. I don't know much about my family history." [age 21, pregnant, 2 kids]

The average age of mothers interviewed for the pilot research is 31 years old. 88.9% of the women are Canadian citizens. 91.9% are fluent in the english language. 75.7% of mothers interviewed are white, 16.2% are black, and 8.1% are native women.

Their levels of education were distributed according to the following categories: 5.4% in grades 1 to 7; 54.1% in grades 8 to 11; 18.9% in grades 12 to 13; 2.7% in vocational school; 10.8% in college; and 8.1% in university. 14.7% of mothers interviewed stated that they had problems with literacy.

32.4% of mothers reported to have had some involvement with the child welfare system as children. 2.7% of mothers interviewed reported to have had parents who were involved in the criminal system; 21.6% of mothers' siblings were similarly involved.

40.9% of mothers reported to have used alcohol on a weekly basis prior to the most recent criminal apprehension (2.7% reported to use once weekly; 5.5% reported to use 2-3 times weekly; 5.5% used 4-5 times weekly; 27.2% reported daily alcohol use). 36.1% of mothers reported to have used drugs on a weekly basis prior to the most recent criminal apprehension (2.8%

reported to use 2-3 times weekly; 33.3% reported daily drug use).

89.7% of mothers reported to be have been financially supporting their children prior to the most recent criminal apprehension: 64.7 % of mothers were doing so by social assistance; 17.6% of mothers reported to have been employed; another 17.7% reported to have been using the financial means acquired through illegal activities. 27% of mothers reported to be receiving financial support from family members in raising their children (of this group, 80% received assistance from the father of the child; 10% of mothers were being assisted by partners other than the fathers; and 10% of mothers were being assisted by the child's grandmother).

On the average, mothers resided at their places of residence for 23.5 months prior to their most recent criminal apprehension.

Mothers' criminal histories revealed the following: 40.5% of mothers were first-time offenders; 13.5% had 1 prior conviction; 16.2% had 2 to 5 prior convictions; 8.2% had 6 to 10 prior convictions; 2.7% had 11 to 20; 18.9% of mothers had received over 21 prior convictions.

The following are the most recent offenses for which mothers were apprehended: crimes against the person (assault, attempted murder, manslaughter, murder -- 14.6%); against property with violence (armed robbery, breaking and entering -- 2.1%; against property without violence (theft -- 8.3%); fraud and currency offenses -- 20.9%; drug offenses (possession, possession for the purposes, trafficking, importation -- 22.7%); other criminal code

offense (communicating -- 4.2%; breach of probation/parole -- 6.3%; failure to appear-- 6.2%; all others -- 14.7%). 6% of mothers had been apprehended for a crime involving children upon their last criminal apprehension. Fraud was reported to be both the most frequent and most serious prior offense that brought women into conflict with the law.

Over the course of the most recent criminal apprehension, mothers interviewed were involved in the criminal justice system in the following ways: bail (24.2%); detention (19.7%); incarceration (30.3% -- the average sentence was 13.2 months); C.R.C/C.R.A (12.1%); probation (7.6%); provincial parole (3.1%); federal parole (1.5%); and Community Service Orders (1.5%).

It is significant to note that of a sample population of mothers in which the largest proportion were first-time offenders (40.5%), mothers were involved in the correctional system in the largest proportions due to the imposition of an incarcerative sentence (30.3% as compared to 12.1% for community residence).

#### **F. Why Did These Mothers Commit Crime ?**

A quantitative analysis was not done in this area as it was felt that mothers themselves could best describe what led to their criminal involvement:

"Where your kids are concerned, a mother will do anything to protect them-- put up with abuse, write bad cheques, nothing else seems to matter but getting them what they need at the time."

"Everybody does crime for different reasons. Most women are not hardened criminals but are just caught up in the circumstances of their lives."

"Even with the fear of losing my kids, I felt that the fraud was the only thing I could do for us to survive financially."

"I wrote bad cheques in order to get food. My husband had died and left me with all of those bills that I had never taken care of before. I didn't know who to turn to."

"I knew that Children's Aid Society was going to take away my kids. My husband had been beating me so badly, and then he committed suicide. I started using drugs all the time. But I couldn't face them taking away my kids, so I struck out."

"I couldn't survive on mother's allowance. I had no skills. I was a housewife for all my life, and then my husband died, leaving me with nothing but a pile of bills. I couldn't survive so I began writing cheques."

"I sold drugs for money. You can't raise kids without it. I didn't seem to be able to get it any other way"

"I'm a single mother, I have four kids, and I do fraud to get by."

"I was working at a low-paying job [\$9/hr] and had my two kids to support. I wasn't eligible for mother's allowance. My husband had a well-paying government job but he wasn't paying any child support. When the courts tried to enforce the support order, he took sick leave. If I had the some financial help in raising my kids, I would never have started writing bad cheques."

"Ninety percent of the people at the court are on social assistance, and they're so depressed with where they are in life that they use drugs/alcohol to wipe away the pain."

" I went around trying to get money to feed my son - I needed a to get him a jug of milk. I had to go back to husband who abused me in order for us to survive."

"The first time I was arrested for shoplifting. My husband had been beating me so badly. I stole a toothbrush. I was six months pregnant. The judge told me I married a low-life. That really affected me. It took a year and a half until the case was over. I was so glad I didn't have to do time but then when it was over I just went right back to him."

"I was out of the country for the day with my boyfriend. He left me with a package of drugs to take over the border. I didn't want to do it, but he was going home to my kids. I didn't know what he would do to them if I refused. That's why I am in jail."

"Some women are doing crime to escape being beat up by their men. At least there's protection when they're inside."

"In these hard economic times, more and more women are going to be caught in crime."

"Society puts half of these people into jail in the first place."

While correctional policies continue to ignore the issue of motherhood as it relates to the female offender, the words of mothers reveal the ways in which their status as mothers is intertwined their criminality. It can be argued that many women are in jail precisely because they are mothers who are struggling to provide adequate care for their children within social and economic realities which appear to be denying them adequate opportunity to fulfill this role by legal means. Contributing factors in this equation are the influences of spousal/partner abuse, economic disparities, and psychological/emotional trauma.

**G. Where Were the Children Before Mother Came Into Conflict with the Law (i.e. Before the Most Recent Criminal Apprehension) ?**

According to mothers' reports, 87.5 % of mothers were living with their children prior to the most recent criminal apprehension. The findings are higher in this area than are reported by other research sources. Statistics gathered by the Vanier Centre in 1987 suggest that only 50% of mothers were living with at least one of their children prior to the incarceration.

The differences in research findings may be due to the fact that mothers' responses were not separated for incarcerative versus community sentences. In the Rogers and Carey study (1989)

in which this division was made, it was found that 67.6% of incarcerated women, as compared to 35.2% of probationers, had one or more children who were not in their care prior to their most recent criminal apprehension. Ruhl and Loring's (1988) preliminary findings revealed that a greater number of incarcerates than probationers did not live with any of their children prior to the most recent criminal apprehension ( 42.9% as compared to 26.3%); a slightly higher proportion of probationers reported to have all of their children with them (52.6% as compared to 42.9% of incarcerated mothers). It is recommended that data for any future stages of the research be analyzed so as to respect this division between incarceration and probation data results.

The differences in our pilot research findings may also be attributable to the nature of our research selection process. While it is presumed that the Vanier statistics were based on the entire population of residents, this pilot research only interviewed women who had agreed to participate. It is entirely possible that individuals who would volunteer to participate in a research project of this nature would also be those individuals who had maintained greater ties with their children prior to their criminal justice involvement.

**H. What Problems Existed in the Childcare Relationship Before Mother's Recent Conflict With the Law ?**

Mothers were asked to describe the problems experienced in the mother-child relationship before the most recent legal

involvement. The responses were the following: 14.6% of mothers asserted that no difficulties existed in the relationship; 25% of mothers referred to financial problems; 18.8% referred to substance abuse problems (mother's drug/alcohol use --14.6%; partner's drug/alcohol use--4.2%); 31.2% of mothers referred to abuse problems (mother's abuse by partner--22.8%; child's abuse by partner--2.2%; child witnessing mother being abused--6.2%); 10.4% of mothers referred to child's behavioural difficulties.

#### **I. What Happens When Mothers Come Into Conflict With the Law ?**

##### **(a) The arrest:**

"You are a person to the police. Not a woman with kids."

"When I was arrested I couldn't call my kids. Only one phone call was allowed and I had to call someone to take care of them."

"Everything's mommy, mommy, mommy and then mommy is gone. Kids end up hating their mothers because they didn't even explain to them what's happened, what they did, where they are - because they didn't even get the chance to explain."

"They used handcuffs on me when I was arrested. I was five months pregnant at the time."

" I was four months pregnant and a diabetic. I went into shock when arrested and almost lost the baby. I waited for eight hours until I was released."

"I had a huge fight with my husband and he hit me again. I left and went to my sister's house, but he followed me there. I had been drinking. I got into my car and was stopped by the police. They asked if I had kids at home. They told me I wasn't fit to raise them."

"When charging a woman, police should warn them beforehand so that mothers would be able to make arrangements for the child in order to protect the innocent [the child]."

" It was my first offense - fraud. The JP [Justice of the Peace] wasn't around. I was held for hours, with my son waiting for me at home."

"Maybe I didn't have any rights, but what about my son?"

"Police use their authority for their own purposes. I was treated like garbage. When you're charged you're not even guilty but my rights were still denied to me. I couldn't even get a glass of water."

"When I was arrested I was given two days to go down to police station. I was able to arrange childcare. The officers were wonderful. I had an immediate bail hearing and was released on my own recognizance."

"The police might ask whether or not you have kids. I don't know why they do that. They don't give you help even if you do."

"I couldn't believe it. The police used handcuffs on me when I was so pregnant I was four days overdue. Where I was going to go? I could hardly even walk."

"The police were really ignorant towards my kids. They told the kids that I was going to jail, and that they would end up in Children's Aid Society. They put handcuffs on me in front of the kids. They told the kids to say goodbye to me because they would never see me again."

"Nothing was done in front of my son. The police told him that I was going to the hospital, and then Children's Aid Society was called because I had no one else to take care of him."

"I had no idea what was happening with my kids. I asked to be able to get into contact with them but I was refused. I was allowed to speak with my lawyer. I asked him to find out about them but he never did. I was held for four days until I was released on bail and I had no idea where my kids were. I was panicked."

"The police told the kids that I'd be home soon. I was released four days later."

"The police stayed at the house to watch my kids until my friend arrived to take over."

"I was still nursing my baby when I was arrested. I was refused a call home for hours even though I asked."

"The police didn't talk to the kids when they arrested me. They just came in with lots of guns."

"The police were working undercover. They called me up and asked me to do a drug deal for them. I said I couldn't go out, that I had my kids at home and couldn't get a babysitter. They influenced me to take the kids along. I met them at the corner

store, my youngest in his pajamas; then they arrested me."

"I had to take my kids down to the station when I was arrested. My youngest was just a baby. I asked them not to handcuff me so that I could hold my baby in the squad car. They refused and said they would hold him instead."

"My daughter just cried and cried at the police station. She couldn't even use the washroom. Then the police took me away."

"My mother would have taken care of my kids. The police wouldn't let me call her because they thought I would tip someone off about the arrest. They called Children's Aid Society instead. I didn't see my children for ten days. When I got back, they were so scared I don't know what happened to them during that period."

"I lost everything until I was released on bail. My apartment, my furniture, my kids. Everything."

"In the five days until I was released on bail, my baby's hair went from curly to straight. The older kids didn't want to tell me how upset the baby had been."

"The police asked my daughter to take them to where I was. Now she thinks that the whole arrest was her fault."

The psychological trauma associated with maternal legal apprehension begins at the very first moment that mothers come into conflict with the legal system - the time of arrest. The data revealed that mothers are rarely given adequate opportunity to attend to their childcare concerns at the time of arrest. They are most often out of contact with their children for a period of hours to days.

Mothers were questioned concerning the police procedure at the time of arrest. Mothers were arrested in approximately equal numbers outside as within the home. Handcuffs were used in 16% of arrest cases. Children were in attendance in 56.7% of arrest cases; 62.5% of mothers reported that they were given insufficient opportunity to respond to their children at the time

of arrest.

When asked where the children went at the time of the arrest, mothers responded in the following manner: 13.3% of mothers said that they were forced to bring the child to the station; 20% of mothers reported that another caregiver was present during the arrest to take over care of the child; 26.7% of mothers were given the opportunity to call another caregiver and wait for them to come to take over the care of the child; 13.3% of mothers were given the opportunity to call but not await the arrival; 26.7% of mothers reported to have left the child unattended.

With respect to the making of care arrangements, 4.3% of mothers reported that the police assisted them in making care arrangements; 60.9% stated that the police took no interest but allowed them to attend to the arrangements; 8.7% of mothers asserted that police allowed them to attend to care arrangements but threatened to involve the child welfare authorities; 8.7% stated that the police prevented the making of care arrangements (either by acts of omission or commission); 17.4% of mothers reported that the police made care arrangements against mother's will (i.e. called CAS without exploring mother's own options).

**(b) The waiting period -- bail and detention:**

"I needed to be ordered to get drug treatment when I was released on bail. It took me so long to realize I needed it, and then to find it on my own. And I just kept getting worse, using more drugs after the arrest because of how horrible I felt about myself."

"After the arrest, I cried every day on bail. My kids went to relatives' houses. I didn't know how to stop myself. I felt like I was having a nervous breakdown."

"The kids lived like normal kids while I was on bail, but we all knew that things weren't normal."

"I was feeling so lost after I got arrested. I just started doing more and more drugs."

"I was afraid to go to my family for support. They had never been there for me in the past. During the bail period, I spent every day wondering when I would be going to jail, and whether I'd lose my kids. I got an ulcer, started on nerve pills. I stayed away from everyone I had known that were involved in drugs. I left my relationship finally. I did all of the things I should have done in the first place. But the thoughts just kept lingering."

While mothers on bail are enabled to reunite with their children by avoiding detention, the bail period is described by mothers as an extremely trying period in which the lives of all family members are suspended for indeterminate amounts of time. Mothers frequently reported how the problems underlying their initial involvement in the criminal justice system became exacerbated during the bail period. For example, the feelings of desperation and powerlessness which often accompanied their drug or alcohol addiction were all too easily compounded by the emotional response to the arrest.

While most women come into conflict with the law for minor offenses, a large number are nevertheless detained at maximum security detention centres to await the trial date. While separate statistics for women are not available, the statistics published by the Ministry of Correctional Services of Ontario for the 1989-1990 fiscal year reveal that 49% of the total days stay in detention centres and jails are due to remanded stays.

The extent of psychological trauma that befalls children when they are separated from their mothers during the remand period alone, a period in which mothers are still innocent before the law, must be reconsidered in light of a proposed affirmative responsibility on the state to minimize the damage that it causes.

While the lives of mothers and their children are overshadowed by the uncertainty surrounding the outcome of mother's future court date, the correctional system presently assumes no responsibility to provide women with the means to survive this difficult waiting period - for example, by referring mothers and their children to counselling/support programs to address potential problems of abuse in relationships, addictions, and/or future or present caregiving arrangements.

(c) **The trial:**

"I told my daughter that there would be a court date, but she never knew when it was going on. I found it hard to talk to anyone about it."

"The judge said that I was 'obviously an unfit mother' due to my criminal record."

"Sometimes I tell my kids about court when I think that I'm going to get time. This time I was led to believe that I was going to get time served so I didn't arrange for childcare."

"The fact that my husband beat me for years didn't even come up at court."

"After my arrest, I turned my life around-- quit drugs, went back to school, started counselling. I don't think any of that mattered when it came time for sentencing."

"I was eight months pregnant at my trial. The judge didn't look at how much I had changed in between. I was sentenced to teach other people. What kind of lesson is it to others by sentencing

me to jail? Nobody sees it, nobody hears about it."

"The sentence should begin some time after the day of sentencing. Then you can go home and prepare your children. I didn't even know whether to give up my apartment or not."

"The judge was told that I was a mother, not whether I lived with the kids or not, not whether I was a sole supporter of those kids."

"My co-accused was given probation because of her good family background. I was sentenced to two years less a day. Nobody seemed to care that I had five kids at home who needed me."

"Motherhood is a factual thing that is mentioned in the pre-sentencing report. It had no effect on the sentence I received."

"The judge never even read my pre-sentencing report."

"The courts may know that the kids exist, but they want to quickly get beyond that point. Lipservice is paid to it but nothing else."

"Duty counsel asked me how much money I had. I told him, and then they ordered that I pay everything that I owed. It doesn't pay to be honest."

"My boyfriend [co-accused] was given a fine and restitution as punishment. I got probation and community service. I haven't done my hours yet because I have no one to look after my baby. I might have to go to jail if I don't get the hours done. I don't know why I can't get something to do at home or some work that I can bring my baby along."

"I had to think about whether to bring my baby to court with me. I thought that the judge might have to then recognize the fact that I was a mother. But I was afraid of what it might do to the baby. I knew it was the last time that I was going to see her."

"I wanted my kids at court so I could say goodbye to them."

"I went off that day and never came home."

Interviews revealed that 56% of children were unaware of mother's trial process (42% of mothers chose to protect their children from this information; an additional 14% were too young to be told). 20% of children attended some stage of mother's

court proceedings. 18.7% of mothers did not make childcare arrangements before receiving sentence.

When asked how childcare issues influenced their court case, mothers responded in the following ways: childcare was not mentioned (5.3%); childcare was mentioned but it had a neutral effect (42.1%); childcare was mentioned and had a positive effect (10.5%); and mother was unsure about this issue (42.1%).

The words of mothers reveal the conundrum that arises when mothers come into conflict with the law. A judicial system which is organized around the precept of individual responsibility is hard pressed to incorporate the needs of children who are legally innocent and yet implicated by the judicial decision-making process.

In an attempt to uphold the integrity of the system, the ability of the female offender to mother may be called into question. While the legal system can be seen to be making half-hearted attempts to address the needs of children in its process, the current correctional philosophy, which approaches mothers as discrete individuals outside of any larger familial context, is necessarily incompatible with the needs of children.

**(d) Are mothers in the criminal justice system afforded adequate opportunity to make caregiving arrangements for their children ?**

**Diagram 6** illustrates the degree of childcare knowledge and satisfaction that is possessed by mothers as they move through the criminal justice process. As revealed, the arrest is the time in which mothers have the least satisfaction concerning the care

that their children are receiving. This is consistent with the haste and limited opportunities with which mothers are being forced to make childcare arrangements.

In addition to information surrounding childcare arrangement "satisfaction" and "knowledge", Diagram 6 illustrates the degree of opportunity afforded to mothers to make childcare arrangements ("arrangement" -- yes/no). As it was thought to be advantageous to explore these issues in greater depth as they relate to the time of arrest, the opportunity to make childcare arrangements at the time of arrest was fully reported in the context of the written text above, and was excluded from the graph.

