

# FIRST READING

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Edmonton Social Planning Council

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## Behind the Bars



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# LIFE AFTER LIFE

## ...PRISON NEVER LETS GO

By Brian Stewart

One of the questions posed to me, in light of my extensive involvement with the judicial system was, "Does the prison system help to reform people?" It does, they can and they often do, although to even ask the question indicates the success rate is fairly dismal.

The second part of that question was, "What does it do if it does not reform?" Such a wide and varied spectrum this raises. The system can produce such monsters as splash our front pages daily. The child killers, the rapists, the armed robbers, the drug addicts, but most of all the victims - victims of conditioning, victims of victims.

Corrections Canada is home to some of the most notorious perpetrators of crime in Canadian history. Many of these infamous beings peaked their careers after a horrid existence as victims. Victims of an upbringing riddled with contradictions on socially acceptable values. Victims of a backward, cold and cruel penal system charged with control of a person in some cases from birth to death. Victims of their own ignorance and the ignorance of those deemed to be professionals in the criminal justice system.

My exposure to the system came sometime during grade two at the age of eight. After considerable brushes with the police my behavior was brought to the attention of the family courts. The decision of the court was that a stay in the juvenile detention centre just may be the scare that would help me change my ways. What it succeeded in doing was

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instilling in me the security of having a warm bed to sleep in, three good meals daily and a full day of socializing with 20 or 30 kids in the same sort of circumstances.

Upon reflection, it is frightening to think that at the age of eight not only do you have a child who has been exposed to surviving by his wiles for weeks at a time living unsupervised and unrestrained in the big city, but you also have him surrounded by 20 or 30 others with shared experiences. The social value of respect for others and their property has long ago been replaced with the reality of feeding a hungry belly. The juvenile detention centre became a learning centre for ways to achieve independence.

After a brief but rapid trip through the revolving juvenile detention door came the slower moving provincial system. Training schools shout at me, with their abundance of land and buildings containing a lost army of youthful minds, molded and shaped by people who long ago adopted the understanding that normal acceptable values work in the real world but not in this world of juvenile delinquents. The values that allowed them to maintain control were those that reinforced brutality.

Like little Nazis we were brain-washed with violence and threats

to not only obey the rules but to enforce the rules amongst ourselves. The punishment to those who strayed or breached any rules ranged from having a blanket thrown over your head as you slept and being beaten with socks containing bars of soap to an unending role of being ostracized from all events and func-



*Brian Stewart marked his second anniversary out of prison by continuing his job search. Photo by Sheila Kushniruk.*

tions. It isn't hard to imagine an eight, 10 or 12 year old discarded from society and now discarded from his or her surrogate system.

There has been a tremendous amount of sensational headlines regarding the abuse of young people in these institutions. A docu-drama recently aired and received much feedback including a black-out in Ontario and Quebec. Everyday people were astounded and shocked by the revelation of some of the treatment meted out to these children.

If juvey centre was a place of learning independence then training school was a college of hard knocks and viciousness. The values instilled by both staff and residents in no way prepared these young people for a socially acceptable role in the community. For most the lessons only served to reinforce an ability to co-exist and function in an institutional setting surrounded with like minded peers and other examples of deviant behavior.

It never ceased to amaze me that even 20 years later I could walk into any prison in Canada and find people there that I had shared time and experiences with way back when we were wards of the government. The tales of tragedy demonstrated by years of continuous incarceration testify to the weakness of an overburdened, misdirected system.

The transition from youth to adult in most cases realized only a continuation of petty criminal behavior. Now instead of juvey hall or training school the rehab process was handed to the prison system. Angry men, cold eyes, the constant slam of steel barred doors and tall chain link fences topped with rolls of razor wire symbolized more the need to maintain security than to be a place of rehabilitation. For those living the experience it became a learning ground not much different than the systems before it. Punishments for breaching etiquette or contravening the code of honor were

### Percent of Charges for Criminal Activities Edmonton, 1991



From: *Confronting Youth Crime in Edmonton*, The Edmonton Police Service, July 1992

swifter and far more devastating. Steel bars and homemade knives replaced soap in the sock. The lines of survival came sharply into focus. Be the predator or be the prey. Those with much experience with the systems generally maintained the rank of convict. Those with little or no experience either became vicious very quickly or victims. The mental attitude needed to survive in these hell holes came easily. Violence became a socially acceptable means of settlement and in different cliques it was encouraged and praised. Time was only a measurement until release. Release to return from where you came, release to ply a trade refined and honed while incarcerated.

