The Jettisoning of Juvenile Justice?
The Story of K

BY KIM PATE

Dans cet article l'auteure s'inquiète du nombre grandissant de jeunes femmes qui se retrouvent dans les prisons fédérales et provinciales pour adultes et surtout de la nouvelle législation envers les jeunes contrevenants.

As we close this year, we await the report to Parliament by the Standing Committee on Justice and Human Rights, regarding Bill C-3, the proposed new juvenile justice legislation, the *Youth Criminal Justice Act*. The Canadian Association of Elizabeth Fry Societies (CAEFS) presented to the Committee in February 2000. While there are some significant positive improvements in the new legislation, CAEFS is extremely concerned about the lack of resources for the implementation of same. Unless community based services are encouraged with the enhancement of resources, the progressive elements of the legislation run the risk of being scuttled in the same manner as were those of the *Young Offenders Act*.

In addition, the increasing numbers of younger women in the provincial and federal prison systems are of particular concern to CAEFS. Unfortunately, unless the Minister resists the calls for more punitive and regressive scapegoating of Canadian youth, and, instead, embarks upon a public education campaign to inform Canadians about the excessive penalizing and incarcerating of youth in Canada, we are not likely to see much change in the current slide away from justice for young people.

In an effort to encourage the Parliamentary Standing Committee to seriously examine the disastrous impact and untold human costs of jettisoning more young people into the adult system, CAEFS facilitated a presentation by a young woman who had first-hand experience in, and with, the system. A summary of her story follows:

A young woman's nightmare: K's story

K is a young Aboriginal woman from Manitoba—the province that has the highest rate of transferring young people from the juvenile into the adult system. K was arrested when she was 16 years old. She was driving in a car from which a young man shot another youth. She was taken into custody and immediately sent to the Portage Jail, a provincial jail for women. As a result of her age, as well as the high profile nature of her case in the province, K was segregated in one of the worst segregation units in the country for almost the entire time that she was remanded in custody awaiting her transfer hearing.

K was initially charged with first degree murder. It is common that the police usually charge with the most serious offence supported by their version of the facts, those young people who they wish to see transferred up to the ordinary or adult court. Evidence that is presented at a transfer hearing is not subject to the same rigorous examination as when it is raised at trial. K was transferred up essentially on the basis of that charge. She was one of seven youth who were involved, and, ultimately, the only young woman charged. Two young men were also charged and the remaining four youth gave evidence against their "friends" in exchange for their freedom.

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Once K was transferred to the adult court, the Crown Prosecutor immediately offered her a deal: a recommendation for three to four years in prison if she entered a guilty plea to a reduced charge of manslaughter. As is too often the case, although K's lawyer felt that she had a chance of acquittal, she was not willing to risk going to trial on the first degree murder charge because of the potential that she might end up convicted and therefore subject to a mandatory minimum sentence of life in prison with no parole eligibility for 25 years.

K consequently pleaded guilty and was convicted of manslaughter. Although the Crown argued that K should be sentenced to three to four years in prison, the judge decided to give her a sentence of one year. When K realized this meant she would have to return to the same prison in which she had spent the previous two years of remand, her lawyer was instructed to try and get her sent elsewhere. The result was a request for a prison sentence of two years so that she might be incarcerated in the new regional women's prison in Edmonton or the Okimaw Ohci Healing Lodge for Aboriginal women prisoners.

Unfortunately, the Correctional Service of Canada (CSC) classified K as a maximum security prisoner and shipped her off to the segregated maximum security unit in the Saskatchewan Penitentiary. I met K there, just after she had tried , for the second time, to kill herself. She was

18 years old. She was later transferred to the Regional Psychiatric Centre. CSC staff also recommended that she be detained in prison until the expiration of her warrant of committal thereto.

When K's grandfather died, her request for a compassionate temporary absence pass to allow her to attend his funeral was denied. When a Winnipeg police officer exaggerated and misstated the reality of the risk posed by K, CSC and the Solicitor General refused to allow her to pay her respects to the man who had raised her and whom she had known more as a father than as a grandfather.

At the age of 19 years, K was released on statutory release. Although her grandmother requested that K be permitted to live with her, CSC chose instead to force her to go to a men's halfway house. K was the only woman in the house and she became to focal point of more than one resident's advances. Consequently, it was not surprising that she tried to use any means available to avoid being at the house. As a result, she was deemed to have breached the conditions of her parole and was twice put back into the Portage jail.

When K's two-year jail sentence expired, she was still not free to move on with her life. She is now subject to a sentence which we consider excessive. When her prison sentence expired, K commenced three years of probation, the conditions of which are more stringent than her parole conditions. In addition to a 7:00 p.m. to 7:00 a.m. curfew, she has to complete 400 hours of community service work. These conditions preclude her being able to continue the work she was doing in the evenings while on parole—which means she cannot afford to support herself—nor is she able to continue in her educational endeavours. After spending time at her mother's beyond her curfew, as well as because of difficulties she is experiencing in trying to complete her community service work hours, K has also now been charged with breaches of her probation order.

As K has so articulately challenged us and the members of the Parliamentary Standing Committee on Justice and Human Rights, where does she go for help and support now? K was in the care of the child welfare authorities at the time of her arrest. The State were therefore her "parents." Five years later, however, at the age of 21 years, K is "released to freedom" without resources or familial support. She feels beaten down by the system. K learned to slash and self-medicate as a means of coping with life in prison. It is all she has left when she is overcome by the bleak reality of her life—no family, no money, and no job. But, when she finds she cannot cope and fails to adhere to all of her conditions of probation, quick action is taken to charge and jail her. Where is the justice in this? And, who should be held responsible?

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