**(e) Are mothers in contact with their children throughout the criminal justice process ?**

"The kids are not the reason why we are inside, and yet we are prevented from keeping in contact with them."

"I want a transfer to the local detention centre which is closer to where my baby is - the way it stands now, she's 6 hours away from me. I'm not getting any answers from the institution."

"My kids live up north so this is the closest place for me but it's still too far away for me to see them. I'll probably do 8 to 10 months of dead time the way that things are going. I won't see my kids for all of that time and they don't even know yet if I am guilty."

"I didn't want my kids to visit. It wasn't a fit place for children to be."

"I couldn't bear for my kids to see me inside. I couldn't even handle it when friends came to see me. I'm not sure it helps to have the kids come to visit, but it was tearing me to pieces to be separated from my kids."

"I want to see my son, but it should be my choice whether I want him to know that I am in jail or not. Because I don't feel he should know that, I can't see him because there is no opportunity for visitation in a place that isn't jail-like. If I told him, he

would be too difficult for my mother to deal with. She has already quit work so that I could go to drug rehabilitation."

"As a parent you have to think of the kids first. Maybe if we had somewhere to visit outside of the jail."

"Maybe it's selfishness on my part to bring my kids here to this hole. The visits are so hard. The kids don't understand why I can't touch them or hold them. And then they're ordered to leave when time is up."

"I've never been here before. I asked other women - many say they don't bring their kids to visit because it's not worth what you have to go through."

"My kids didn't know much about my situation, and that's my decision to make. The guards should be careful about what they say in front of the kids."

"When my baby visited the first time, I was so paranoid about getting blemished record [if your child is found to have 'misbehaved' - it goes on your record]. My husband asked me why I was being so cold to my baby but I was just scared of getting penalized if something went wrong."

"I was so happy to see my daughter. You're not allowed to kiss though, and you have to stay seated when the kids come into the room."

"My daughter ran up to me because she was so happy to see me. The guard got very upset and that really scared my child."

"My daughter felt degraded during the visit. She had to take off her coat. She couldn't bring a drink inside the room, or go to the bathroom. The guard threatened to end the visit because my daughter went near the door."

"My son couldn't bring his toys along with him. There was nothing really to keep him busy. When he started to climb the table the guard threatened to end the visit."

"I finally told my kids the truth about where I was. The social worker inside helped me to do that. I was so scared but the kids needed to know the truth. I think they always knew all along but were afraid to talk about it."

"I had one visit with my kids over the six months I was inside. I just don't understand the child welfare process, and why regular visitation was disallowed."

"The first visit was only allowed to be a half hour; it was just too difficult."

"I've had one two-hour visit with my son. Two hours, and he had come all the way from Montreal."

"I only have a 15 minute phone call - 14 minutes about my daughter, 1 minute for husband. What if I had 2 kids who were living separately?"

"I have five kids, and the phone calls are limited to two a day, fifteen minutes long. It's so hard to get it all in."

"There should be more phones. You often can only reach your family members at certain times during the day and the tougher women muscle in on your time. I went a whole week without speaking to my kids because I couldn't get a phone."

"In the federal system, visits start only after six months. The first six months are the hardest on the kids, though."

"Every way you try to get contact is messed up. There's always somewhere they're saying you can't do this, you can't do that. Even the C.R.C.'s don't have programming for children. Drugs and alcohol are big problems, but so are one's kids."

"All I wanted to do was have the kids know that I was okay. You have to call collect though, and my ex-husband wouldn't accept the calls. I wrote letters to the kids but he intercepted those as well. I thought of phoning my daughter at school, but I didn't want to do that to her."

"Every time someone got a visit from their kids, it just blew me away. I wanted so desperately to see my own, but I was so far away from home, and there just wasn't enough money."

"When I wrote a letter for a weekend pass, institutional staff told me not to mention my kids because the board would hold it against me, feeling that I should have taken them into consideration before I got to jail."

"I would cry a lot on the phone when I spoke to my son [age 3]. He would tell me not to cry, that I would be home soon."

"The first visit when I saw the kids I just cried. You feel that everyone can hear you. There's no room between seats, and you have to stare at each other through glass. I wish there were separate visiting times for women and their kids. It's so uncomfortable saying things with other male prisoners beside you."

"I don't look like their mother to them any more. The glass, the clothes...I try not to cry, but it's hard."

"I requested a touch visit so I could hold my baby. It was denied, of course."

"When I'm inside, I try to get out to the hospital because at least you can see your kids then."

"Nobody gave me any information on how to arrange a visit with my son. When I finally understood how to go about it, I was transferred to a region that was too far away for him to visit."

"Keep in contact with your kids. Let them know that you love them. Tell them about that love even if it makes you sad to hear their voice. The kids are confused-- don't make them suffer twice."

The results of the pilot research reveal that 90% of mothers who served detention, and 55% of mothers who served incarcerative sentences, did not have visits with their children throughout these periods of their criminal justice involvement. 27.3% of mothers who served detention, and 14.3% of mothers who served incarcerative sentences, did not have telephone contact throughout these periods.

When mothers were asked whether any factors were interfering with mother-child visitation, the largest factor identified at the detention and the incarceration stages was institutional policies and structural arrangements (as mentioned by 33.3% of mothers at the detention stage, and 48% of mothers who served incarcerative sentences).

With respect to telephone calls at the detention stage, the largest factors reported by mothers to be interfering with this form of contact were the financial costs of calling, and problems related with caretakers (25% of mothers mentioned each of these factors). As institutions have made no provision for telephone calls between mothers and their children other than through

collect dialing, a disgruntled caretaker could easily prevent mother-child contact from occurring. Institutional policies and structures was the third largest factor mentioned by mothers (12.5%) to be interfering with telephone contact at the detention stage.

At the incarceration stage, institutional factors still exceeded all other factors with respect to the interference to mother-child telephone contact (33.3%), with the costs of calling and caretaker problems following next in line (each at 26.7%).

**Diagram 7** illustrates the degree and type of contact that occurred between mothers and their children throughout the various stages of the criminal justice process. The time of arrest is the period in which the least amount of contact occurred. It can also be argued to be the time of greatest trauma for children.

**(f) The changes to the living arrangements:**

At the time of mother's arrest, children were reported to have been cared for in the following ways: 3.8% of children stayed home unattended; 46.2% stayed at home with someone to look after them; 7.7% of children went to their father's home; 11.5% of children went to the home of a family member other than their father; 7.7% of children went to mother's friends or to a neighbour; 7.7% went into the care of the child welfare authorities as arranged by mother; and 15.4% of children went into care by forced placement.

The following changes to childcare living arrangements were reported to have taken place subsequent to the arrest period:

83.3% of mothers who served bail reported that the childcare living arrangement remained the same throughout the bail period as had existed before the arrest; 11.1% reported that a positive change occurred; and 5.6% reported that a negative change had occurred.

10% of mothers reported that their children were required to change homes during the detention period; all of these children were required to change their residences once during this period. All of these children were reported to have gone into the care of the child welfare authorities.

10.5% of mothers reported that their children had to change homes during the incarceration period. Of these children, 50% had to change homes once, and 50% had to change their homes twice. These children were reported to have been cared for in the following ways: 25% went to the home of a family member other than their father; 25% went to mother's friend or a neighbour's home; 25% went into the care of the child welfare authorities as arranged by mother; and 25% were children whose whereabouts were unknown to their mothers.

**(g) How mothers and children experience this period in their lives:**

"I've always had a really solid relationship with my kids. I was so distant from my own family growing up that I wanted us to be close."

The findings of the pilot research reveal that children do

not appear to be undergoing numerous residential changes throughout the period of mothers' criminal justice experience. The data represented in **Diagram 6** also suggests that mothers are relatively satisfied with the care arrangements that they made for their children.

The main objective of the Rogers and Carey (1979) was to examine childcare arrangements. Based on data which concentrated exclusively on the factual changes made to childcare arrangements, they concluded that the incarceration of mothers appears to create few immediate child-care problems. However the study did not examine the level of mother's satisfaction with the childcare arrangements, nor did it attempt to examine the psychological or emotional components of this equation.

While mothers' reports indicate that children are receiving a high level of care while mother is involved in the criminal justice system, children are nevertheless being reported by mothers to be manifesting a significant degree of trauma in the course of mothers' legal involvement as is consistent with the research in the area of attachment theory (as reviewed in Chapter 4). The following is a description of the pilot research findings in the area of child-related trauma:

(1) Mothers were asked to describe the nature of the childcare relationship that existed during the bail period. 27.8% of mothers reported to have discerned direct negative changes in the mother-child relationship; 50% were concerned about the future of this relationship; 11.1% of mothers felt that all was

okay with another 11.1% reporting to have consciously attempted to avoid thinking about the issue.

Mothers who served bail described their impressions of the impact of the bail period on their children: 22.7% of mothers observed signs of existing trauma in their child during this period; 50% were concerned about future trauma to their children; 18.2% of mothers felt that no problems existed; and 9.1% of mothers had insufficient information to assess this factor.

Mothers were also asked to discuss the changes to their self-perceptions as mothers that occurred during the bail period: 38.9% stated that no change occurred; 50% were negatively affected; and 11.1% of mothers improved their self perception through rehabilitative efforts which were undertaken in this time-period.

(2) When mothers were asked to comment on the nature of childcare relationship that existed during the detention period, 21.4% of mothers reported to have discerned direct negative changes in the mother-child relationship; 35.7% were concerned about the future of this relationship; 14.3% of mothers felt that all was okay with the relationship; 7.2% reported to have not been concerned about this issue; 21.4% of mothers were concerned about the insufficiency in information concerning their children.

With respect to the impact on the child from the detention, mothers stated the following concerns: 25% of mothers observed signs of existing trauma in their child during this period; 25% were concerned about future trauma to child; 16.7% of mothers

felt that no problems existed; 8.3% of mothers reported not to have been concerned about this issue; 25% stated that they lacked the necessary information concerning their child during this period to respond to this issue.

Mothers discussed the changes during the detention period to their self-perceptions as mothers: 20% stated that no change occurred while 80% reported to have been negatively affected.

(3) Mothers also discussed the nature of the childcare relationship during the incarceration period: 25.9% of mothers reported to have discerned direct negative changes in the mother-child relationship; 48.1% were concerned about the future of this relationship; 18.5% of mothers felt that all was okay with the relationship; 7.5% of mothers were concerned about the insufficiency in information concerning their children.

With respect to the impact on the child from the incarceration, mothers stated the following concerns: 32.4% of mothers observed signs of existing trauma in their child during this period; 53.4% were concerned about future trauma to child; 7.1% of mothers felt that no problems existed; 7.1% of mothers had insufficient information to assess this factor.

Mothers also discussed the changes during the incarceration period to their self-perceptions as mothers: 14.4% stated that no change occurred; 76.2% reported to have been negatively affected; and 9.4% reported to have improved their self perception during the incarceration period.

(4) When mothers were asked to comment on the nature of childcare relationship subsequent to the incarceration period, 33.3% of mothers reported to have discerned direct negative changes in the mother-child relationship; 55.6% were concerned about the future of this relationship; and 11.1% of mothers were concerned about the insufficiency in information concerning their children.

Mothers who served incarcerative sentences described their impressions of the impact on the child subsequent to the incarceration: 35.3% of mothers observed signs of existing trauma in their child during this period; 47.1% were concerned about future trauma to child; 11.8% of mothers felt that all was okay; 5.9% of mothers had insufficient information to assess this factor.

Mothers were also asked to discuss the changes subsequent to incarceration to their self-perceptions as mothers: 16.7% stated that no change occurred; 58.3% were negatively affected; and 25% of mothers improved their self perception during this period.

(5) Mothers who received community rather than incarcerative sentences discussed the nature of the childcare relationship subsequent to the criminal involvement: 25% of mothers observed signs of trauma in their child and an additional 75% were concerned about the future of the mother-child relationship.

Mothers who served community sentences described their impressions of the impact on the child: 16.6% of mothers observed

signs of existing trauma in their child during this period; 50% were concerned about future trauma to child; 16.7% of mothers felt that all was okay; and 16.7% felt that they had insufficient information to evaluate this factor.

Mothers were also asked to discuss the changes concerning their self-perceptions as mothers: 40% stated that no change occurred; 40% were negatively affected; and 20% of mothers made a conscious effort not to think about this issue.

**(h) Are mothers receiving the help that they need ?**

"You love and care about your kids. You can use any help you can get to prevent the kids from ending up where you are."

"They ask whether you have kids but not because they want to help you. Only to take it for statistical purposes!"

"You can't depend on the system because it doesn't care about you or your kids."

"Whenever I spoke to people from the system about the abuse, I was told not to put up with it - what choice did I have? All the bills were in his name".

"I was pregnant, I was on bail, and nobody gave me any help."

"I had no idea that no one would be there when I needed them. I was a foster mother myself before I was arrested. The system just failed me when I was inside. I kept asking for help but no one would give it. My family has been torn apart. One kid got involved with the law, the other ended up on the streets, and I couldn't get anyone on the outside to take care of them."

"The Elizabeth Fry worker told me what the whole legal process would be like - it helped me to prepare myself. At least I knew what to expect."

"It's so hard to make decisions. Where should I place my son, how to prepare myself for incarceration, how to prepare him, what to tell him. No guidelines - only the Elizabeth Fry worker sat and talked over these things with me."

"There's no support. Just mind games and power games. This is not a solution to the cycle of deprivation. It just perpetuates it further. The system has community alternatives, they just need to be used."

"My C.O. was nice, she listened to me when I was upset about my kids but there was nothing that she could really do for me."

"Your feelings for your kids are really used against you. For example, if I am seen as doing something wrong, the staff threaten to take away my weekend pass on my visits with my kids."

"It must be very hard for those who work in the system. There are so many women, it is hard to know who is sincere and who is not. I did wrong, and I had to pay for it. Maybe they can't cater to the individual, but the present system just is too painful for the children."

"It just isn't right what goes on inside of here. The women fight for food. And then they hide it and it's taken away if the guards find it. There's never any peace."

"I was pregnant inside. I saw a doctor every two weeks, I was eating well, and getting good care. It was a good place to go straight. When it came time to give birth, I was dropped off at the hospital on my own with no guard. I felt trusted."

"I'm pregnant, and I sleep on a mattress on the floor all day. I can't even get proper food to eat."

"Women are shackled when they go the hospital, even if they're pregnant."

"I needed to see a psychiatrist while I was inside. In four months I saw him for half an hour."

"I wanted to get upgrading for school when I was inside. They said that I couldn't have it because of the way that I was behaving. I fought them on that one and eventually I won."

"They pretend that you're getting training for a job here. It's ridiculous. The computers are so outdated that no one would hire me."

"No real recovery programs are offered inside, just mickey mouse attempts which most women use as a ticket out."

"There was no drug programming for me inside so I was told that I could get passes to attend programming in town but that I had to pay for it out of my own pocket. I didn't have the \$12 a week that it would cost."

"Drugs and alcohol are starting to be recognized as a problem - institutions are beginning to allow women to go out on T.A.P.'s for rehabilitation. Just because I don't have an addiction doesn't mean I don't need help. I need to stop committing fraud!"

"I wanted to go to a C.R.C. near my children but there isn't one. It feels like both me and my kids are getting unequal punishment compared to women who get to go near their homes."

"There are no T.A.P.'s for out-of-province women."

"You don't need help inside. You need help to get out!"

"The only thing that anyone ever did for me was to release me early so that I could have my baby."

"My welfare worker didn't care about me. I'm just a number. Now that I committed a crime they're constantly at my door though just to 'update the file.'"

"Nobody helps because nobody cares. They're beyond caring."

"I wonder where the help is when I need it."

Mothers were asked to assess the degree and type of assistance received throughout the various stages of the criminal justice experience.

(1) 56.5% of mothers who had served bail time reported that they had not received any assistance at all throughout the bail period. Of the total number of mothers who received referrals during the bail period, 42.8% were from the child welfare authorities, and 28.6% from mother's lawyer (28.6% of mothers reported to have referred themselves to programs). Direct assistance was received from the following sources: 42.8% from a social service agency (other than child welfare); 28.6% from mother's family; and 14.3% from each of the child welfare and medical systems. No mothers reported to have received help from a

correctional agent (e.g. bail supervisor). When mothers were asked to describe what other types of assistance would have been desirable, support and individual counselling (for both mothers and children) were most frequently mentioned.

(2) 80% of mothers who had served detention time reported that no assistance had been provided throughout the detention period. No mother reported to have received any referrals. The numbers related to the type and source of assistance received were too small to have any significance. The most frequently mentioned recommended interventions were an improved referral process; housing and social assistance information; and instrumental, financial and counselling assistance (listed in descending order of frequency).

(3) At the incarceration stage, mothers were equally divided as to whether they had received assistance in the period of incarceration. A negligible number of referrals were received. Where assistance had been provided, the largest assistance provider was an institutional agent by far, as would be consistent with the limited contact that inmates would be having with sources outside of the institution (72.7% of mothers who received assistance did so from a correctional agent; 9.1% from the child welfare system; 18.2% from a social service agency). The largest type of assistance provided was support (57.1% of the assistance received had been in the form of support; 35.7% through instrumental support; and 7.2% through employment assistance). The most frequently mentioned recommended

interventions were instrumental assistance, individual counselling for mothers; and support and an improved referral process (listed in descending order of frequency).

(4) It is significant that 75% of mothers reported to have received assistance subsequent to their incarceration period, with a significant amount of this assistance having been provided through the assistance by a community residential facility (C.R.C./C.R.A). The community residential facilities were the largest provider of support (in 60% of cases wherein assistance had been provided, it had been by the community residential facilities). Support was once again the largest type of assistance provided (61.5% of the assistance received had been in the form of support; 23.1% in the form of individual counselling for mother; and 7.7% each for drug counselling and instrumental assistance). The most frequently recommended interventions were instrumental assistance, individual counselling for mothers and child welfare information (listed in descending order of frequency).

(5) 83.3% of mothers who received probation or parole rather than incarcerative sentences reported to have received some form of assistance. Correctional agents (i.e. parole officers) were the largest referral providers (in 66.7% of cases wherein referrals had been provided, it had been by the parole officer; women referred themselves to programs in 33.3% of these cases). The source of assistance was equally divided between correctional and social service agencies. Support was once again

the largest type of assistance provided (45.4% of the assistance received had been in the form of support; 18.2% each in the form of individual counselling and addiction counselling for the mother; 9.1% each in the form of abuse counselling and social assistance information). The most frequently mentioned recommended interventions were an improved referral process; instrumental assistance, abuse counselling, drug counselling; and financial assistance (listed in descending order of frequency).

Significant to this discussion is not only the degree to which mothers are receiving assistance, but the nature of the assistance being received.

According to the pilot research data, the mothers in this sample reported receiving a greater degree of assistance in the course of community sentences than incarcerative ones.

While the research has highlighted the extensive variety and scope of problems that are presently being experienced by mothers before, during, and after their involvement in the criminal justice system, mothers report that the assistance that is currently being provided to them is largely limited to "support." While support is clearly a necessary ingredient in this equation, it cannot substitute for the range of programs necessary to meet the service needs of this group of women and children (for a fuller discussion see Chapter 6: Mothers' Recommendations; and Chapter 7: Models of Reform).