The wheels of justice do not turn swiftly but grind away persistently. For many it is time that grinds away steadily. Times of complete isolation laying naked and shivering in a cube bereft of all except an overhead light bulb protected with a steel cage. Times of sucking fresh air through tubes made of newspaper stuck out barred and steel plated windows desperately trying to escape from the continuous bombardment of tear gas. Times when the flash of a homemade knife was your only guarantee of survival. As gallant and courageous as we can be

as a people time will always be the victor as it slowly and steadily grinds away. Each will resist the advancement but all will come to the point of self questioning. For some, as it was with me, the point will become as sharp as a flash of lightning. A blinding light that bellows "Wake up! There must be more to life than what you have experienced. There has to be more than what is going on behind the security fences and steel bars." For others it is a point where they care not to look.

*To be continued in the next issue of First Reading.*

*Part two of this article will look at programs that work and actually help a recovering person to assimilate back into the community. Experience has assisted others to communicate on a direct level and that may be one of the keys to unlocking the revolving doors.*

*Brian Stewart is serving a life sentence and is now on parole.*

# Criminal justice process failing ...time for prevention

By Howard  
Sapers

Our technical/legal/adversarial/impersonal criminal justice process is unequal to the task of repairing the harm done by crime. By its very tradition, our current dispassionate process discounts the emotional needs of crime victims and survivors and treats a visceral experience as an intellectual one. All of the \$7.7 billion currently spent on criminal justice and corrections in Canada are fundamentally at odds with either preventing crime in the first instance or restoring harmony after a breach: we focus on blaming, catching and punishing; we invalidate victims by considering their losses to be losses suffered by the state; we wait until a crime occurs before we take any action. Almost every actor on the criminal justice stage is paid to react to crime, not to prevent or anticipate it.

We need to view crime not solely as a violation of law but as a gap in the social fabric of our communities. It is time we turned our attention away from reacting to crime and towards preventing crime. One way to prevent crime is to focus on building communities and on emphasizing the health, safety and success of all community members. Some crime will always exist and therefore some mechanisms of social control will always be necessary. Social programs need to recognize this reality and insure that prevention is a component of all initiatives. Preventing crime through social development offers the best hope for the maintenance of law and order.

In the words of Jane Jacobs: "Deep and complicated social ills must lie behind delinquency and crime in suburbs and towns as well as great cities... It is suffi-

cient, at this point, to say that if we are to maintain a city society that can diagnose and keep abreast of the deeper social problems, the starting point must be, in any case, to strengthen whatever workable forces for maintaining safety and civilization do exist - in the cities we do have. To build city districts that are custom made for easy crime is idiotic. Yet that is what we do.

"The first thing to understand is that the public peace, the sidewalk and street peace, of cities is not kept primarily by the police, necessary as police are. It is kept primarily by an intricate, almost unconscious, network of voluntary controls and standards among the people themselves. No amount of police can enforce civilization where the normal, casual enforcement of it has broken down." (Jane Jacobs, *The Death and Life of Great American Cities*)

When social controls fail and crimes are committed, our attention must be directed towards resolving conflicts, repairing harm and restoring peace and harmony. This restorative approach to justice is not a rose-coloured dream, it is an important component of living together in a safe and healthy society.

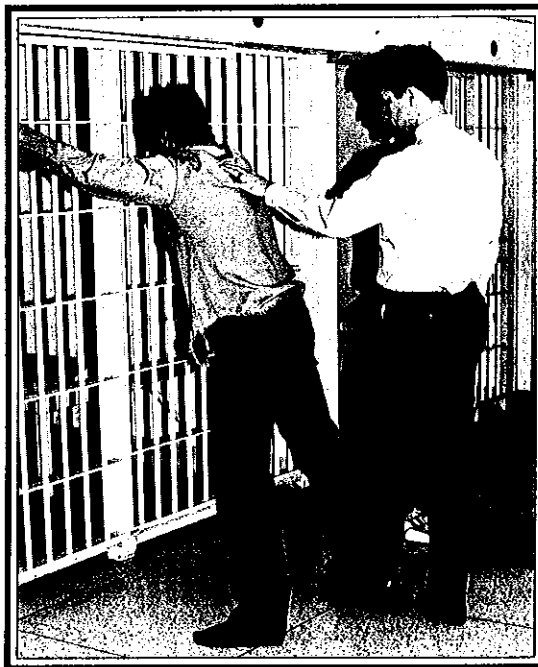
The restorative approach to justice starts with the assumption that the current retributive approach is seriously flawed. Retribution relies upon punishment while restoration places emphasis on reconciliation. The imposition of a punishment is justified as a deterrent and as a meaningful consequence. However, penologists agree that the deterrent effect of court-ordered punishment is minimal at best

and offenders often accept punishment as little more than a disruption in their criminal lifestyles and hardly ever as the impetus for change. In addition, the delays, inequities and legal manoeuvring which characterize our current system make it unable to respond appropriately with swiftness and certainty.

Crime is not impersonal. There is really no such thing as 'victimless' crime and even crimes against property cost someone something. All crime violates our collective sense of security. This sense of security, while held collectively, needs to be restored individually. Our current system ignores this and provides little opportunity for offenders to take responsibility for their behavior and recognize the harm they have done. Even less opportunity exists for the expression of remorse and attempts at reconciliation or forgiveness. When crime is considered an offence against the "state" then the "state" replaces people as the focus of justice. "State justice" does not allow for personal expressions of remorse or responsibility nor does it offer opportunity for reparation.

Community efforts aimed at reconciliation must be given legitimacy by the official criminal justice system. Justice must be increasingly defined by the development of relationships and the outcome of problem-solving actions and less by the imposition of rules and process and the establishment of winners and losers. Crime should not be viewed as a contest between heroes and villains but rather as the by-product of a complex set

of social interactions that have gone wrong. Restorative justice places value on mutuality, not competitiveness. Dialogue and negotiation are the hallmarks of community; unfortunately, they are all but absent in a process that is more interested in punishing than reconciling. Social health is dependent upon safe communities and communities must be enabled to become safe. Recently, in a consultation document circulated by the government of Canada, this



*Our justice system has come under public scrutiny of late - perhaps change is due.*

concern was alluded to: Sentencing practices that are approved by the community will have greater impact on the offender and the community than the all too prevalent current practice of sending our problems away. (Intermediate Sanctions, Sentencing Team, Department of Justice, December 9, 1991)

The principle of community responsibility has also been

addressed by the House of Commons Standing Committee on Justice and Solicitor General: It is the responsibility of the community to ensure that offenders are confronted with the consequences of their actions and challenged to accept responsibility and make reparations. (Taking Responsibility, Report of the Standing Committee on Justice and Solicitor General, David Daubney, 1988)

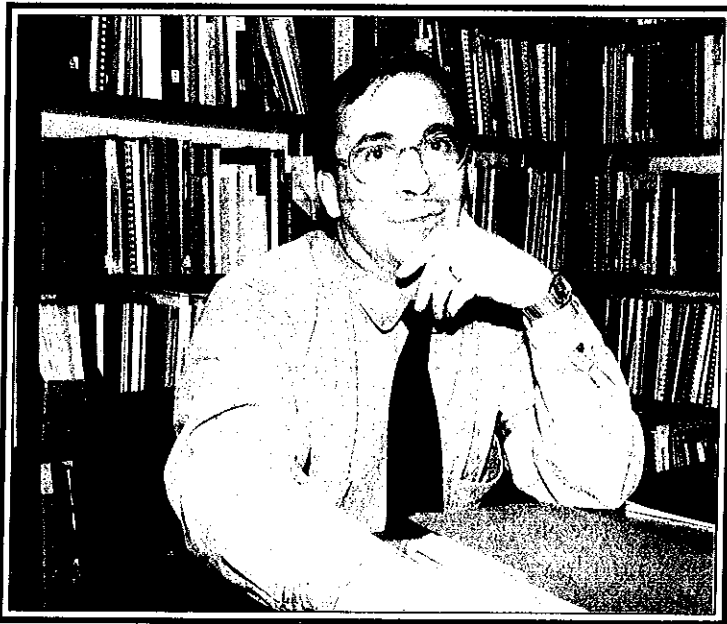
Punishment alone can not enhance communities; neither will compensation without restoration. Restorative justice depends upon the willingness of individuals to express remorse and make amends. Restoration works when there is a genuine acceptance of responsibility. It is true that not all offenders will be ready to take responsibility for their actions, nor will all crime victims be willing to work towards restoration. Nevertheless, this should be our goal. The aftermath of some crime can never be undone; some victims can never be adequately compensated no matter what approach to justice is taken. The best we can hope for in some cases is forgiveness. Only then can the process of building nurturing communities continue.