**(i) Are mothers able to start new lives after criminal justice involvement?**

"When I'm inside, I pay people to go to the house, take care of kids [age 7, 4]. The bills don't stop. I still have to pay the gas, the shelter. Last time I was released, I was so much in debt that I stole meat to feed my kids. I try the food banks but there's no vegetables, cheese, meat-- all the things that kids need to eat."

"I call home three times a day at \$7.50 a call [has to call collect]; that's \$22.50 a day. By the time I'm out of here, after four or five months, I'll have a phone bill of \$300- \$400 dollars. The phone company has cut off my line because I can't pay it, and then I get another one under a different name, which means more fraud, and then I'm headed right back inside again!"

"You want to start new when you get out but the first thing that faces you is all the bills that you got when you were inside. You start off owing months of rent. And then you just slide right back into the old ways-- fraud, working the streets. There seems to be no way out. You just fall deeper and deeper."

While the financial hardships facing mothers in attempting to raise their kids appear to precede a mothers' conflict with the law, mothers have reported the ways in which their involvement in the criminal justice system often deepens the financial constraints of their lives which in turn leads to further criminal involvement.

**J. Mothers' thoughts about the future:**

"I'm worried about getting to know my baby. When I see her during visits, she cries and I don't know what to do to comfort her. She doesn't know me any more. I guess it will take time."

"I'm going to take counselling, and start doing housekeeping for other people. I've learnt about employment choices I never knew before. I'm going to start all over again when I get out."

"Now I am working to show my kids a better way."

"My daughter is my responsibility - I want to make sure that all things are taken care of for her - I don't want to rely on other people. I got my life together for her!"

"My baby is nine months old - I don't know what to tell her about the future."

"I'm trying to put my life together. I'll be starting school in September. I'm going to do the best I can with my kids. I'm trying to take those eight months missed and give them back to my kids. I know that's impossible though."

"I know that the responsibility to take care of my kids exists but I'm not sure how I am going to take that over again without help or guidance."

"It's going to be hard to get together with a stranger kid."

"The test will be to take what I have learned and share it with my kids. Not what I got from jail-- that I'm going to have to get rid of. I need to remember the pain of missing them, and to try to communicate better, and to show them all the love that I have for them that doesn't get out when I'm using the drugs."

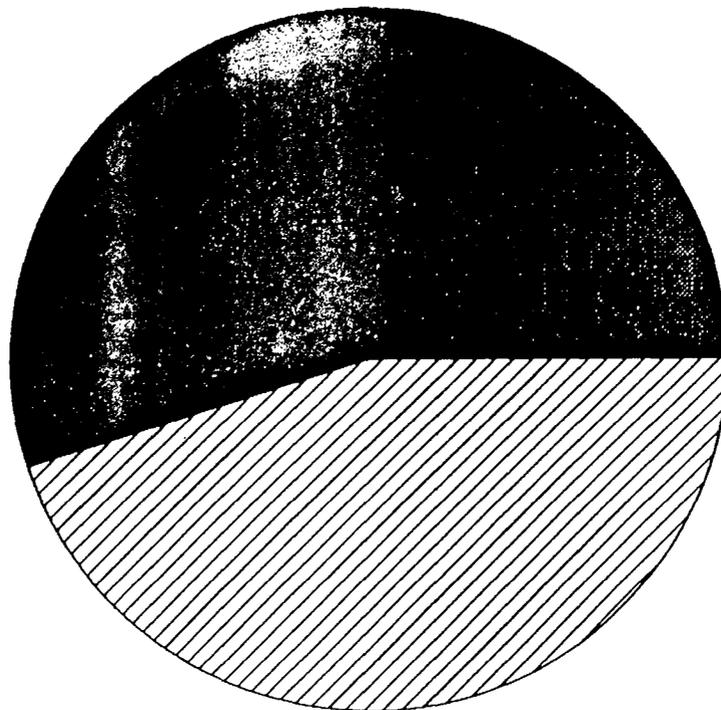
"I just want a better life for me and my daughter..."

A sizeable portion of mothers anticipated future problems in reuniting with their children. Irrespective of these difficulties, the overwhelming majority of mothers interviewed intended to reunite with their children in the future (as expressed by 100% of mothers who had been in detention, and 95.2% of mothers who had served an incarcerative sentence).

# Do You Have Children ?

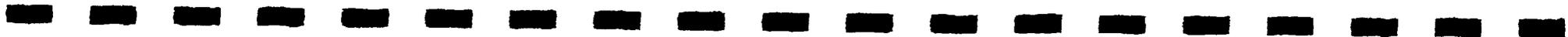
(Sample Population One)

Yes  
55%



No  
45%

DIAGRAM 2



# Who Has Custody By Number of Children?

(Sample Population Number One)

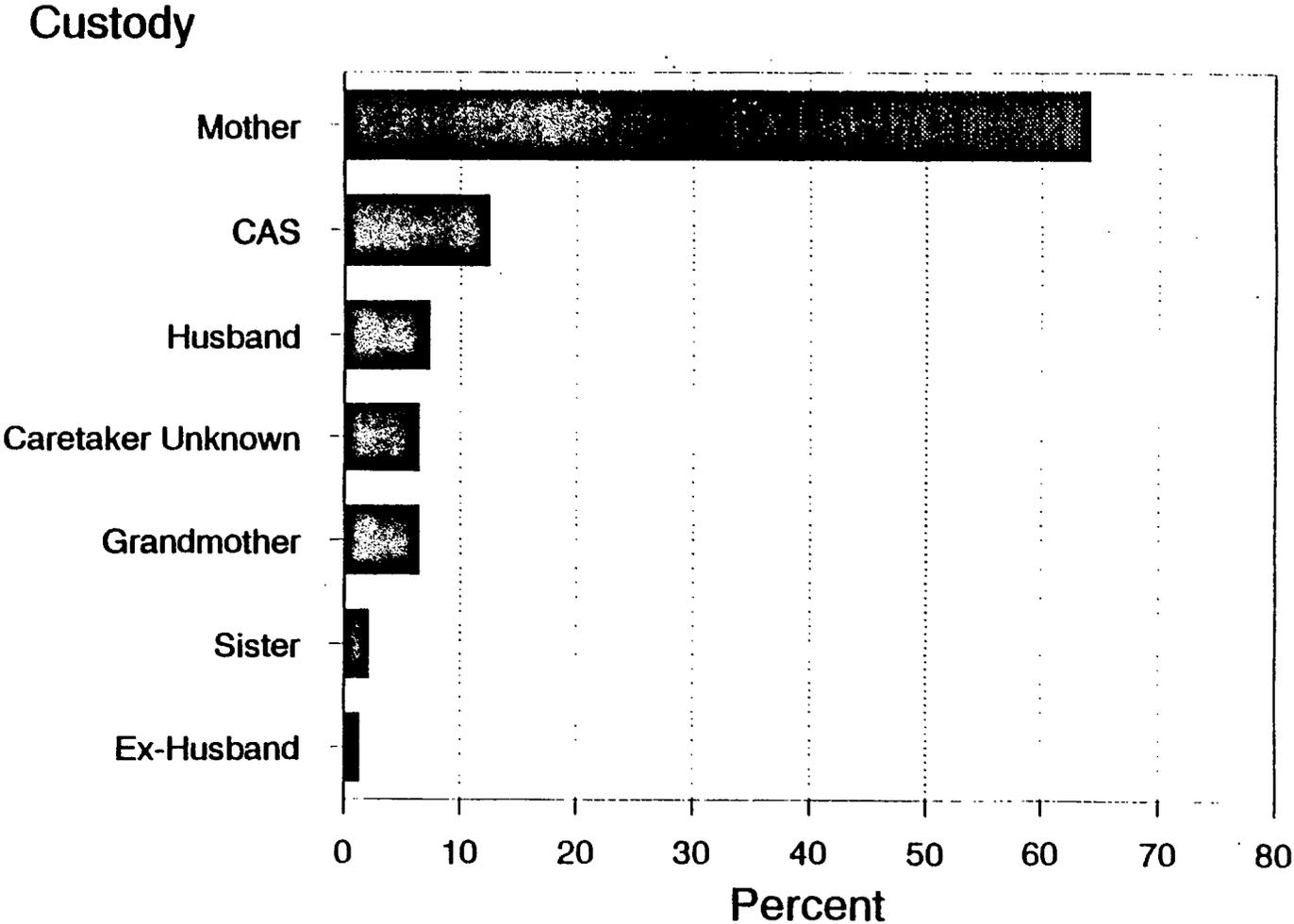


DIAGRAM 3

# Does CAS Have Custody ?

(Sample Population Number One)

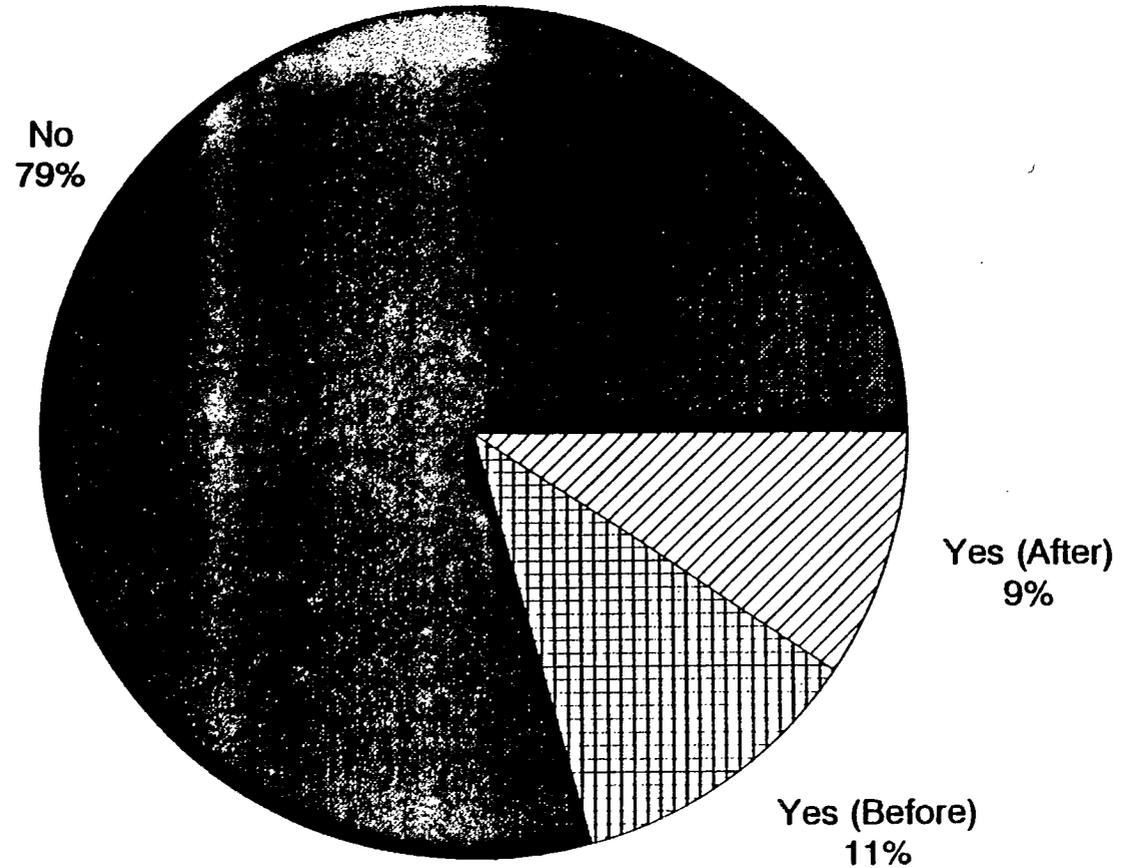


DIAGRAM 4



# Number of Children and CAS Custody

(Sample Population Number One)

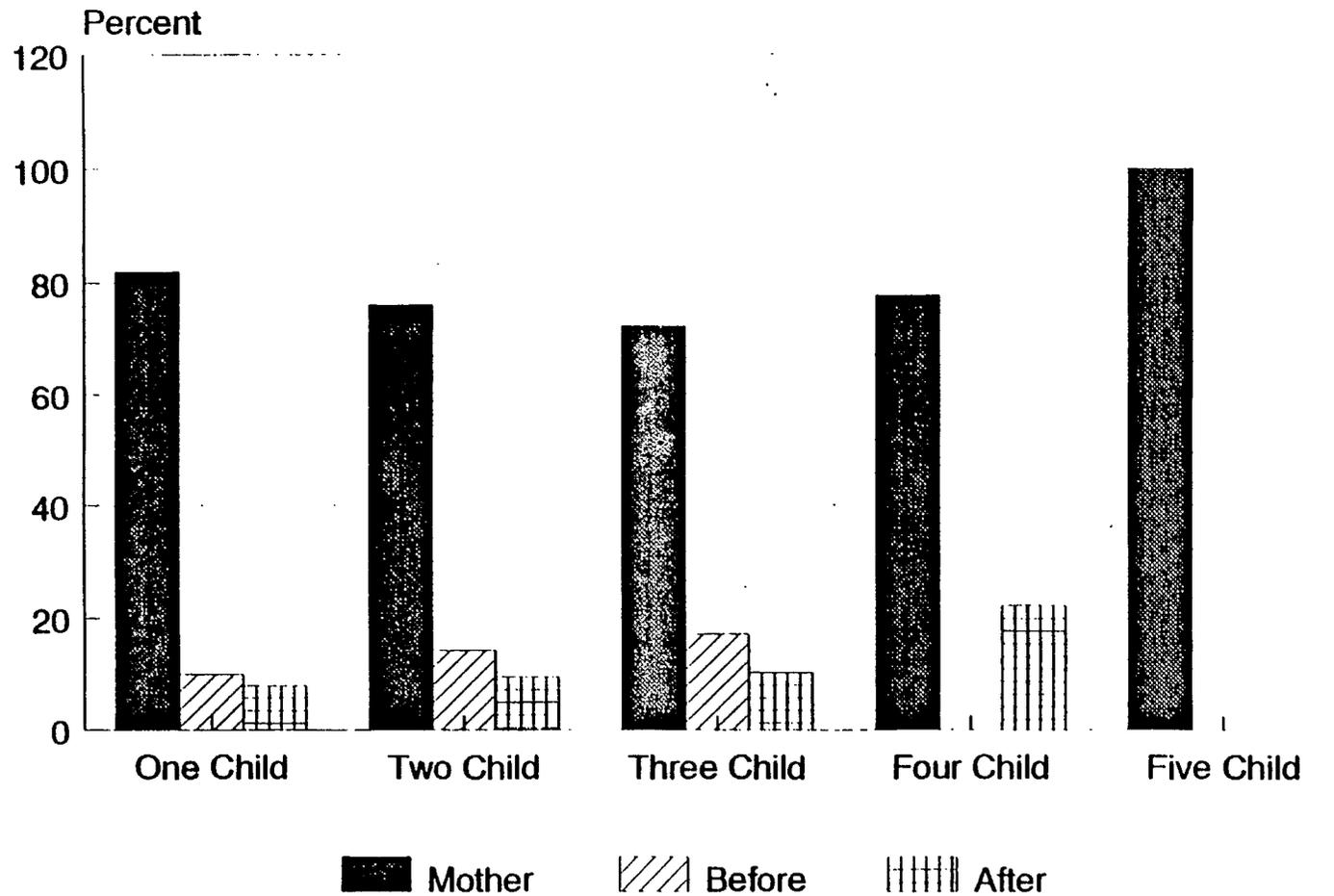


DIAGRAM 5

# Care Arrangement

(Sample Population Number Two)

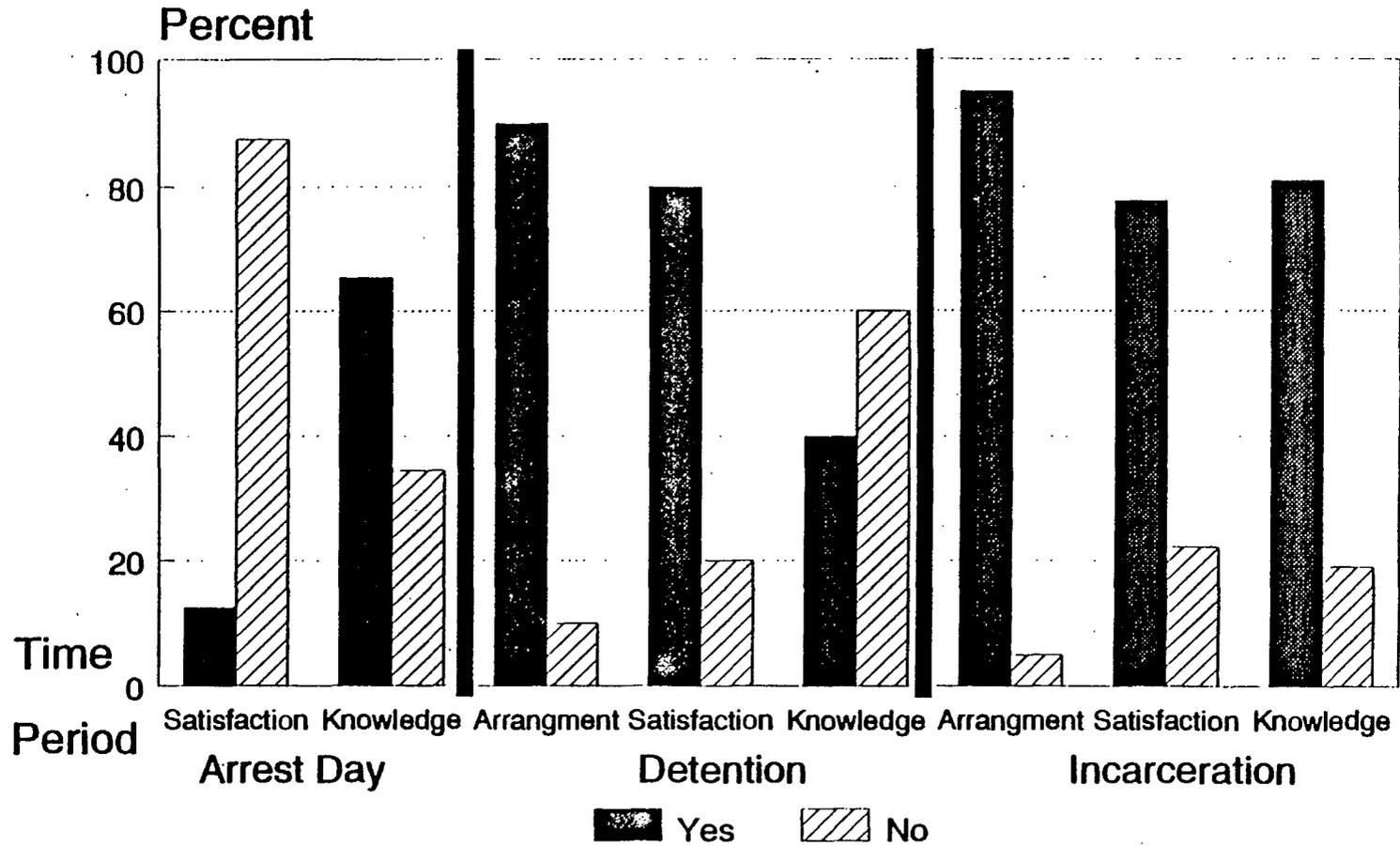


DIAGRAM 6

# Contact With Child

(Sample Population Number Two)