*Howard Sapers is the provincial executive director of the John Howard Society of Alberta. The society is a community development organization active in criminal justice. It promotes crime prevention activities based on restorative principles.*

# No early release for violent offenders

By Sheila  
Kushniruk

Scott Newark is tired of secrets. He wants the public to know who is being let out of prison on parole and who is responsible for that decision. If he had his way violent habitual criminals would not get to go ride the ponies at West Edmonton Mall, or be taken out of prison to see special doctors and above all they would not be let out on early release.



*Scott Newark says our judicial system has gotten away from finding the truth and instead tries to protect rights.*

Newark is the head of the Ottawa-based Canadian Resource Centre for Victims of Crime. A former crown prosecutor in Wetaskiwin, Newark was often outspoken against the parole system and the criminal justice system in general.

"The early release system in this

country is by and in large a success story. It really is. The problem with it is a success rate of 88 per cent, or whatever, isn't good enough when a few people are dying because of the failures...Hardened criminals should not be treated the same as others. That relatively small percentage of the population is doing tremendous harm," said Newark. "You have to err on the side of caution when someone is borderline and don't allow early release." He qualifies this by stating this applies to the criminals whose records just jump right off the page at you - where it is obvious their career is criminal. "I guarantee you, the people who know the weakness of the system are the people who have made it (crime) their career choice."

He said he can give 50 examples, without breaking a sweat, of cases where a criminal was let out on early release only to commit more violent crimes, or where a flaw in the system allowed for their easy escape. He wants the public to learn about these cases and be able to put a face on them. There is Daniel Gingras, Albert Foulston, Joseph Fredericks, Allan Legere, David Rose and the list goes on.

"We have to know about these cases. Correction Services of Canada, the National Parole Board, the entire sentence administration process and to a large extent the whole criminal justice process is very, very secretive. It is our system, it belongs to us. It should be open. It should be accountable," said Newark.

He has been in on parole hearings where members of the parole board didn't even know how to read a criminal record and there have not been copies of the transcript of the court's sentencing available for the panel to consult. And Newark claims the panel members or policy makers have rarely ever been in a courtroom.

"The function of early releasing a guy at one-sixth of his sentence really does completely frustrate the stated purpose of what the sentence of the court was."

According to Newark there should be more public input on the appointments of people to the parole board and there should be public scrutiny on cases where a criminal commits a crime while on parole. As it stands now the Governor In Council appoints parole board members. Membership is a form of patronage. The public has no right to know who sat on the parole board when a violent offender was released.

In Newark's mind the early release system should only be used for less serious offenders and they should be given that privilege only a couple of times. If they abuse it by committing another crime on parole then they must serve their full sentence with no chance of early release for all future convictions. On life convictions for violent offenders, Newark said life should mean life.

"I don't have any problem

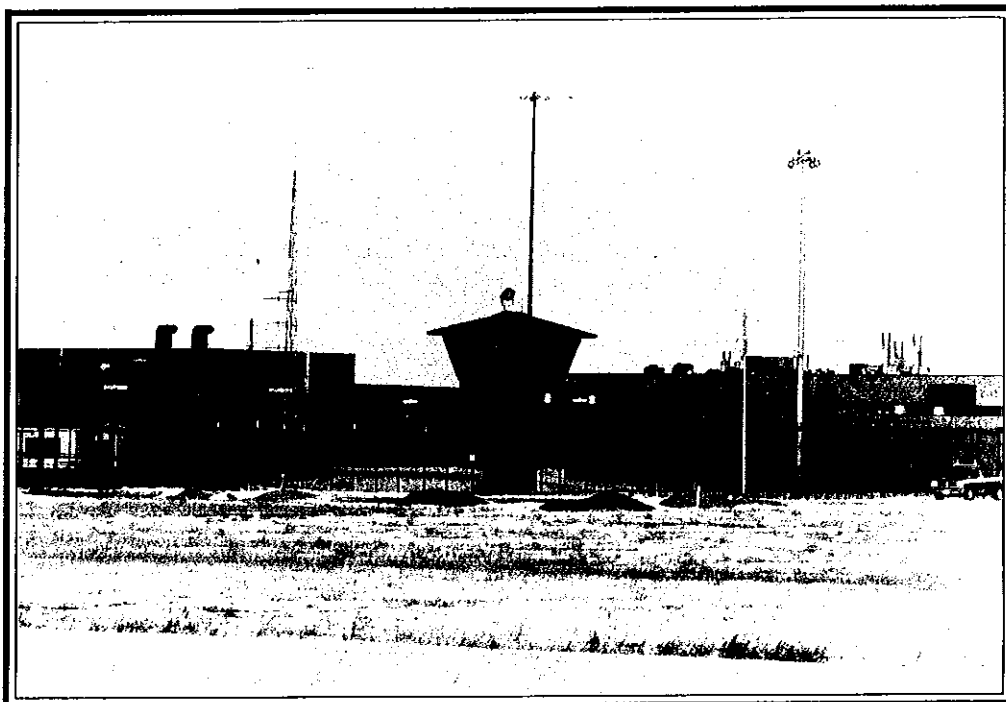
whatsoever saying to anybody that person belongs behind bars the rest of his life."

With the early release system now, community supervision is grossly inadequate. Probation workers are grossly overloaded, said Newark.

"Restorative justice works great if you get the right people, but don't bring in Albert Foulston." Newark said the people on the parole board must

parole hearings and that they have a chance to speak at the hearing.

Rather than allowing this small number of violent offenders to continue to terrorize the public to the point people begin to let fear dominate their lives, Newark said these changes could really do something. He said actions such as the proposed sexual predator legislation will also help immeasurably.



*The Edmonton Institution on Manning Freeway is a maximum security prison - home to some of the violent, habitual criminals Newark would like locked up forever.*

not be intimidated by people like Foulston and they must have the courage to tell him to piss off. He said the person calling the shots should be the victim, not the system. "The protection of the public hasn't been inherent in the system up until lately."

Part of Newark's job is to help people who have been victimized to deal with the criminal justice system. He wants to ensure victims attend

The Canadian Resource Centre for Victims of Crime will be endorsing various candidates from all different political parties in the next federal election.



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# Alberta Facts

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## In Justice to Women

March 8th is International Women's Day. The day has come to symbolize women's struggles throughout history. It was chosen in remembrance of the famous March 8, 1857 strike in New York when women textile workers stopped work and marched through the streets to protest poor working conditions. Many women were unjustly and brutally beaten and trampled upon by the police force.

Almost 150 years later women continue to face the force of the law. As victims, as the accused, and even as lawyers, women are subject to a male-dominated legal system.

In justice to the women of Alberta we take a look at some of the facts.

- In Alberta on any given day there are 200 women awaiting trial or serving sentences in correctional centres.

- Women make up about eight per cent of all admissions to provincial/territorial correctional facilities in Canada. In Alberta women make up seven per cent of admissions to custody. Women account for about 17 per cent of all admissions to probation. In 1990 18 per cent of all youths charged with criminal code and other federal statute offences were female.

- Since 1986 the number of female youths charged by police has increased by 29 per cent.

- In Canada (1989/90) about one-quarter of all female admissions to provincial/territorial correctional facilities were from Alberta.