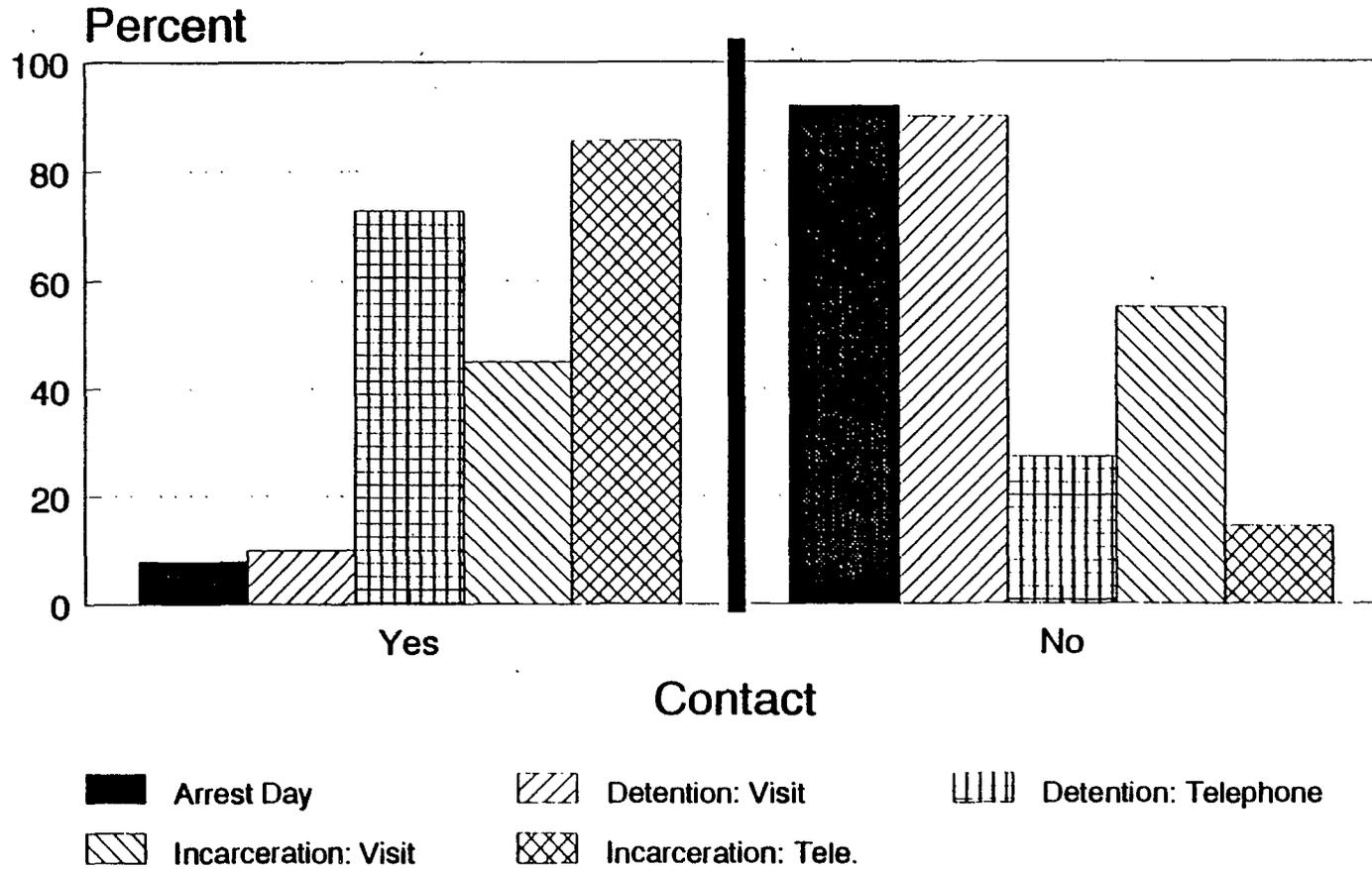


DIAGRAM 7

## CHAPTER 4

### THE SOCIAL COSTS OF THE CURRENT CORRECTIONAL APPROACH

#### The Trauma of the Broken Bond

The only truly effective way to analyze a system of social intervention is to consider all of the relative costs and benefits that accrue. In order to better comprehend the ramifications of current correctional policies as they apply to mothers in the criminal justice system, it is necessary to examine some of the social costs that are currently being incurred by both mothers and their children.

#### A. Psychological Consequences for the Children

"First my husband died, and I began writing cheques to get by. My 12-year-old son was still dealing with the death of his father when I was taken away and put in jail. His whole world collapsed overnight."

"I was drunk, and my boyfriend and I started fighting, and I stabbed him. My kids saw the whole thing. I haven't talked to them about it, I just withdrew from them - there are no words to say. I haven't found words until this day."

"The kids were so hurt and confused. They didn't know what to do. They just kept asking me if they could help. They were so afraid that the police hurt me because of how they acted out when they arrested me. The kids watched the police haul away all of their things, saying that they had been bought with stolen credit cards."

"All that the kids could do was protect me with their love. When that failed, they thought that they had failed."

"My kids feel responsible for having asked me for material things. They think that my fraud is their fault, that that is why I am incarcerated."

"I couldn't even go to the bathroom the kids clung on so tight. The 8-year-old wanted to sell enough flowers so that he could pay off what I had stolen."

"The kids saw me destroying myself after the arrest. They just stared at me, looking so confused. They didn't know what to say, just that they would love me no matter what happened."

"The newborn was four months old when I went inside. I missed her first birthday. She's unsure about who her mother is."

"The kids just clung to my side when I got out. They still think I'm going to be taken away again. I tell them that I won't, and then I feel like I'm lying to them because maybe I will. I just keep hoping that somehow they'll survive through all of this, that it won't scar them forever."

"If eight months seems like a long time to me as an adult, it seems forever for a kid."

"My son is slow to speak...it's getting worse. He sits all day and plays video games to hide the fact that he misses me."

"My son still hasn't talked to me about what it was like for me when I left him."

"My eldest daughter attempted suicide three times while I was inside. She was hospitalized, quit school. We had been so close - it tore me apart."

"I had never been away from my daughter before. She couldn't show me how the separation affected her while I was inside. She seems so much more affectionate now."

"When my baby gets upset [age 4] he just tells me to go back to jail. And then he clings at my side. I know it's because he's hurt, and he doesn't understand...but I don't know how to help him."

"The kids are becoming so bitter. They're fighting the world on their own. Their behavior is becoming worse and worse."

"The kids are trying to be tough and strong."

"I'm just afraid that my children will be psychologically damaged from my leaving them in this way."

Much of the concern about mothers in the criminal justice system is based on acceptance of what is termed 'attachment theory' which asserts that one of the most critical factors in the development of an emotionally healthy child is the formation

of a strong and enduring attachment bond with at least one caregiver during infancy (Yale, 1978).

The importance of maintaining the mother-child bond was first formally recognized in psychoanalytic literature. While its underlying precepts have greatly influenced the movement towards permanency planning in the child welfare area, correctional policies have so far failed to incorporate this understanding and continue to separate mothers from their children with incarcerative sentences.

According to attachment theory, in a 'normal' parent-child relationship, the process of forming an attachment bond continues until the child reaches the age of two years. It is predicted that the child's socialization process will be damaged if this bond is prevented from developing adequately. As the mothers' interviews in this report reveal, a mother's conflict with the law often interferes with the bonding process; children are being forced to abruptly separate from their mothers subsequent to an arrest for varying periods of time, the longest of which would span the entire detention and incarceration period. Children are not only being deprived of this crucial bond, but in the most disconcerting cases-- where children are looked after by shifting caregivers-- they are being deprived of the degree of emotional security that can be achieved with the provision of a stable substitute primary caregiver.

Attachment theory argues that separating the child from a caregiver once this bond has developed can seriously disrupt the

child's emotional development. The mother-child bond enables children to develop emotionally and to learn to relate effectively to other people. The bond is seen to be specific to the particular adult/s with whom the child has frequent contact, and the number of such bonds that a child can form is said to be limited.

Research suggests that children who are subjected to series of changing caregivers are unlikely to develop replacement bonds. Such children may go through successive stages of active protest, temporary withdrawal from human interaction and finally, complete detachment from affective relationships. The child may then follow a course of emotional development similar to that of infants who never formed an attachment bond. The failure to develop adequate bonds has been linked with the permanent impairment in the capacity to develop human attachments, to think abstractly and to control aggressive impulses (Bowlby, 1946; Fraiberg, 1977; Freud & Burlingham, 1944; Provence & Lipton, 1962; Spitz, 1945; as cited in Mitchell, 1982).

Commonly believed but not adequately documented is the idea that separation is more damaging to younger children (Stanton, 1980). While a comparative analysis of the degree of trauma experienced by children according to age was not part of our research measurement, interviewed mothers reported that children of all ages were experiencing significant difficulties upon maternal separation. While the emotional trauma associated with inadequate mother-child bonding is not said to be restricted to

infants (Yale, 1978), the type of damage that occurs is reported to be dependent on the child's age at time of separation.

For example, in the course of interviews for this project, the mothers of young children mentioned episodes of developmental regression in their children, such as breakdowns in toilet training, or loss of verbal skills-- both factors which are identified as being associated with interruptions in bond formation (Yale, 1978). Others reported that their children developed eating problems, insomnia and clinging behaviour, or failed to maintain previous performance levels in school, as is consistent with the findings reported in the literature. (see Morris, 1967; Friedman & Esselstyn, 1965). The fact that young children have a different sense of time than adults, and that even brief separations were felt to be indeterminate to them, has been recognized as contributing to the severity of the separation anxiety which is experienced by children upon mothers' absence (Goldstein et al., 1973; as cited in Mitchell, 1982).

Significant to this discussion is the degree to which researchers have challenged the assertion that it is separation itself which is responsible for the trauma observed in cases of childhood maternal separation. A number of intervening variables have been presented as being significant contributors to the measure of harm experienced by children, namely: the child's age at the time of separation; the gender of the child (boys may be more vulnerable); the child's temperament; whether the separation is temporary or permanent and if temporary, the length of

separation; the previous mother-child relationship; previous separation experiences; the familiarity of the child's new environment; the presence of an adequate substitute mother figure; presence of familiar people like siblings or even friends; frequency of visits with mother (it has been suggested that the impact of temporary separation can be eased by measures to maintain the parent-child relationship, for example, by regular visitation) (Yale, 1978; Mitchell, 1982). While the mother-child bond is arguably of greater importance for very young children, it is precisely this group who are least likely to see their inmate mothers on a regular basis since they are also the most dependent on chaperons (MacLeod, 1986). Additionally, it is the youngest children who are lacking in the verbal skills which would allow them to communicate with their mothers by telephone.

#### **B. Psychological Consequences for the Mothers**

##### **(a) The tie to their children is often what allows women to emotionally survive in the correctional system:**

"The only thing that kept me going was the thought that I was going to see my kids again. I missed them so much I couldn't even talk about them. I almost didn't get parole because they thought I might have been mentally unstable. I felt so desperate, I might have suicided if someone had told me they were gone forever."

"My kids were all that I ever really had. The thought of them kept me going through the hardest times. I don't know how I would have survived without them."

"I was so confused, uncomfortable, guilty...so many mixed feelings. I put my kids in danger for a man that was not even their father. I was scared of what he would do to them otherwise. But then I had to leave them and I didn't know how they were going to survive."

"Until the actual sentencing I wanted to be close to my kids, but I felt I had to push them away, to create a distance so that the separation wouldn't be as hard on them. It hurt me a lot."

"Some women tell their husbands not to tell them anything about the kids - it's too difficult to hear and not be there."

"I just cry so much when I call home. My daughter tells me not to cry."

"The kids were so supportive of me. I felt like I didn't deserve to live after the arrest. My kids helped me to go on so I wouldn't kill myself."

"I was afraid I would lose my children emotionally. I felt like I had let them down, and I had to earn their trust again. I just thought they would go to someone else for advice and love, that I was going to be replaced."

"I felt horrible, I didn't mean to hurt my son, but I did. I disappointed him. There was only me and him, no dad. And now he doesn't even have me anymore."

"I get so angry in here, being treated like an animal to a ridiculous degree. This is supposed to be a correctional system. You fight within yourself not to let your anger explode. But things are refused to you without explanation, arbitrary judgements are made, and sometimes you don't think you can hold it in any more."

Irrespective of the day-to-day difficulties faced by women prior to entering the correctional system, researchers agree that for many of these women, the only area where certainty prevails is in their relationship with their children. Baunach (1985) states:

Whether the relationship was healthy or otherwise, imprisonment engenders feelings of loss and failure. Not only has she been ostracized by society for her criminal behaviour, she has demonstrated a seeming failure as a mother. Whatever else prison does to or for a woman, it enables her to reflect for hours on end about herself and the consequences of her behaviour on both herself and her children.

The mothers interviewed for this study reported that the most serious damage caused by their incarceration was the perceived damage to family ties. Within the current correctional structure, mothers report experiencing feelings of extreme isolation from their children (Koban, 1983). One of the most common fears expressed by the mothers interviewed here was that their enforced separation would prevent them from ever regaining their children's trust-- especially in the cases of young children (see also Baunach, 1985). For these women, concerns about the present care of their children predominated over those related to future family prospects.

**(b) The present correctional approach engenders feelings of powerlessness in women:**

"To survive inside you detach yourself. You put the pictures of your kids away - you just stop feeling. And then you're afraid that the feelings won't come back."

"I've become so cold, so detached. Maybe in time I'll pick it back up."

"I'm not sure what can help me - I have to start straightening out - I come out and think I will this time, but it just doesn't seem to happen. I'm not sure what can help me. Maybe nothing."

"I'm feeling helpless in my own life: Going around and around. Always catching up with the damage that occurred last time I was inside and I don't know where to turn."

Although the philosophical underpinnings of the Mission Statements of both the provincial and federal correctional systems stress the importance of inculcating responsibility in clients, the present approach to incarceration, and, arguably, incarceration by its very nature, tends to foster feelings of

dependency and powerlessness which are antithetical to the successful resumption of maternal responsibilities (Baunach, 1985; Lundberg et al. 1975). The restrictions to individual initiative and involvement in decision-making have been linked with the fostering of a sense of dependency in incarcerated individuals. It can be argued that this dynamic is particularly damaging to women in the correctional system for it may be experienced as being reminiscent of the powerlessness experienced in prior abusive relationships.

**(c) The implications for rehabilitation:**

While the majority of studies in the correctional area have concentrated on the impact of mother-child separation as it pertains to the trauma experienced by children, there are compelling social reasons to consider the effects of this separation on the mothers.

While some studies have argued in favour of the suitability of fostering bonds between incarcerated mothers and their children, on the basis of research findings which suggest that these mothers display the same perceptions and attitudes as other mothers of the same demographic background, this line of reasoning would seem to imply an onus on mothers in the correctional system to prove their abilities and attendant rights to mother. At this point it would seem important to remember that it is not the ability or inability to mother which has caused these women to be apprehended by the criminal authorities; their

suitability to mother has at no point been at issue in the criminal process (for a fuller discussion on this issue, see Chapter 5: The Dilemma of the Child Welfare System).

Programs to strengthen ties between inmate mothers and their children are one way to enhance an inmate's sense of responsibility and to counter feelings of impotence.

In his 1980 report for the Ontario Ministry of Correctional Services, Ross states that a relationship between the loss of the maternal role, difficulties in intra-institutional adjustment and the eventual outcome for the female offender has been demonstrated to exist.

Minimal contact between incarcerated mothers and their children has been found to contribute to the mother's exaggerated expectations concerning plans to reunite with her children. These unrealistic visions of the future have been linked with later problems in coping and adjustment during parole (Stanton, 1980; Zalba, 1964). Both mothers and their children have been described as undergoing a grief reaction upon the mother's involvement with the criminal justice system. It has been suggested that a mother's ability to effectively resolve the grief associated with this separation is crucial to the outcome of the post-incarcerative reunion (Baunach, 1985).

It has been argued that the recognition and enhancement of the maternal role in correctional policies would tend to promote rehabilitation as well as promote family solidarity (Bonfanti et al, 1971; cited in Calgary Elizabeth Fry Society, 1983). In a

1976 longitudinal study by the Ontario Ministry of Correctional Services, in which 338 women admitted to the Vanier Centre in 1970-71 were studied in order to examine recidivism factors, it was concluded that the strengthening of family relationships may be required to improve a woman's chances of successful rehabilitation. The advisability of developing and maintaining inmate family involvement, wherever possible, by family counselling and the increased provision of opportunities for continued family contact through temporary absences and visits was highlighted. The study strongly advised that the relative benefits and necessity of incarcerating a person should be fully weighed at every a stage of the decision-making process against the costs of family disruption, and that this assessment should be considered in light of the range of community programs available (Lambert & Madden, 1976).

While all of the mothers who were interviewed for this project impressed the author as being truly concerned about their children's welfare, some researchers have suggested that mothers in the correctional system may idealize their maternal roles in order to compensate for the derogation they experience by being cast in the role of criminals (Bonfanti et al., 1974; cited in Stanton, 1980). While studies in the correctional field have consistently revealed the close association between the maternal role and self-esteem, the fact that the expression of concern related to one's children is a highly condoned activity in women's correctional institutions has also been noted.

MacLeod (1986) cautions that while it is tempting to romanticize the mother-child bond, not all incarcerated mothers feel they have a positive relationship with their children, nor do they necessarily have an interest in maintaining contact (it is entirely possible that the voluntary nature of the selection process for this pilot research effectively excluded the input of these mothers). Ross (1980) points out that some mothers may see incarceration as an escape from childcare-related stress. MacLeod (1986) suggests that for these women, an increased emphasis on the mother-child relationship might be experienced as "yet another example of the criminal justice system attempting to assert its power to mould the inmates into roles which the woman rejects."

Significant to this discussion is the degree of receptivity exhibited by female offenders with respect to programming aimed at their childcare concerns (see Chapter 6 on perceived service needs). While no correctional format can be expected to ensure the creation of perfect mothers, especially not in the event of disinterested participants, the rehabilitative potential of mothers, and in turn the future prospects for their families, can only be advanced by correctional programming which attends to the pressing maternal concerns of women.

### **C. Associated Issues of Concern**

While research has documented the trauma generally associated with mother-child separation, there are distinctive

psychological consequences for mothers and their children who are separated because of the mother's criminal involvement. In the following section, some of these unique aspects are reviewed.