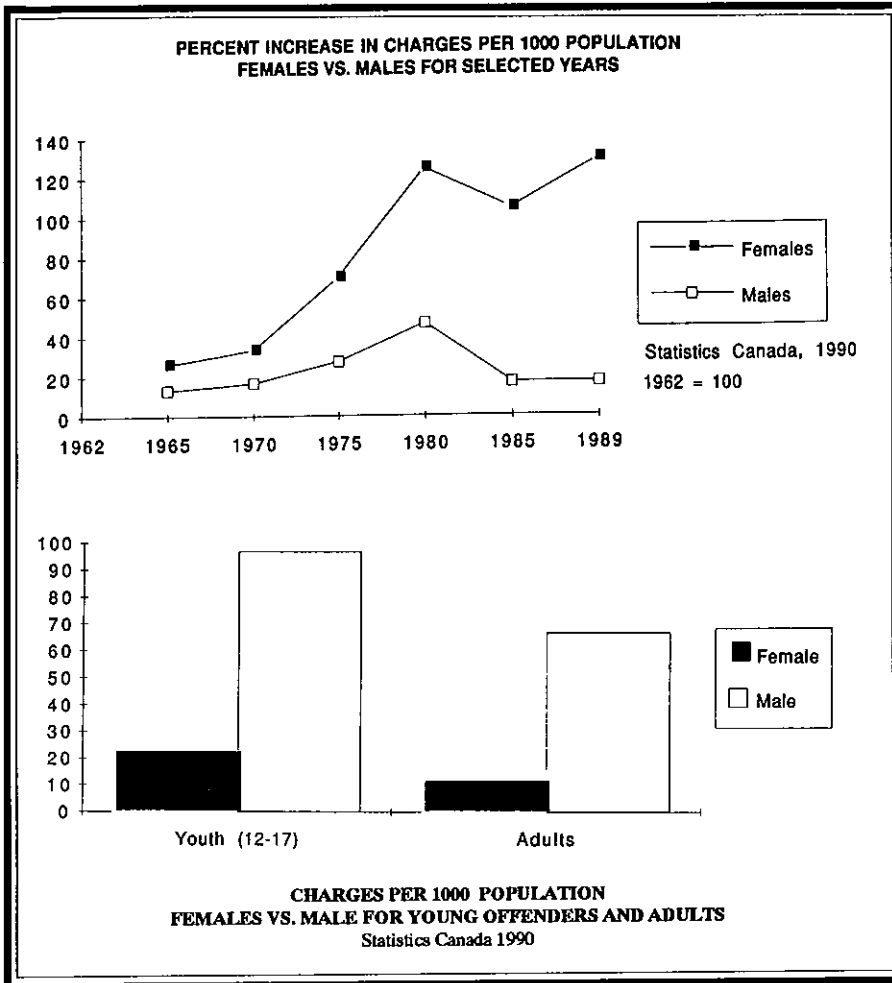


- Of the total female admissions in Canada, 30 per cent were for fine default. Alberta recorded the second-highest proportion of female inmates admitted for fine default (39 per cent). Only Saskatchewan topped that proportion with 47 per cent.

- Generally, women are charged with less violent and less serious offences than men. For example, in

1989/90 almost 40 per cent of all charges laid against women were for shoplifting. Of women admitted to provincial custody, 63 per cent were sentenced to 30 days or less, compared to 40 per cent of men.

- About 45 per cent of Alberta women admitted to custody are native. In Edmonton 70 per cent of women in custody are native. The native population



in Canada is about four per cent of the total population. Nationally one in seven aboriginal offenders admitted to provincial/territorial facilities were women whereas one in 14 non-aboriginal offenders were women. "As it stands now, an aboriginal woman is more likely to go to prison than she is to go to university. This is a reality we will not accept for our future." (A quote from a native woman included in the 1990 Creating Choices - the report of the task force on federally sentenced women.)

- The majority of charges against aboriginal women include fine default, failure to appear and failure to comply with a court order.

- Alberta accounts for more aboriginal women admitted to custody than any other province or territory (39 per cent) compared to Saskatchewan (25 per cent), Ontario (19 per cent), B.C. (seven per cent), Manitoba (six per cent), Quebec (two per cent), and Northwest Territories (one per cent) and the Yukon (one per cent).

- 82 per cent of federally sentenced women have been sexually or physically abused compared to 72 per cent of provincially sentenced women and 90 per cent of all aboriginal women in custody.

- 69 per cent of women prisoners interviewed for the Creating Choices report stated substance abuse had played a major part in the offence. Two-thirds of the women have children mostly under the age of 16. About 25 per cent of the women interviewed had kids under the age of five. Two-thirds of the women had not completed high school or did not have any training or educational qualifications beyond high school.

- A 1993 study of the employment and training needs of federally and provincially sentenced women indicated that children are most often left in the care of the spouse/partner or another family member,

while the mother is in prison; less than 11 per cent had their children placed in government care.

- Almost half of federally sentenced women are not repeat offenders. One-third of female youths appearing in youth court had prior convictions compared to almost half of the male youths.

- The first female inmate in a Canadian Penitentiary System dates back to 1835 when a female unit was established in the North wing of the newly open Kingston Penitentiary. In the early 1900s a separate women's building was built within the perimeter of the penitentiary and in 1925 construction began on the women's prison a short distance from the Kingston Penitentiary.

- 44 per cent of women in federal prison are between 20 and 30 years of age; 37 per cent 30-40; 13 per cent 40-50; three per cent 50-60; one per cent over 60 and one per cent under 20 years of age.

•In Alberta the Fort Saskatchewan Correctional Centre has 96 beds for mostly long-term female offenders; Bow River Correctional Centre has 16 beds, Lethbridge Correctional Centre has 28 beds and Belmont Correctional Centre has another 25 beds. There are 99 beds for females available altogether at four remand centres (Edmonton, Calgary, Medicine Hat and Red Deer).