(a) **Stigma:**

"My daughter had to quit school. We live in a small town, and everyone knew about the assault. The kids called me a murderer to my daughter's face."

"You need to get lots of help from friends and family. I was so scared to tell them at first but talking really helped. Not every woman here is as lucky to have people that will stand behind them."

"I don't know what's going to happen when I get out. People will look at me differently."

The social stigma attached to criminal activity is considered to be extremely relevant to the issues of family adjustment and social acceptance within the community. Stigma has been defined as a physical, personal, or social attribute the assignment of which involves a judgement by others that the social worth of the individual is less than expected (Mitchell, 1982). It has been suggested that the social stigma of incarceration creates a dimension of demoralization usually not present in other involuntary separations (Cappeller, 1972; cited in Stanton, 1980).

Goffman (1963; cited in Mitchell, 1982) and Brodsky (1975) observed the process by which stigma spreads from the stigmatized individual (in case, the apprehended mother), to her family. Public attitudes of hostility and diminished respect which are initially directed toward inmates are generalized to the larger

family, producing feelings of shame in both the inmate and her family. Fritsch & Burkhead (1981) discovered that imprisonment rarely elicits a sympathetic response from significant others, nor is it the kind of family crisis that brings family members closer together (cited in Calgary Elizabeth Fry Society, 1983).

It is important to note that the stigma experienced by children is often the result of direct contact with correctional authorities: our research findings revealed that children were present in 57% of the cases in which mothers were arrested. As the quotes at the beginning of this chapter reveal, children of offenders have been found to suffer their own feelings of guilt related to their mothers' arrest (Wilmer et al., 1966). This may be accompanied by a rupture in the child's personal relationships with his/her peers, and a loss of self-esteem (Sack et al., 1976; as cited in Fishman, 1983).

In the course of interviews for this project, many mothers revealed feelings of shame and/or embarrassment related to their children's awareness of their criminal involvement. Mothers frequently reflected upon the feelings of isolation that both they and their children experienced in feeling bound by social judgement to keep the cause of the mother's absence secret, even to the extent of lying to relatives.

When asked what responses children provided if asked where their mothers were, the women often said that their children were advised not to speak of their mother's whereabouts, that it was "nobody's business" (as is consistent with other researchers in

the area; for example, see McGowan & Blumenthal, 1978; Stanton, 1980). In only 50% of cases did mothers state that children were told of their mother's criminal involvement (25% of mothers purposefully chose not to disclose, 17.9% of mothers had children who were too young to comprehend this information, and 7.1% of mothers had children who were present at the arrest but had not discussed the event with their children subsequent to the arrest). Of the children who were told, 68.8% of mothers reported that they discussed their legal involvements with them as soon as was possible; 18.8% postponed this discussion due to mother's trepidation, and 12.5% reported that the children had been told by someone other than the mother.

One of the most problematic results observed in relation to this stigmatization process were the cases of incarcerated mothers who felt it necessary to keep the cause of their absence hidden from their children. These mothers typically expressed fear about their children finding out that their mother, their infallible teacher and representative of the world of 'rights' and 'wrongs', had broken the law. Mothers worried about the additional moral implications of lying to their children even though they felt it necessary to do so.

Mothers related stories of telephone calls home to children who expressed their feelings of abandonment, betrayal, and even of fear about their mother's mortality. Researchers have commented upon the psychological consequences for children whose mothers effectively disappear from their lives in the wake of an

arrest. The emotional stress of this experience has been compared to the mourning process associated with the death of a loved one (Schwartz & Weintraub, 1974; Sack et. al. 1976). Unlike death, however, the stigma associated with criminality denies these families the usual social outlets for grieving. (Fishman, 1983).

The extent of powerlessness and helplessness experienced by mothers who are separated from their children is said to be so severe that many women to cut off their emotional ties to their children out of sheer self-preservation (New Zealand, 1989). While some women are over-critical of the care provided by alternate caregivers, other women feel suddenly incapable of evaluating their child's welfare due to their own fears and confusions about themselves as mothers (Zalba, 1964).

**(b) Intergenerational crime:**

"I'm just trying my best to make a better life for my kids so that they won't go through what I am going through. I'm trying to teach them proper values. I just hope they don't get caught up in the criminal stuff like I did."

The suggestion that intergenerational crime exists as a by-product of the mother-child separation that occurs upon maternal incarceration has particular relevance to any discussion of the social costs of incarceration. Significantly, the Solicitor General's needs assessment of the Pine Ridge Correctional facility found that 65% of the women surveyed there had a primary family member in the correctional system (Scott, 1989).

Although the association between delinquency and broken homes is frequently cited to demonstrate the negative long-term effects of mother-child separation, there is as yet no definitive research on the influence of parental criminality on children. While numerous studies of delinquents are said to have consistently revealed a substantial history of deviant or criminal behaviour in the parents, especially in the father (Rutter, 1975; cited in Mitchell, 1982); Stanton (1980) suggests that it is an oversimplification to hold separation from parents responsible for a high rate of delinquency. In this vein, researchers argue that it is the lack of a stable home environment rather than the absence of a parent which is causally related to childhood delinquency (McCord et al., 1959). McCord's findings revealed significantly less juvenile delinquency from broken homes than from intact but volatile and neglectful families. Stanton (1980) concluded that family discord and the distortion of relationships with parents rather than separation predisposes behavioural problems in children.

Consistent with the general tenet of psychoanalytic formulations in which commissions or omissions by mothers are associated with the socialization problems of children, research in the area of intergenerational criminality has been recognized to be heavily morally biased in its equation of maternal absence with future criminality of children (MacLeod, 1986). This bias leads to a distorted view of criminally active women as a greater threat to society than many violent and dangerous male offenders

because women are seen as having greater influence on their children (Gibbs, 1971). This line of research serves to perpetuate the 'myth' of criminality as an individual, inherited deficiency, rather than as the product of the economic and social realities of people's lives.

In fact, while a surprisingly low percentage of mothers interviewed reported to have family members in the criminal justice system (2.7% of mothers had parents involved; 21.6% had siblings); 32.4% of mothers reported to have been involved with The Children's Aid Societies as children. Additionally, 89.7% of mothers reported to be providing financial support to their children before the most recent criminal apprehension with only 17.6% reporting to have been employed (64.7% reported to be receiving some form of social assistance, and 17.6% reported to have resorted to illegal means of support). The influence of drugs on the changing nature of female criminality must also be recognized in a discussion concerning the etiology of crime.

#### **D. Summary**

The etiology of delinquent behaviour is so complex that it would be inaccurate to assail the correctional system's treatment of women on the basis of linkages to the criminal behaviour of the children. A more accurate and equally compelling argument would be to present juvenile delinquency as merely one reflection of the myriad of behavioural and psychological disturbances

associated with children who have been separated from their mothers due to maternal criminal involvement.

Correctional authorities are charged with the duty of protecting the safety of the public, and yet correctional policies continue to place the children of offenders at serious risk. The ways in which childcare concerns are relevant to intra-institutional behaviour and rehabilitative results, issues of highest priority in correctional policy making, have been illustrated herein.

## CHAPTER 5

### THE DILEMMA OF CHILD WELFARE

"My kids' home is the only bit of stability that they have when I go inside. They have their own friends, their toys, familiar surroundings. I can't put them into Children's Aid Society because they'll lose that bit of comfort."

"I didn't want my son to end up in a group home. I've been there- it makes you ignorant and mistrustful. You become afraid to open up your feelings. I didn't even know if I would lose him but it terrified me."

"When I was a kid I had a worker at Children's Aid Society. My mother and I called her for support. When I started having problems with my husband, I contacted Children's Aid Society - I stayed in contact with my worker for two years. We talked about dealing with my anger. She supported me as a mother - she knew I was doing the best I could."

"Why do I still have to fight? I've done my time, and yet the system [Children's Aid Society] is still interfering in my life, my plans to get my life together as it was."

There are three main issues that should be addressed in a discussion of the child welfare system as it pertains to mothers in the criminal justice system, namely:

(A) What is the onus on child welfare authorities to assume involvement in the lives of children separated from their mothers due to maternal criminality? Do child welfare authorities have a responsibility or even a right to become involved?

(B) If the responsibility or right does exist, what constitutes fulfillment of this obligation?

(C) Has this obligation been met to date? If not, what modifications to present practice are necessary?

**A. The Right/Responsibility Underlying Involvement By  
Child Welfare Authorities**

This findings of this report reveal the process by which mothers, who are often the sole caregivers of their children, are routinely separated from their children for a period of days to years.

While a non-interventionist position might assert that the legitimacy of state intervention has been established only for the female offender and not her children when a mother has committed a crime, it is important to recognize that only Ontario, of the ten Canadian provinces, has child welfare legislation pertaining directly to preventive services. (Kendrick, 1990).

An assessment of the role of child welfare authorities toward mothers in the correctional system must begin with an examination of the relevant legislation.

In Canada, child welfare is a provincial matter, with decisions being governed under the applicable statute of each province. The Child and Family Services Act of Ontario, with its two-pronged assessment process for determining whether parental custody rights should be terminated, is typical of other provincial legislation. The legal grounds upon which the child welfare authorities are involved in the protection of children are contained in s.37(2) of this Act.

According to the Child and Family Services Act of Ontario, child welfare agency workers may remove a child from his or her

residence to a safe place if there are reasonable and probable grounds to believe that the child is in need of protection. Section 37(2) of the Child and Family Services Act of Ontario defines these circumstances as being when the child has suffered, or there is a substantial risk that the child will suffer emotionally (as demonstrated by severe anxiety), or depression, withdrawal or self-destructive behaviour, or where the child has been abandoned. Once the child is considered to be "in need of protection," the court will make a determination of the "best interests of the child" as set out in s.1(b) of the Act.

The Child and Family Services Act of Ontario charges child welfare authorities with the responsibility for "the prevention of circumstances requiring the protection of the children." For example, The Children's Aid Society of Metropolitan Toronto has committed itself to assisting parents by developing programs and policies which address the root causes of family problems. According to their Mission Statement, the Society is committed to "developing in partnership with others, prevention programs which encourage healthy, positive relationships between children and their families within the community."

Much of the debate in the area of mothers in conflict with the law and the child welfare system reflects a basic uncertainty surrounding the application of this preventative role to the case of the incarcerated mother. As the research findings on the childcare problems which result when mothers are apprehended clearly reveal, there is a considerable possibility that the

children involved are in need of some form of protective consideration. Since one arm of the state has separated mother and child, should the child welfare authorities be obliged to find a suitable parental substitute in all cases of maternal incarceration? Does the general child welfare obligation to protect children differ when the actions of a branch of the state has left a child with one less custodial parent as compared to when a child is separated in the course of a parent having been found to be unfit to parent? (Higgs, 1985)

These philosophical questions, concerning the nature and the degree of state responsibility to consider the larger familial ramifications of correctional intervention, go to the heart of any discussion concerning mothers in the criminal justice system. While an attempt to reach a conclusion would clearly be outside of the scope of this research, the following section will describe some of the implications of the present child welfare approach to the female offender.

#### **B. The Current Role Assumed By Child Welfare Authorities**

The case of mothers in the criminal justice system has been described as "a unique dilemma" for child welfare staff since in these cases the primary reason for foster care is usually not parental abuse or neglect, but the mother's involuntary absence from the home (Beckerman, 1989).

Although an incarcerative separation leaves mothers dependent on others to arrange for visits with their children, as

well as to ensure that the mothers are adequately involved in case planning and review (Beckerman, 1989), it is not clear to what degree this responsibility must be assumed by child welfare caseworkers. Children's Aid Society authorities consulted for the purposes of this research project confirmed the lack of specific policies or guidelines related to parental criminal justice involvement, apart from the general legislation governing any other placement decision.'

Legal opinion is equivocal on whether the courts require that child welfare authorities demonstrate that adequate assistance was provided to an incarcerated mother before an application for termination of maternal rights might be approved (Higgs, 1985). The absence of the direct provision of legislative criteria affects case determinations which are presently being made within the context of limited case law precedent. The courts are left to decide whether maternal incarceration in itself constitutes parental abandonment and neglect, or even whether criminal behaviour is in itself sufficient evidence of unfitness to justify the termination of maternal rights (Higgs, 1985).

In commenting on the implications of legislation similar to Ontario's, Hatty (1844) asserts that

[t]he potential to find an incarcerated parent unfit, simply by virtue of

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. Consultations for the research were conducted with representatives of the Children's Aid Society of Metropolitan Toronto over the period of November 1990 to May 1991. Input from a wide range of individuals employed in the areas of policy formation, research, supervisory and direct service work were obtained.

incarceration seems to exist in the legislation. While the rights of the child are apparently protected by legislation, this legislation, because it does not deal with the specific problems and type of separation created by incarceration, has the potential to become a tool to discriminate unfairly against an incarcerated parent and thereby to threaten the emotional and physical security of the child (p.19).

Hatty states that while an objective definition of neglect is difficult to establish, in the absence of guidelines, courts may easily be influenced by moral and socio-economic assumptions which equate the commission of a crime by a female offender with the intentional neglect of maternal responsibilities, an equation which has not been supported by research to date.

An incarcerated mother's willingness to maintain regular contact with her children, and to assume childcare responsibilities immediately after release, is evidence in support of a mother's application to maintain legal custody (Higgs, 1985). It is significant that neither correctional nor child welfare authorities are required to help mothers maintain adequate communication with their children or with their alternate caregivers, for example by subsidizing telephone calls home or the transportation costs that accompany institutional visits. As this study reveals, none of the institutions surveyed have unilaterally assumed this responsibility in the absence of policies which require them to do so.

Mothers' opportunities to resume their childcare responsibilities when released may be jeopardized by the "Catch - 22" in which women may find themselves. While released mothers

must prove parental suitability with accommodation before regaining custody of their children, they are often not eligible for financial assistance (mother's allowance) and/or subsidized housing until they have custody of their children (Buss, 1983). Since it has been documented that many women do lose their homes upon incarceration (Gibbs, 1971), it seems that incarcerated mothers face the very real risk of losing custody of their children due to difficulties encountered in the re-establishment of a suitable home environment upon their release.

According to Children's Aid Society sources consulted, in the course of usual Children's Aid Society practice, a mother's incarceration alone is not viewed as sufficient reason for the Children's Aid Society to bring an action for termination of maternal rights. The issue of incarceration is said to be approached by agency workers as a short-term issue of separation between mother and child. The practice of Children's Aid Society placement workers is to approach the issue of permanent care over a broader time period, which in most cases exceeds the short term separation period involved when mothers enter the legal system. It was stated that the likely outcome would be the placement of a the child in the care of appropriate family members so long as they were available for childcaring duties. The obvious noted exception would be the case of a single mother with no such supports.

While it was the expressed intention of this research project to survey Children's Aid Society workers in order to

gain insight into possible factors which might be influencing placement procedures as they apply to mothers in conflict with the law, Children's Aid Society authorities declined participation based on their assertion that a mother's involvement in the criminal justice system does not constitute a common circumstance under which children come into Children's Aid Society care.

Children's Aid Society authorities do acknowledge the importance of gaining a greater understanding into the confluence of the correctional and child welfare systems in terms of the concern about the growing impact of drug abuse on their client population. Both the criminal justice and the child welfare systems are having to confront the rapid deterioration in behaviour that occurs in the case of crack or cocaine usage. The extreme fashion in which drug abuse causes the breakdown of a childcare situation is said to be repeatedly witnessed by child-welfare workers. Many Children's Aid Society workers said that it is often the single mother, for whom no childcare alternatives are available upon incarceration, who is particularly vulnerable to drug-related problems. Children's Aid Society authorities predicted that the present rate of involvement by their workers

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. In a May 11th, 1991 article published in The Globe and Mail, page A1, "Rough Start for Babies of Addicts", Dr. Munina Mulera of the Toronto General Hospital was quoted as saying that an ever-increasing number of women using their facility are pregnant and misusing cocaine or heroine. Marilyn Pearson, supervisor of the Metro Toronto Children's Aid Society's high risk infant program, stated that 20% of the 135 cases referred to the program in 1990 as a result of the parent's abuse of drugs or alcohol.

in criminal justice issues will therefore grow in proportion to the projected number of drug-abuse cases.

**C. Issues of Concern Related to the Present Approach of the Child Welfare Authorities**

**(a) The experiences and impressions of mothers in the criminal justice system reveal their reluctance to involve the child welfare authorities in their lives:**

"I tried to get help from Children's Aid Society before and none was available. Now that I got arrested, they're trying to keep me away from my kids."

"The Children's Aid Society were of no support to me. They told me what I needed to get when I was released - my own place to live, a safe crib for the baby but no one gave me any help in how to do that."

"The Children's Aid Society is only available if your kids are under sixteen years old. My son was sixteen but he was far from being an adult able to live on his own."

"I had my kids for eleven years with no interference. Now that Children's Aid Society is involved, I can't seem to get them back. I'm still the same mother I was in those eleven years. And I involved them voluntarily!"

"The Children's Aid Society worker was not interested in helping me get my kids back, only patrolling me. It didn't feel like the goal was to help us reunite. And then they started looking in my cupboards - it was like being raped."

"When I went to trial for my second time, my old Children's Aid Society reports were used against me in court. No one asked for my consent. No one thought that maybe I had changed since that time. I had quit using drugs. I don't see how I can get help from people who I can't even trust"

"The Children's Aid Society is giving me the runaround because of my criminal record. Because they can't deny me my kids on grounds of physical abuse [no proof], they allege emotional abuse. They [Children's Aid Society] are the ones who are abusing the kids. Kids are bugging to come home and they're being told 'soon, soon,' but it never seems to happen."

"I would never let The Children's Aid Society get involved with me and my baby. I have seen so many kids being taken away from

mothers because they did crime-- they were good mothers at home though."

"Calling the Children's Aid Society is like calling the police."

"I didn't make arrangements for where my kids would go if I got time. I was so out of it all I could think about was dying. The kids never asked where they would go. They told me that they would keep in contact wherever they ended up, and that they would try to keep the baby with them. I was worried for them but I just didn't know what to do. I thought that the baby would be taken away from me if I got The Children's Aid Society involved."

Irrespective of whether it can be justified according to the actual operational practices of the child welfare authorities, the findings in our research, as corroborated by prior research initiatives, reflect a definite negative impression on the part of mothers in the criminal justice system with respect to the child welfare system. The women interviewed were overwhelmingly forceful in stating that it is not in their best interest to appeal to child welfare authorities when they are in need of childcare assistance, and furthermore that little assistance is forthcoming even when the attempt is made.

The Metropolitan Toronto Children's Aid Society authorities did not consider the identification of existing gaps in service between the child welfare and the criminal justice systems to be of sufficient concern to require their participation in this research. Nevertheless, it might seem that the negative perceptions of mothers in the criminal justice system concerning the child welfare assistance that is available to them, irrespective of its validity, would force one to question whether the Children's Aid Society is ultimately being thwarted in its

efforts to safeguard the best interests of children in this client population.

By way of illustration, while the termination of parental rights because of incarceration is not said to be a common practice in the United States, academic sources in that country reveal the large degree to which incarcerated mothers nevertheless remain fearful of losing their children during their incarceration period (McGowan & Blumenthal, 1978; as cited in Mitchell, 1982), a factor which has been associated with maternal reluctance to disclose the whereabouts of their children at the time of arrest, or to admit that they even have children (McGowan & Blumenthal, 1978; as cited in Mitchell, 1982). While the actual incidence of termination of parental rights due to incarceration remains unknown, the many problems faced by incarcerated mothers who attempt to regain custody of their children placed in foster homes has been well documented. (Botler, 1979; cited in Mitchell, 1982). McGowan & Blumenthal's 1978 study discusses the fact that child welfare authorities have adequate power to refuse to return a child for many reasons, none of which would have been sufficient reason to have removed the child from the parent in the first instance.

Children's Aid Society authorities acknowledged that while discussions with apprehended mothers might easily lead one to believe that final decisions and ultimate determinations regarding custody issues are routinely decided over the period of mothers' incarceration, in reality Children's Aid Society

involvement typically precedes incarceration. According to Children's Aid Society sources, however, it is during the incarceration period when mothers often gain the required distance from the distracting influences of their daily lives (for example, drugs) to more fully realize the possible impact of their prior actions on their childcare relationships and to become apprehensive concerning the possible outcome of Children's Aid Society involvement.

Consistent with this dawning realization, according to the Children's Aid Society, is the sudden urgency which incarcerated women often display regarding the care of their children. But because these women show renewed interest in their children, say such experts, it is at this juncture that they may be most amenable to interventions which focus on their childcare concerns. Indeed, the research done for this project confirms this argument (see Chapter 6 on perceived service needs as identified by mothers). In an effort to pave the way towards the emergence of positive interventions, concerns raised in the following section would need to be addressed.

**(b) The reluctance of mothers to involve the child welfare authorities in their lives may be related to the inadequate opportunities afforded to these mothers to fully comprehend and benefit from their legal rights:**

**(i) Access to legal information/advocacy**

"I placed my son with Children's Aid Society and had no problem changing the arrangement when I saw that it wasn't working out. That terrified me - I always thought that Children's Aid Society would take kids forever."

"My husband beat me up and left me and the kids with no food so I took the children to Children's Aid Society and they placed them temporarily until I went to court. I saw them once a week. There was no problem getting the kids back. I had to go through the court process to ensure that I had a good place for them to live."

"I was afraid to contact Children's Aid Society for help but I finally had no choice. My son is now in temporary care now, he's being treated really well, and everything is going much better. I wish I knew that before. I think my son was abused at the place I had to leave him before. He's terrified of showers."

"I trusted the Children's Aid Society like an idiot. I had used them in other cities when I needed help with my kids during post-incarceration. Now I moved to this area, made temporary care arrangements for thirty days and now that I'm out, they're making it seem impossible to get my kids back. I could have gone to family members, but I trusted Children's Aid Society. They don't seem to know anything about women and the law around them."

While the Child and Family Services Act has provision for a temporary care agreement of up to two years time to be negotiated between parents and the child welfare authorities, the fact that mothers in the criminal justice system are ill-informed about such child-welfare policy and programs has been extensively documented.

Researchers have pointed to the problems surrounding the provision of notice to incarcerated mothers in the event of a custody hearing, and the frequency with which mothers involuntarily relinquish their rights as a result of the inadequate provision of legal information (Sametz, 1980; Baunach, 1982). To the author's knowledge, prior to this project, no other research since Zalba (1964) has directly surveyed child welfare workers concerning issues of inter-agency communication as it relates to mothers in the criminal justice system. Zalba

reported that the child welfare workers she surveyed (in California) regarded the opinions and desires of incarcerated mothers as irrelevant to Children's Aid Society planning.

The findings of our research demonstrate both the persistent interest of mothers in their children's welfare and their great need for legal information. This is consistent with the findings of the 1991 report of the Task Force on Federally Incarcerated Women (Creating Choices) in the frequency with which the mothers interviewed who had lost custody of, or access to, their children requested legal advice and advocacy help was shown.

**(ii) Mother-child information/contact over the separation period**

"I wanted my son to visit but his foster parents wouldn't allow it. C.A.S was going to arrange to have a social worker from school bring him up."

"The Children's Aid Society worker would bring the kids to visit once a week to jail. She was always giving me as much information about the kids as I needed. The social worker inside also helped me to arrange visits."

"The problems didn't come from Children's Aid Society, they came from the foster parent. They need to get parents who are willing to deal with the legal issues."

The uncertainties and informational gaps surrounding foster placements may cause mother-child separation in the case of maternal criminal apprehension to be especially traumatic. Baunach (1985) reports that incarcerated mothers of children in foster-care have little knowledge of the whereabouts of their children and so had little continuity of contact. In fact, children's visits with incarcerated mothers were viewed as

beneficial by only 28% of the agency workers surveyed by Zalba (1964). McGowan & Blumenthal (1978) found that in most cases, child welfare workers were described by mothers to have accepted the caretaker's position concerning whether the foster child should visit with their natural mother; in no cases were there efforts made to attempt to help children cope with their feelings related to their mothers incarceration, in spite of the extensive child development literature documenting the need for this type of intervention.

While some mothers are reported to be concerned that they would lose custody of their child permanently over the course of their incarceration period, other mothers express fear that their children will become more emotionally attached to their foster parents. The lack of communication between foster and natural mothers was said to have accounted for tremendous barriers in dealing effectively with the children, and contributed to the mothers' fears about the adequacy of their children's care (Baunach, 1985).

The importance of mother-child visitation cannot be underestimated. In her extensive review of the relevant research on the relationship between patterns of parental visiting of children in foster care, child-parent attachment, and the child's well-being and discharge from care, Hess concluded that research clearly demonstrates the importance of promoting frequent, regular parent-child visiting. Jenkins and Norman (1972) reported a positive relationship between frequency of visitation of

children in foster care and parental satisfaction with the placement, as well as improved parental perceptions of their children's attitudes toward them (as cited in Hess).

While research findings consistently suggest that frequency and quality of access are the best predictors of successful family reunification, the issues are not so clear in the case of long-term care placements (Trocme, Raphael, Cohen, and Munroe Blum, 1991). While Fanshel & Shinn (1978) and Poulin (1985) found that the children in long-term care arrangements had difficulty coping with the two sets of 'parents'; Thoburn (1989) describes two other studies which show that visitation does not cause greater placement disruption, but actually enhanced placement stability (as cited in Trocme, Raphael, et. al., 1991).

The importance of maintaining mother-child contact is clearly important for the success of eventual family reunification. However, the emphasis in child welfare on permanency planning requires child welfare authorities to consider the relative costs to the child of the continued involvement of the biological parent in the child's life. In the case of maternal incarceration, authorities must determine whether the length of separation (i.e. the term of incarceration itself) calls for the children to be permanently removed from their mother's custody.

In other words, if the sentence is long, the child is young, and the parent's criminal conduct is at all causally related to parenting ability, then the state might be obliged to sever

parental rights and place the child in state care. (Hoffman, 1978). However Higgs (1985) illustrates some of the inequities which have occurred in cases in which the courts have failed to adequately consider the earliest release opportunities or the rehabilitative possibilities available to the incarcerated individual.

It may be argued, however, that it is only proper to judge an inmate's parental fitness after first acknowledging the principle of the family's integrity and secondly examining the state's responsibility to support the family unit in troubled circumstances (Higgs, 1985). Thus, if the state deprives a child of parental care because of incarceration, it should assume an obligation to assist inmates in maintaining family ties, meeting their parental responsibilities and minimizing harm to the child. But broader recognition of the parental rights and responsibilities of convicted persons might require a reconsideration of incarceration as the primary means of punishment.

According to the Children's Aid Society authorities contacted in the course of the research, Children's Aid Society policy dictates that (excluding the case of a child for whom Crown wardship is necessary), the goal of the agency is to continue to provide help to the family and to facilitate visitation with the ultimate goal of family reunification.\*

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\* Ontario Association of Children's Aid Societies, "Your C.A.S.: what is it?", pamphlet.

Child welfare policy dictates that the location of where a child in care is placed is determined by the "total needs" of the child. While most children are placed in foster homes or group homes near to their home communities, some children may require placements geared to their special needs.' The Children's Aid Society does not consider the location of the mothers' correctional facility as relevant here, since according to the agency, the current location of the correctional facilities do not necessarily preclude visitation.

In theory, contact between children and incarcerated mothers is encouraged by Children's Aid Society to the same extent as visits with non-incarcerated parents. But the women interviewed for this project found that institutional constraints effectively hamper such continuity of contact (see Chapter 3 - section on mother-child contact). This problem is also documented in the literature reviewed. These constraints may include institutional structures which: (1) require children to visit during regular adult-visiting hours; (2) preclude touch visits by physically separating mothers and children with barriers; (3) lack special childcare facilities (e.g. toys), or even separate child-visiting areas (4) limit written and telephone contact between mothers and their children.

The policies of child welfare agencies often do not anticipate the incarcerated mother's special problems in arranging for visitation. Time spent transporting children to

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\* Ibid.

prisons for visits strains staff time and agencies' resources. Incarcerated mothers are dependent not only caseworkers, but on relatives, caretakers and volunteers to arrange transportation and chaperon their children's visits to the prison. In Zalba's (1964) study, the workers studied reported that there were no agency funds provided for such visits. Children's Aid Society sources consulted revealed that the identical situation exists in this jurisdiction today. In addition, since there are fewer incarcerative placements for women, they often have the additional disadvantage of being located at great distances not only from their children, but from child welfare agencies.

Despite the difficulties involved in arranging a child's visit with an incarcerated mother, the Children's Aid Society has no specific policies to facilitate visitation. While the impression of Children's Aid Society workers is that visitation is difficult to accomplish, no hard data exists on either the nature and scope of the barriers to adequate visitation, or the consequences of decreased contact on the ability of incarcerated mothers to reunite with their children.

#### **D. Summary**

It is clear ...separation from a parent jeopardizes the psychological and emotional development of a child; any state practice, therefore, that invariably separates a child from her parent when the parent is incarcerated and that does not provide for the maintenance of the parent-child relationship during the period of separation undermines the state goal of protecting the best interests of the child. (Yale, 1978)

The heightened receptivity of mothers in the correctional system to childcare issues provides a perfect opportunity for the child welfare authorities to implement programs aimed at helping these women to improve their childcaring skills, along with maintaining the mother-child contact which has been associated with successful post-incarcerative family reunion. Nevertheless, the present reality of child welfare intervention in the case of mothers in the criminal justice system approaches mothers in conflict with the law in a manner which is anything but 'clear.'

The Children's Aid Society need only review the severe psychological consequences that are systematically befalling the children of mothers in the criminal justice system (as included in Chapter 4) to reconsider its responsibility to take affirmative action in fulfillment of its legislative mandate to provide protective and preventative services.

The responsibilities of the child welfare authorities have been outlined, and existing problems in service provision have been reviewed. These issues must be addressed in preparation for the implementation of new intervention strategies which are consistent with the acknowledged child welfare roles of prevention and family reunification.

## CHAPTER 6

### MOTHER'S RECOMMENDATIONS

#### The Perceived Service Needs

##### A. How Mothers View the Correctional System

"We're not leaving our kids - you're taking them from us."

"Mothers shouldn't be taken away unless they are a threat to the children. Need more temporary absence permits or other solutions."

"The government is forgetting the children. They have rights but are being ignored."

"Once you are in the court system, you become really wary of the system. They're conniving to make you say things you don't really want to say."

"This system only looks at the outside of a person, that they're in jail, but not at them as human beings with rights...we still deserve those rights as people, but they're being denied to us."

"I wish that someone would consider what happens to women after they come into the system. I had two convictions in my life, one when I was 16 years old, and this last one when I wrote cheques to get food for my kids. My dream is to go back to work one day. And now that I have a criminal record, and I'm not eligible for a pardon because I offended more than once, I don't know if anyone will hire me because I can't get bonded. I paid restitution but this will always be a strike against me."

"If government would provide more money for women in custody who have no one to depend on, there would be less poverty, crime and homelessness as a result."

"There has to be a greater concern for the fact that I am a woman with a family to take care of. Nobody is there to ask about the kids, to make sure that I know where they are, and that they are safe."

"When the C.R.C. is as far away from my home as is the jail, it's all the same. The problem is identical. I don't have my kids and they don't have me."

"Any new programs need to be run by people outside of the institution. Institutional staff are mostly viewed as a threat, and many of them truly are. They use things against you for emotional blackmail, especially concerning the children. We need outsiders who aren't too involved in the institutional process."

"The problem is that some women will always abuse the system. Women will go on furloughs home in order to use drugs. It's so hard to assess who is worthy."

"The system treats us as if we're all the same. Just because some people screw up is no reason to deprive the rest of us of opportunities that might help us."

"It would be unfair to give mothers an easier time than the rest of the women."

"There should be more attention paid to the racism of these institutions. Black women are not getting the same opportunities for T.A.P.'s and C.R.A.'s as are white women. The same staff members who are making decisions about your life can be heard making racist remarks."

"We're not going to depend on anyone when all this is done. We'll all rebuild our own lives, try to become a family again. You can only ask for help so many times when you keep being turned down."

"There are severe results from this system...women becoming more violent and withdrawn. More and more women are going to jail and not being given a chance at life."

"You can take mom away, but you're not going to separate mothers from their children...but the hatred grows inside of me, inside of my kids."

"Hatred breeds on itself - hatred breeds more hatred"

"Eventually there's going to be an outburst...and all the warning signs are there. Just look around you at the lives we are living here."

"Inmates always lose...get out of the system...think of the kids."

"It's an issue of trust. They're always fighting against us, not with us."

"What we need is an advocate, an independent body with no power over you, someone who could act as an advisor to women when they ran into problems when inside of the system. Someone who we could appeal to who could not use anything against us afterward."

"I needed the system to consider what was happening to my children, and to me as a result of it. Their suffering was my punishment. They weren't supposed to suffer. How is that part of reform?"

## **B. The Types of Assistance that Mothers are Requesting**

### **(a) We need legal information:**

"To break the cycle, we need to start with the system - to tell people where to go to get out of it"

"I grew up so sheltered, so innocent. I knew nothing about the law. We need to have more information in the schools about your rights and how they can be lost when you commit a crime."

### **(b) We need access to the basis necessities of life**

"We need to give people decent places to live with their kids. You can't put everyone on social assistance together - you just destroy people's pride, it creates an underclass of people. I stayed with my abuser because I wouldn't expose my daughter to the needles in the hallways and all of the other horrors that you see in public housing. But then I got caught in the system and almost lost my daughter completely."

"Housing and shelters are only short-term solutions - when time's up, you're at same place you began."

### **(c) We need more support:**

"Support is a really big part of this. If nobody cares, why should you care?"

"Punishment will not solve the problem - the key is emotional support."

"I was terrified. I had no idea what would happen to me after I was caught. I just needed someone to talk to me."

"I need a parole officer who I can relate to - not Yuppie, judgmental - I need support, not criticism."

"I need a parole officer who will understand what it is to struggle. You need support to come to a solution. Someone to channel you in the right way, towards daycare, services,

foodbanks - all of that. I don't need to be questioned 'why' all the time!"

"So many of the staff at the jail just have no idea what it's like to be away from your kids like this. They'll say things when the kids visit that I tried so hard for the kids not to know. Or they threaten to end the visit, and are so cold that it scares the kids. There needs to be more teaching so that the staff will be more sensitive to kids."

"Having my kids taken away was like being chopped up inside. They said I was a bad mother. I needed someone to support me at that time."

"I just needed someone to show me that they still respected me. I was feeling so horrible about myself. I couldn't stand any extra pressure".

**(i) By helping each other--peer support**

"Being in the system is a loner's disease. Women need to be able to talk to each other."

"We need to have women who have been through the system telling other women what services are available to them".

"Women should be helped to help each other. We are already doing that in a small way. It's always family issues which are being discussed. Children are taken away, sexually abused. There have to be outlets for women to talk about these stresses."

**(d) We need more counselling programs**

"My daughter is 26 now, and she's been involved in prostitution, and breaking and entering since she was 15. If I had the proper counselling and proper understanding of my kids' problems, I would have done a better job with them."

"More money needs to be put into counselling. We need more workers, more psychologists. The way it is now, you can only see someone if you're about to commit suicide. Parole officers are overworked - they have no time for you."

"I need help getting counselling for myself. I don't even know where to get it. I need to find out who I am. I've always been with my kids. I need help to see that I can have a life for myself outside of my kids. I get too attached to them. Sometimes I'm just feel like I'm going crazy and I can't tell my kids that."

"There needs to be psychological testing and then help at some point in the court process. A lot of the women need help with their kids."

"I need someone to talk to. There's no psychiatric help inside. The doctors just prescribe medication to the women and they get out more addicted to drugs than when they went in."

"I wish someone had been there to help me with my anger. It just grew inside of me when I was locked up and not told anything about my kids. There are so many problems with my kids at home. I think the whole family could use a psychologist to help us sort out how we feel."

"Maybe someone could help me to understand what I should be saying to my kids."

"I needed someone to help me explain things to the kids-- what to tell and what not to tell. Someone to guide me on how to help them best."

"I need help to reunite with my family when I get out... family counselling - even the shortest separation will cause great family conflict."

"There needs to be more opportunity for gradual entry into the community for women. I'm not sure how I'll do being a full-time mother again. I left my baby when he was so young, we're just starting to get to know each other again."

"There needs to be programming to help families reunite after all this. The bitterness is just so great."

"There need to be more programs for the kids - intensive programs. They've seen so much violence, drugs. They're no good at hiding their feelings now but they need help to identify how they feel and to be able to express their feelings. I'm only just learning that now through doing my rehabilitation program. The kids need their own kind of programming."

"On the outside, you have to get counselling to understand the changes that your kids have gone through. They will probably be angry with you. The last thing they need is more punishment."

"My family has started getting counselling. They're doing well since the psychologist got involved. They're starting to understand what they've been going through."

"Family issues cover a lot of ground. Battering, sexual assault, incest. If the right doors are opened quickly enough, some women may open themselves up - but not in an unhealthy environment. If

family ties were helped to survive, for those women who want it, it would help a lot."

**(e) We need the system to understand what it means to be abused**

"The courts never understand what it meant to be abused by him. I was completely controlled by my husband. He made me feel that I was so worthless. I got in trouble with the law because I thought that I deserved to be punished. My husband now has custody of my kids and I can rarely even see them. The system never seemed to recognize what it was like to live in that hell. It just doesn't seem right."

"I did fraud in order to support my baby. I was on mother's allowance but my boyfriend came taking my money away to pay for his alcohol. The police would come to the house but I would have to protect him or else he'd beat me harder. If only they would have charged him, or if I had somewhere else to go. I thought it was my fault because he told me that it was. The last straw was when he kicked me when I was pregnant."

"I called the Children's Aid Society to try to get some help with money without getting my husband involved. I didn't want him to know where I was because he would come after me again. I knew that the mother's allowance people would go after him for support payments. The first worker I spoke to said that I could have avoided this situation by not having given birth to the baby in the first place. Eventually I got the name of a sympathetic worker who was able to help me."

"We needed a relocation program, something that would have helped me to relocate outside of this area so we could escape my husband's abuse."

"I need someone to help me leave my husband. He keeps on beating me but when I say I'm going to leave he says he'll kill himself. I have one life with him, with no parole, and he is my guard!"

**(f) We need better ways to keep in contact with our kids**

"We needed visits with the kids as a family. Like they have at the Prison for Women, in the trailer. The kids' dad is also doing time. We're going to be together as a family again when we both get out. We need some help to get together".

"We need a proper visiting room for the kids - with toys, books, things that will put the kids at ease."

"If my baby could have slept with me at times, it might have calmed her anxiety."

"When my daughter had to leave me at the jail, she said that she hated me because I told her that she couldn't sleep with me."

"My ex-husband was taking care of the kids and he wouldn't let them come to the phone, or read the letters that I wrote. There needs to be a person who can help arrange phone contact, a mediator to help us stay in contact with the kids."

"I was charged far away from where I lived. I needed someone to look after my kids at the court. It would have made it less scary for all of us. It's too hard to leave them at home in the morning, head off to court, and never come home."

"I needed someone to spend time with my kids. I hated myself every hour of the day when I was on bail. I had always been such a survivor, but now the kids saw me giving up. I just needed time to pull myself together."

"My husband is at home taking care of our five kids. I need someone to take care of the household things. I don't even know if help exists. I was afraid of asking anyone in authority because they might take away my kids even though I don't believe that there is a reason to do so. My husband can't go to work now. He doesn't know the little things like how to feed the kids properly."

**(g) We need more programs, especially those that will listen to the fact that we are mothers:**

"You need to start by changing yourself. Get off of mother's allowance, get employment training. But I have kids to take care of and there's no daycare, no money to do that."

"There needs to be employment projects where moms and kids can go together."

"The common denominator must be something other than crime. The mothers here know that they have something in else in common even if the institution doesn't recognize that. The system needs to encourage that sharing and use it. It will help the women. The institution will see that women will respond more to them because they would be talking about something that we know and care about."

"All the programming revolves around self-awareness, about how you shouldn't have anything else going on in your life except for yourself. Many women are here because they didn't think enough about their kids - that needs to be addressed."

"If you don't have a job waiting for you, you might be denied parole even if your kids are waiting for you at home. We all have our own work to do!"

"You're not encouraged to be with your family - just to get a job, go to school, etc. We need to look at the level of poverty in this country. It's almost impossible for a woman to get a job now, and then there's the problem of daycare."

"The hours at the C.R.C. don't recognize that you're a mother. I have to be home no matter what is happening with my kids."

"We need more women's shelters and beds for abused women. We need to be made to understand that it's okay to go to them, that kids can come and they will be safe."

"There needs to be more prevention and less monitoring - more money for grants to go to school to help people develop."

**(h) We need the agencies that are supposed to be helping us to work better together:**

"The parole papers say to reunite with your family but no help is given to do that. My son got involved with the law when I was inside. I wanted to go to his court date. There was no money available, and no one to help me arrange to go."

"The lines of communication need to be opened up between the institutions, Children's Aid Society, Elizabeth Fry, parole people."

"I needed a home nearby where I was incarcerated where Children's Aid Society would place my kids so I could see them. We lived so far that visits were impossible. My kids had nightmares about what it was like for me inside. Maybe if they could have visited it could have taken care of some of their fears."

"The Children's Aid Society was trying to get my child due to my previous case in which a person was killed. I was arrested when I was pregnant. I agreed to take counselling while I was inside. I wanted to do counselling, and the jail agreed. But the Children's Aid Society that I was dealing with wouldn't arrange with the local Children's Aid Society in the area of the to provide counselling"

"I needed help to get on housing lists from inside. It always takes so long so I wanted to be prepared"

"I need a T.A.P. to arrange welfare otherwise I'll be getting out on a Friday, with no money, nowhere to go - and no possibilities for a cheque."

"I tried to get someone from the detention centre to contact Children's Aid Society because I heard that my daughter was not being treated well. They wouldn't do it."

"My C.O. said that to transfer my kids nearby would take a lot of paperwork, money, and that maybe I would never get them back when I wanted to."

"You can't even get legal aid to fight for custody of your kids when you are inside."

"I'm signing over my mother's allowance cheques to my boyfriend who cashes them to take care of the kids. I can't keep collecting on my cheques while I'm inside but I need that money. I'm in here in the first place for fraud and I'm having to do some more just to get by."

"I was lucky enough to get a T.A.P. but while I was at the residence I couldn't collect mother's allowance. My son was living at home. I still had bills to pay and a house to keep up. To get it back I had to go up before a Board. The whole process was degrading."

"When I was finally released, I couldn't get my mother's allowance back right away. I had to wait until I got the money for first and last month's rent. My son had to stay out of my care until all of these things got arranged."

"I took parole to get my kids back. Parole agreed to my present location, but now The Children's Aid Society is saying it's not suitable for the kids. I can't rent before I know whether I am going to get my kids, and I can't get them back until I rent. I can't get mother's allowance until I have my kids, and without it I can't rent. I never know what I have to do for who. There are just so many hoops to jump through."

"I was recommended three times by a judge for T.A.P., the last one was supposed to be 'immediate.' It was turned down by local jail. I needed to get transferred to this other jail to be near my kids...they wouldn't agree to it because they considered my too large a risk of re-offending."

"I finally got accepted to a drug treatment program, but then my sentence began and I wasn't given a T.A.P. to attend."

"There has to be a greater coordination of the charges. All of my cheques didn't surface by the time I was sentenced. I was on probation when more cheques came up. I was considered to have breached probation, so more time was added to my probation. This happened each time another cheque was found. I'm on probation now for 6 years. I've been to court so many times for this one offence."

It is significant to note that incarcerated individuals are in fact eligible for legal aid in family law matters under the Ontario Legal Aid Plan. An agent of the individual (for example, a friend or relative) would make an application for the incarcerated individual at the "in custody" desk at the legal aid office. While many incarcerated women may not have anyone to perform this task for them, it also appears that mothers in the criminal justice system are not aware that they have this right.

These women show a similar lack of knowledge about social assistance. Some mothers reported to be unaware of their right to have their children continue to collect some portion of the mother's allowance benefits while she was incarcerated. Some mothers chose to avoid official channels for fear of the ramifications. Other mothers continued to collect their mothers allowance cheques while incarcerated because they knew that they could not survive financially if they notified the authorities and the amount of their assistance was reduced. (See Chapter 3 in which reference is made to the additional financial obligations incurred by mothers while incarcerated).

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. In fact, a mother's allowance claim is reduced during an incarceration period as it is assumed that mothers are making financial savings in not having to pay for their own upkeep. If mothers are incarcerated for less than 6 months, the amount is reduced. If the incarceration period exceeds 6 months, then the mother's allowance claim is annulled. Mothers would be expected to make an application upon release, with re-instatement often taking up to a month's time to complete.

**(i) We need more information about social programs:**

"It's a closed-mouth system. In all of the hours that I spent in welfare offices, it wasn't explained that I was entitled to things that I really needed, like a Metropass, or furniture, or a clothing allowance. The workers just aren't there to encourage you or to exchange information."

"I used to think that parenting was giving my kids a clean home, clothes to wear, and food to eat. I now know how much they were suffering inside over the years. I was too young to recognize these things before. Maybe if someone had given me a list of services (food banks, drop-in centres) and support, things would have been different."

"I wanted someone to help me get off the drugs. I didn't know how and I didn't know where to go. The discharge planners weren't any help."

"No referrals were made by Children's Aid other than for parenting problems - there was nothing for me as a separate person."

"It wasn't up to the Children's Aid Society to care about what I had been through when I was a child. I needed a place to talk about some of that."

"My kids had been taken away by Children's Aid Society and I didn't know what to do to get them back. I went to a Family and Child Services Centre to do parenting courses. It took all my courage to walk through that door. No one told me about what I might find there. I thought: I had already lost my kids, I was a failure as a parent, how dare I go!. I don't know if I would have made it through if I hadn't."

"I needed some help from my mother's allowance worker to go back to school, to find out what programs existed."

"The police never gave me information. They made me feel like the villain. I felt like my world was cracking. I didn't know what to do so I just used more drugs and alcohol."

"When I got out last time, I went on an alcohol binge. This time, I was helped to get treatment while I was on bail - the incentive to clean myself up was there. I needed the help to get there."

Mothers in the criminal justice system are aware that they are not being adequately advised about available services. But

even when women are well-informed, they suffer from the current shortage of relevant programs and services.

**(j) We need health care that recognizes the fact that we are women:**

"I am 14 weeks pregnant. I told the institution that I want an abortion. It's one week later and still no word. It's not something that I really want people to know about so I'm not saying much about it. I don't know what to do."

"I know that I should be seeing a doctor but I refuse to let them touch me. The health care is so bad in here that I can't take a chance that they'll do something wrong with my pregnancy."

"We need pre-natal classes."

**(k) We need research to find out what our children need:**

"My daughter came to visit me inside and never said a word about it since."

"I can't say whether it is right to have the kids visit me at jail. We need to ask the kids what they feel would help them - the research should be speaking to the kids."

**C. A Comparison: Mothers' Perceived Service Needs With The Present Status of Institutional Service Provision**

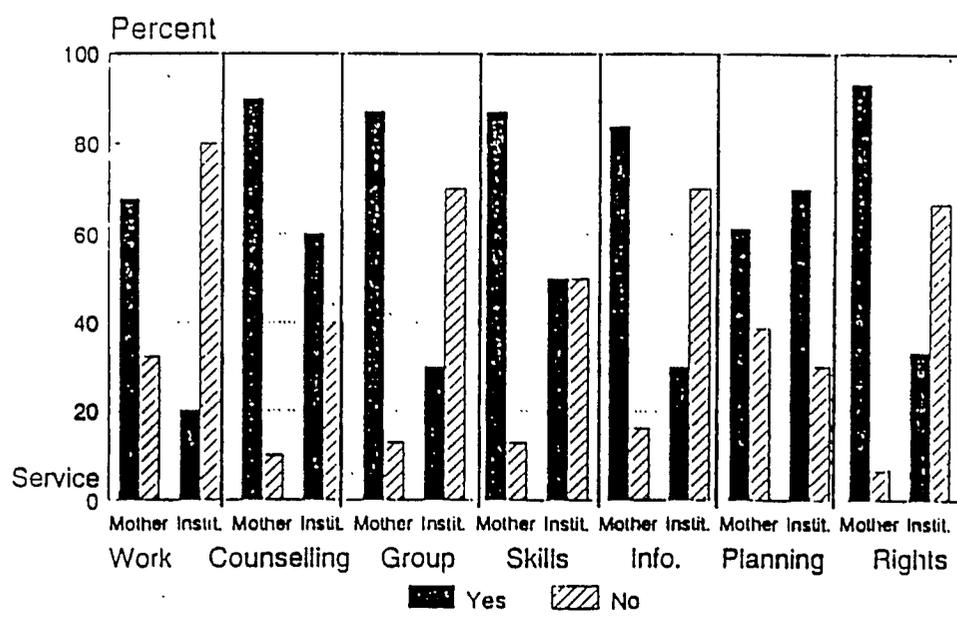
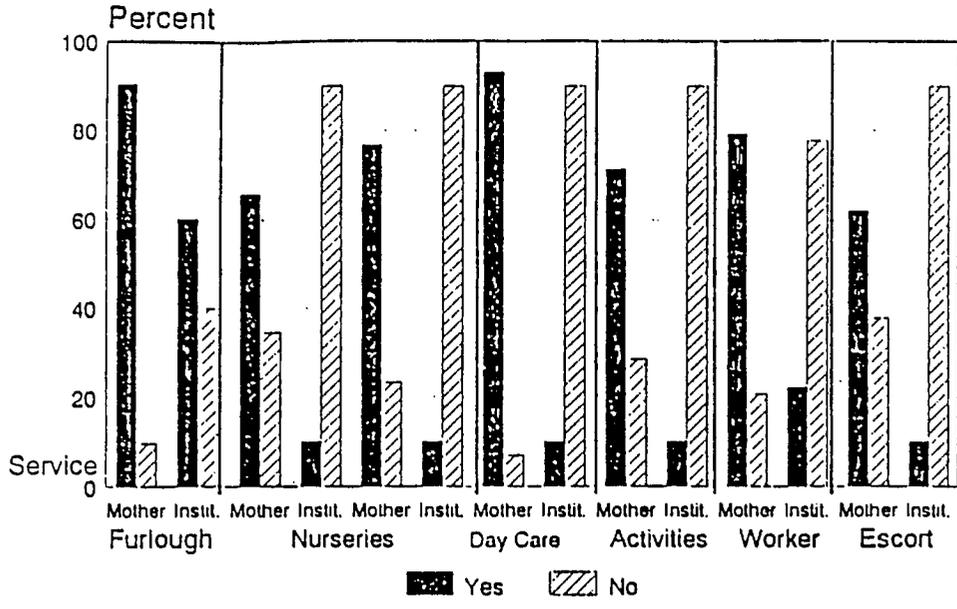
A list of possible intervention approaches was presented to mothers who were interviewed. Mothers were then asked which services they felt would be advantageous to institute. **Diagram 8** on the following page compares the responses made by mothers to the institutions' responses concerning which programs are currently being provided to women. **Appendix 3** also includes a table wherein the group of service providers consulted for this project rate the relative importance of these programs.

## THE LIST OF POTENTIAL SERVICES

(as referred to in Diagram 8)

1. Community facilities for mothers and child(ren) to live
2. Jail Nurseries:
  - a) where children live with mothers
  - b) where children visit overnight
3. Day care centres: area set aside for daytime visits
4. Furloughs home to visit child(ren)
5. Information on child development and psychology
6. Information on family planning
7. Mother's discussion group
8. Opportunities to work in day care centre to gain childcare experience
9. Family counselling
10. Parenting skills class
11. Liaison worker to check regularly on child and inform mother on child's condition
12. Escort to bring child to jail to visit
13. Information on mother's legal rights and responsibilities
14. Planned activities for mothers and children during visits
15. A play area for children

# Perceived Needs Versus Service Provision



**DIAGRAM 8**

## CHAPTER 7

### MODELS OF REFORM

*Are we going to send women back out who haven't recovered from addiction? ...with more problems than have already gotten them into prison?...women aren't born with a gun in their hands...something happened along the way for women to get into that position....if we don't look at what created the crime, what causes the problems that created the crime, we're not doing society or anybody any kind of favor.*

Betsey Smith, quoted by Stein & Mistiaen, 1988.

*All too often the community at large feels well served when criminal activity results in imprisonment. Seldom does the community consider what effect jail terms may have on offenders and their dependents. Under the present penal system, little is done inside jails to bring about rehabilitation or to deter future criminal activity. Consideration must be given to the relative social merit of incarceration when weighed against the serious implications this punishment may have on the children inadvertently involved.*

Ann M. Stanton, When Mothers Go to Jail, 1980.

*If we begin to view women offenders as persons who have made fairly logical responses to situations in their lives - responses which are made on the basis of their own limited experience (which is all any of us can ever do) - rather than as criminals who have deliberately set out to break our laws, we may then achieve a more fair and humane system, a minimal amount of recidivism, and a large reduction in crime.*

Margery L. Velimesis, The Female Offender, 1975.

**A. IT MUST BE RECOGNIZED THAT CHILDREN ARE INDIRECT PARTICIPANTS IN THE LEGAL PROCESS:** Although children do not stand before the courts to receive judgement, this pilot research illustrates the severe outcomes of the correctional process for the children. Preliminary research in the area reveals the degree to which familial concerns impact upon rehabilitation. In accordance with the correctional responsibility to implement policies leading

toward the successful community reintegration of offenders, and the child welfare mandate to effect family reunification; the issues facing children when mothers come into conflict with the law must receive official recognition. It should therefore be incumbent on criminal justice agencies to work collaboratively with human service agencies to minimize the traumatic aspects of correctional intervention on the children.

In order to develop strategies to include the children in correctional planning, it is recommended that official statistics be gathered at the institutional level to accurately assess the numbers of children involved. It should be noted that such statistics are not currently included in the data being collected for the Ontario Ministry of Corrections' computer data system. It is recommended that an appeal be made to the appropriate review committee to remedy this situation.

**B. IT IS RECOMMENDED THAT LEGISLATIVE POLICIES BE TABLED WHICH SPECIFICALLY DELINEATE THE RESPONSIBILITY TO SAFEGUARD THE NEEDS OF CHILDREN:** The ongoing failure to safeguard the rights of children whose mothers come into conflict with the law may be related to a systemic failure to clearly delegate this responsibility to appropriate agents. Policies must be enacted to clearly delineate the nature of the duties expected of each party involved.

It is recommended that communication be undertaken between the correctional and the child welfare system in order to arrive at a division of authority which would prevent the children's interests from disappearing between the cracks of the two

branches of government. One possibility would be to develop a system whereby a specified group of child welfare workers would be responsible for cases involving correctional issues, thus ensuring that they are familiar with the special problems and resources available in this area.

It is recommended that an interagency (Ministry of Correctional Services and Child Welfare) coordinating body be appointed to examine and implement changes to existing policies in order to meet the special needs of this population. **Appendix 5** includes a listing of the provincial contacts for the Associations of Children's Aid Societies across Canada. At the provincial level, consultation should be undertaken with the Children's Services Branch of the Ministry of Community and Social Services which is currently reviewing the models of service delivery under a Strategic Directions Project. The research has discussed the ways in which the Child and Family Services Act of Ontario fails to address the specific needs of mothers in conflict with the law. As this legislation is currently being reviewed for an amendment bill, it is suggested that the needs of this population be specifically addressed in the Act in a similar fashion to those of Young Offenders or the Native population.

The exact procedures by which correctional agents at all levels must consider the welfare of children must be clearly understood. A unified initiative should be embarked upon that would reach all individuals who perform duties which are integral

to the correctional system - police officers, justices of the peace, bail supervisors, institutional administrative and correctional staff, judges (family/criminal), lawyers (family/criminal), parole board adjudicators, parole and probation officers (in both their pre-sentencing and supervision roles); in fact, most of the categories of individuals who were contacted in the course of this pilot research (see Appendix 2 for preliminary research results).

For example, Appendix 6 includes regulations currently being used by the New York City Police Division which outlines the procedures which are expected of police officers in the case of an arrest. Police officers are charged with an affirmative duty to assess which women are in custody of children; the procedures by which an officer must ensure the adequate care of the children are clearly defined. The Ontario and Metropolitan Toronto police forces do not currently follow any childcare guidelines when arresting individuals. It would be necessary to approach the Policing Services Commission in order to remedy this situation. This Appendix also includes model legislation from a New Zealand ministerial inquiry into issues facing mothers in the criminal justice system.

It is recommended that a Sentencing and Corrections Act be drafted which would require the state to assume an affirmative obligation to assist incarcerated persons to meet their parental responsibilities. The act would require the correctional authorities to assist incarcerated mothers to retain contact and

knowledge of issues related to their children. It would be structured to provide protections for the best interests of children.

**C. IT IS RECOMMENDED THAT AN EDUCATIONAL PROCESS BE UNDERTAKEN TO ADVISE CORRECTIONAL AND SOCIAL SERVICE AGENTS ABOUT THE NEEDS OF MOTHERS AND CHILDREN IN THE CRIMINAL JUSTICE SYSTEM:**

This pilot research project is the first step in a larger educational process required before child welfare and correctional agents will more fully comprehend the impact of their actions or non-actions on the welfare of children.

Correctional and social service agents need to be informed about the ramifications of correctional intervention on the lives of children. Social service agents should be explained the process by which supportive services can be provided to clients within the correctional system. For example, written materials should be distributed to social workers about visiting programs at jails and prisons. Additional information and training materials about the special problems of incarcerated mothers and their children should be developed and circulated to social service and correctional staff; these materials should include the psychological effects of the various forms of abuse which many correctional clients have experienced in their lifetimes.

**D. IT IS RECOMMENDED THAT LIAISON WORKERS BE HIRED TO ENSURE THAT THE NEEDS OF THIS POPULATION ARE BEING MET BY THE CORRECTIONAL SYSTEM:**

In addition to requiring all members of the criminal justice system to attend to the child welfare issues that arise within their sphere of influence, it is advisable that additional staff be hired whose jobs will be to safeguard the

welfare of the children throughout mother's involvement in the correctional system.

For example, it is anticipated that the liaison worker will work closely with the police and other correctional personnel to provide the communication that is presently lacking between a mother and her child during the first few hours or days after arrest. This liaison could ensure the placement of the child in a stable, caring environment that meets the mother's wishes and the child's best interests. During detention or incarceration, the liaison could consult with child welfare authorities and assist in the placement of the child near to the institution if at all possible.

Throughout incarceration, a liaison worker could serve as a link between mothers, the institutional staff, and the world outside of the institution. The liaison would attempt to ensure that open communication existed between the various legal and social agencies involved in the lives of mothers and children. For example, the liaison worker will help to educate mothers in their right to assign child support to substitute caregivers, and to receive legal aid and participate in family law matters.

Regular mother-child contact would be facilitated by the liaison worker who would attempt to ensure that telephone calls are being received by children. The liaison could co-ordinate efforts with community agencies to provide escorts to accompany children to the institution in the event of this being required. Just prior to release, this liaison could work with institutional

and parole personnel, as well as welfare and housing authorities to ensure a smooth transition of the mother from the institution to the community and to her children.

The research has highlighted the large degree of mistrust which mothers presently harbor towards a system which they believe has failed them. In order for mothers to fully avail themselves of the services of a liaison worker, it is advised that this individual have an arm's length relationship with the correctional system. Mothers will be more forthcoming with the difficulties which they are experiencing if it is understood that their lives within the institutions will not be adversely affected by their disclosure. In fact, it is suggested that the validity of this theory is borne out by the openness with which the researcher was received by mothers throughout the course of this research project.

Mothers interviewed were concerned about the lack of information about their legal rights as well as available social resources. It is anticipated that the appointment of liaison workers would both serve to educate mothers in what is available to them, and improve the present system of service provision through the coordination of those services presently being provided. It is expected that this process will engender a larger degree of accountability on the part of all parties. It is entirely possible that the reticence which mothers presently display in using child welfare services will be positively addressed with a more open approach to service provision.

**E. IT IS RECOMMENDED THAT THE POLICIES AND PRACTICES SURROUNDING  
CHILDCARE ARRANGEMENTS, VISITATION AND TELEPHONE ACCESS BE  
REVIEWED:** Mothers vividly describe the impediments (at every

stage of the legal process) to maintaining adequate contact with their children. Adequate childcare information and visits with children should not be viewed as a privilege but as a right of the child to continuous adequate contact with the mother. Once children are acknowledged to be indirect participants in the legal process, it will become necessary to provide mothers with improved opportunities to deal with their childcare concerns throughout their criminal justice involvement.

Police will be expected to execute their authority in ways that will better allow mothers to arrange for childcare at the time of arrest, for example by giving advance warning to mothers when possible, and by providing adequate telephone access upon apprehension.

Pre-sentencing reports should be required to more fully address visitation plans by including specific information such as who will provide transportation to children for visits, how often this will occur, on which dates, etc. Difficulties in this area will thereby come to the attention of the liaison worker; funding should be made available to foster parents for transportation costs and for accepting collect calls from parents to their children.

The current sentencing practices whereby sentences are issued and expected to be begun on the same day must be re-

evaluated in terms of the detrimental psychological consequences that result from abrupt mother-child separation.

Institutions should be expected to arrange separate visitation policies for children that include separate visiting areas and hours, touch visits, and staff who are sensitized to childcare issues. The physical structure and climate of the visiting area, disciplinary procedures and other restrictive institutional rules would be required to be modified in order to minimize the negative psychological effects that are associated with mother-child separation.

**F. IT IS RECOMMENDED THAT ADDITIONAL PROGRAMMING OPPORTUNITIES THAT ARE SENSITIVE TO MOTHERHOOD ISSUES BE PROVIDED TO MOTHERS IN THE CRIMINAL JUSTICE SYSTEM BOTH AT THE COMMUNITY AND AT THE INSTITUTIONAL LEVEL: Mothers in the criminal**

justice system lack the programming opportunities which might enable them to better cope with the situational difficulties of their lives and possibly increase the likelihood of accomplishing positive changes. As part of the programs which strengthen the mother-child relationship, consideration needs to be placed on interventions which would meet mothers' own needs (which would in turn assist mothers in their efforts to effectively provide care to their children). This would include greater opportunities for marketable employment training; drug/alcohol abuse treatment, counselling and support programs, and adequate daycare and housing facilities at both the community and institutional level.

It is important to acknowledge that there are governmental initiatives in these areas which are currently underway. The

federal government's National Strategy on Child Care under the auspices of Health and Welfare Canada is intended to recognize the evolving needs of Canadian families by providing new resources and additional flexibility for an expanded childcare system. One important component of the strategy is the Child Care Initiatives Fund which is reputed to be an essential mechanism for encouraging the development of flexible and innovative services to improve childcare in Canada. Applications for funding are being widely encouraged under this initiative. **Appendix 7** contains a listing of regional consultants for this program.

At the provincial level, the Ministry of Community Resources and Social Services has been investigating the effectiveness of primary prevention for children over the last ten years. The research culminated in the "Better Beginnings, Better Futures" project for which \$3.2 million dollars has been allocated to fund services which would (1) reduce the incidence of preventable serious, long-term emotional and behavioural problems in children; (2) promote the optimal emotional, behavioral, social, physical, and cognitive development in children at highest risk for these problems; and (3) strengthen the ability of communities to respond effectively to the social and economic needs of families.

Significantly, the research that formed the basis of the ministerial program identified parental criminality as one of the key factors placing a child at high risk. Consultations with representatives of this project revealed a large degree of

interest in programs which might serve the childcare needs of this population of children which are recognized to presently be at risk.

**G. IT IS RECOMMENDED THAT CONSIDERATION BE GIVEN TO THE VARIETY OF ALTERNATE INSTITUTIONAL MODELS AVAILABLE TO RESPOND TO THE NEEDS OF MOTHERS AND CHILDREN IN THE CRIMINAL JUSTICE SYSTEM:** There are currently three alternate institutional models in use which aim to address the childcare needs of mothers in conflict with the law: nurseries for newborns, day programs with extended visiting privileges (which may include overnight visits for children), and child development and parenting programs. In the community, closer mother-child contact has also been maintained by foster-care placement programs which build upon an ethic of co-operation between incarcerated mothers, institutional staff, childcare caseworkers and foster parents to place children in foster homes near the institutions. Conceptually, these programs uniformly recognize the importance of bond maintenance for incarcerated mothers and their children. They underscore the importance of enhancing parental responsibility prior to release.'

In Canada, the alternate childcare initiatives currently in operation at the Twin Maples Program (Burnaby Correctional

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\* A full description of the alternate programs that currently serve mothers and children in the criminal system exceeded the scope of this pilot research project. For an extensive review of the programs in this area, please refer to Karen Cannings' 1990 publication Bridging the Gap: Programs and Services to Facilitate Contact between Inmate Parents and Their Children.

Centre, B.C.) and the Portage Correctional Institution (Manitoba) began in 1973 and 1980 respectively. However, there has been virtually no empirical research that examines the relative results that have been achieved from these alternate institutional designs.

Self-reports from the two Canadian facilities describe their childcare programs as being 'hugely successful'. The description of the Infant and Child Program at Portage asserts that: "Not only have mothers benefitted, so has the institution as a whole. The presence of babies and young children leads to a softening and calming influence on the prison environment and is seen as having a positive effect on residents' morale." It is reported that of the 77 participants who attended the Twin Maples Program since its inception, two babies were placed with the Ministry of Social Services and Housing due to the mother's transfer to more secure facilities, one mother walked away from the facility with her child, and one mother left while leaving her child behind.

The only academic research known to the author which measures the impact of children in prison on institutional life was conducted by Janette Hartz-Karp (1983) in Western Australia. Her general conclusion is that overall, infants have a positive impact on prison life, muting some of the more debilitating effects of institutionalization.

Hartz-Karp's findings reveal that for many of the prisoners, infants in prison were experienced as a welcome diversion from institutional routine and boredom. Most of the prisoners

interviewed said that simply seeing the baby in prison reminded them of the larger world outside of the institution and provided them with a focal point outside their immediate anxieties. Infants appeared to mute the harshness of institutional life; when the baby was present, prisoners reported that they unilaterally took the initiative to avoid precipitous situations. The only misgiving expressed by some prisoners related to the injustice of allowing only some mothers to keep their babies with them in prison. However, Hartz-Karp associated these concerns with a lack of information concerning the rules surrounding eligibility of infants to the program.

Hartz-Karp described the general response of prison officers as that of toleration; in some instances "whole-hearted approval," in others, a "fatalistic acceptance of a foregone conclusion." Those prison staff who supported the program often described it as benefitting the individuals concerned, the prison community and/or society in general. Advantages cited included those of improved opportunities for mothers to bond with their children and to realize and attend to their own responsibilities. Also mentioned were the mellowing influence of babies on the prison community and the possibilities for an improved public image in which a prison would be viewed as a "humane rather than debilitating environment."

Members of the prison staff commented that the program had provided them with important insight into some of the prisoners' positive traits that might otherwise have gone unrecognized.

Those prison officers who supported the program were also of the opinion that infants in prison caused few problems and no significant additional staff work load. The major concern expressed by prison staff was that some prisoner mothers 'used' their infants as a way of 'manipulating' the prison system to accrue as many benefits as possible.

Alternate programs raise important questions related to eligibility criteria, and the suggested programming models for institutional and aftercare follow-up. Once children are acknowledged as indirect participants in the correctional process, there will be an affirmative duty on the correctional system to provide the children with an adequate environment for self-development.

According to existing alternate institutional approaches, integration of mothers and babies within the general prison community varies from total separation of the infant; to gradual access into the prison community; to total integration of mother and infant within the general prison community. It is recommended that facilities for children in prison should approximate free world conditions. They must afford accessibility to community facilities and contact, and provide educational and vocational programs for mothers, and access to day care or play groups for children.

The negligence to provide aftercare services effectively releases mothers without support into social conditions similar to those which supported their criminal involvement in the first

place. To enhance the rehabilitative potential of mothers, it will be necessary to implement follow-up programming for mothers who are released to facilitate their reintegration to the community. While there are a few community service agencies that attempt to help former inmates adjust to the community after incarceration, these agencies receive little public funding and so their services are provided to only a small proportion of the women in need, and rarely are they provided to the children.

Alternate institutional models also differ with respect to their eligibility criteria. Some facilities cater only to infants born to incarcerated women and offer temporary placement for the child until alternative arrangements can be made. Others look after prisoners' children up to the age of six but are most often limited to children under the age of two. It is advised that flexibility be used in the drafting of mother-child criteria for admission to these programs. It should be remembered that the very first child in the Portage Correctional Program was born to a woman who had been sentenced to a violent crime, and whose previous children had been taken into permanent custody.

Admission restrictions are a problematic area for discussion. As the literature on bonding illustrates, there is no "magic age" at which mother-child bonding is no longer important or necessary. Creating arbitrary age demarcations for infants is inappropriate given the aims of programs to maintain family ties, enhance the physical and mental health of the child and reduce recidivism by reintegrating the prisoner into the

community. Limitations on mother-child institutional programs may point to a basic incoherence in correctional policies which end up institutionalizing children in order to impose incarcerative sentences on mothers who arguably would derive greater benefit from community alternatives.

**H. IT IS RECOMMENDED THAT INCARCERATIVE SENTENCES SHOULD BE USED ONLY AS A LAST RESORT:**

*A hallmark of the carceral society is that its members find it difficult to conceive of a penal system lacking imprisonment as the ultimate backup to every type of penalty.*

Pat Carlen, Alternatives to Women's Prisons, 1990.

Hartz-Karp (1983) cautions that

Although mother/infant prison programmes have generally been seen as humanitarian in nature, repercussions may be less than clement. For example, the mother or would-be mother offender may be sentenced to imprisonment on the grounds that mother and baby need not be separated whereas an alternative to imprisonment may have been chosen if such prison facilities had not been available (p.175).

For example, Hartz-Karp reports that an aboriginal woman was sentenced to prison in Australia in 1981 on the strength of the prosecution's case that imprisonment imposed no great hardship as the woman could keep her child with her in prison. In the end, however, the mother was not allowed to retain her child as the infant was considered ineligible to enter into the prison program.

The first principle of the Goal Statement of the Ontario Ministry of Correctional Services provides that correctional programs should be community-based wherever practical. In his

1980 report prepared for the Ontario Ministry of Correctional Services of Ontario, Robert Ross states that:

One might justifiably ask whether if the female offender can be adequately supervised with her children ...on institutional property, why she could not have been more appropriately housed in a community residential center in the first place without the necessity of incarceration, or whether it might not be better to parole her to such a center when it is determined that she does not require institutional care (p.67).

As the preliminary data from residential supervisors reveals (Appendix 2), there is currently a pronounced shortage of residential facilities that are available to house children with their mothers who are in conflict with the law. The residences that currently are accepting women and their children are primarily community-based residences intended for specific non-offender target groups (for example, transition houses for battered women, drug and alcohol treatment centres and general residential facilities run by religious organizations); offenders are only accepted on a sporadic, short-term basis.

Linda MacLeod (1986) suggests that the shortage of residential facilities may be threatening the exploration of sentencing alternatives while compromising the effectiveness of existent alternate institutional models i.e. by enforcing a post-incarcerative mother-child separation after-the-fact in cases in which mothers are not released directly from the institutions to the community.

It is recommended that additional community residences for mothers and their children be established to enable the

correctional system to honour its commitments to community-based programming specifically as it relates to mother- and children in the criminal justice system.

**I. IT IS RECOMMENDED THAT FURTHER RESEARCH BE UNDERTAKEN TO EXAMINE THE ISSUES THAT AFFECT MOTHERS AND CHILDREN IN THE CRIMINAL JUSTICE SYSTEM:** The existing alternate programs should be studied in order to gain a more complete understanding of the variations in program design. In preparation for the implementation of changes to the current institutional design, it is recommended that additional research be undertaken to answer the following questions:

When was the program created? Who initiated program and why? Were residents involved in the development of program? What obstacles, if any, were encountered in the development and implementation of the program, and how were they overcome? What is the current purpose of the program? Has the purpose changed since the program's inception? How does the program work? Are there any current problems in maintaining the program? What proportion of the resident population participates in the program at any one time? What proportion of these residents are non-mothers (if any)? How do residents perceive the program? Do non-mothers resent the intrusion of other women's children on their privacy? Or do they become involved with the children and enjoy the interaction? Does the addition of children create security problems? How safe are children be in the prison environment?

With already overcrowded prisons, where do the children sleep? Do mothers and children have any privacy? Who pays for the room and board of the child-- the state or the mother? Where do the children attend school? How are adequate medical and dental care assured for them? What is the upper age limit for children of each sex to live in prison? How long are they allowed to stay in the prison? What happens if both mothers and father are incarcerated?

What impacts does the prison environment have on children's psychological and moral development? How do these children view authority? Are children maintaining healthy relationships with other family members and peers on the outside when prisons are far from home? How would children view life in prison? Are mothers able to handle institutional demands and stresses while simultaneously attempting to raise a child?

(Baunach, 1985).

Other recommendations for future research would include the direct interviewing of children whose mothers were involved with the criminal justice system in order to assess the child's perspective on positive strategies of intervention. It is also recommended that the initial findings related to the 12 categories of service providers (as included in Appendix 2) be expanded to include a wider sample of research participants, and that the child welfare authorities be involved to order to assess the issues as they pertain to child welfare caseworkers and foster parents.

## CHAPTER 8

### THE CONCLUSION

The words spoken by mothers throughout the course of this project reveal the varied nature of their experiences in the criminal justice system. Generalizations such as it is always in the best interest of mothers and children to be kept together, or that mothers justifiably lose all of their parental right upon the commission of a crime are meaningless. A prescription for one formula of intervention is overly simplistic. The recent concentration on the "bonding needs" of newborn children to the exclusion of other interventions has been called the 'epoxy' theory of attachment; the inference that miraculous results will occur if mothers and infants are allowed to bond together for a certain amount of time has been associated with an extreme fragmentation of service provision.

In consideration of the findings revealed in this pilot research, the strong indication exists that the policies and procedures presently operative at all levels of the correctional system are not adequately meeting the needs of mothers and their children. The hardships presently experienced by thousands of children whose mothers come into conflict with the law necessitate that additional attention be accorded to the familial responsibilities of mothers who enter the criminal justice system.

Between the combined mandates of the child welfare authorities in prevention and family reunification, and the correctional emphasis on rehabilitation, sufficient legislative authority exists to focus attention on the needs of this group of women and children. In order to improve the position of mothers, the correctional emphasis on rehabilitation must be approached within an expanded time continuum: assistance must be provided to mothers before, during, and after they become involved in the correctional system.

The fact that many of these children may have been subjected to a variety of hardships even before their mothers came into conflict with the law is even more proof of the need to intervene when the opportunity presents itself. According to the receptivity displayed by mothers in the course of interviews for this project, the period of mother's involvement in the legal system appears to be ideally suited to remedial intervention approaches. Enough is now known about the risk factors that foretell a myriad of damaging outcomes in the lives of these children to require that appropriate action be undertaken. It is, after all, a motherhood issue.

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