•••Women as victims of crime•••

•1988 General Social Survey by Statistics Canada found young men between the age of 15-24 are most likely to be the victims of violent crime (214 per 1,000 population), however, when marital status is taken into consideration, the highest rate is among separated and divorced women (265 per 1,000 population).

•In 1988 57 per cent of all female homicide victims were killed by a family member, compared to 24 per cent of males.

•From 1962 to 1986 the incidence of rape has gone from 3.1 per 100,000 population to 10.3 per 100,000 population an increase of 290 per cent. The increase in the incidence of indecent assault has also risen over the same time period by 62 per cent.

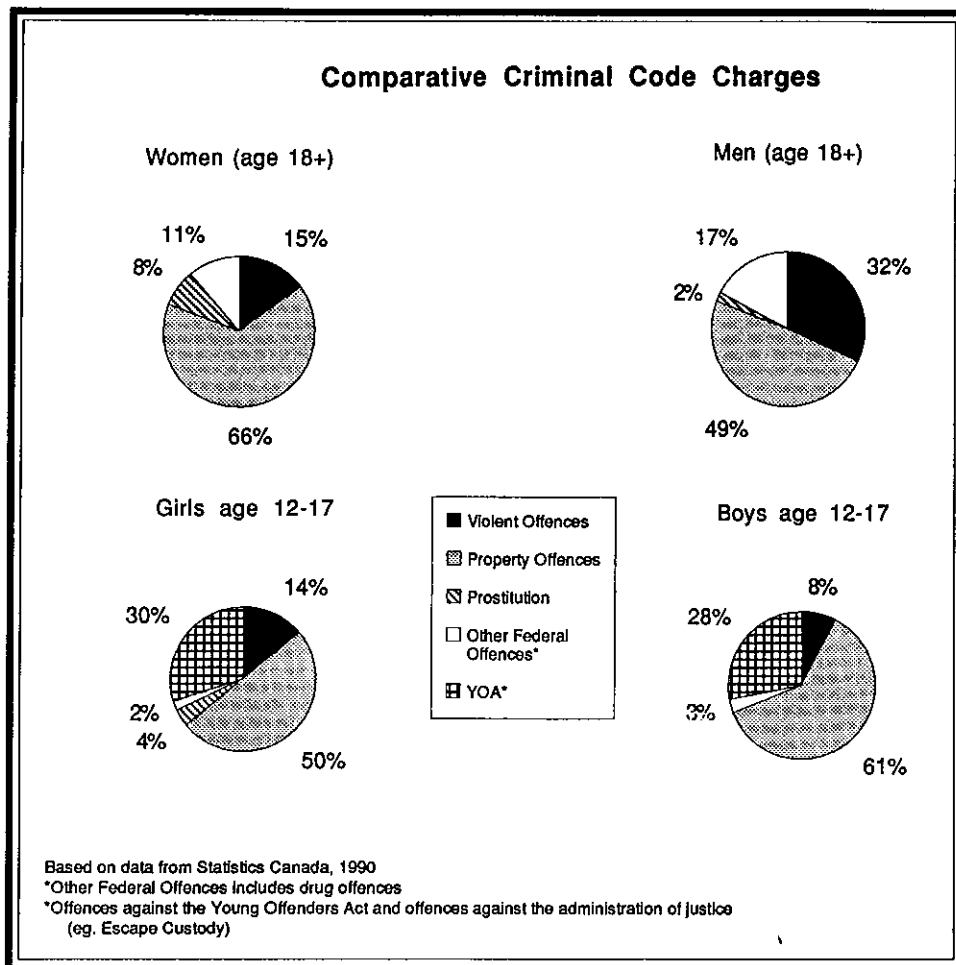
•The family violence committee of the Mayor's Task Force on Safer Cities reported on average that four men are charged every day in Edmonton for assaulting their spouse. City police estimate that only 10 per cent of assaults are reported.

•••Women in the legal profession•••

•In 1991, 38 per cent of people admitted to the Alberta bar were women. In Edmonton 22 per cent

of lawyers are women. The University of Alberta law school student population has 42 per cent women.

• A survey by the Law Society of Alberta had over half the women respondents say they had experienced discrimination from other lawyers on the basis of sex (51 per cent of active society members responded to the survey). While full time female and male lawyers worked the same number of hours, women earned considerably less. The survey



also found over 80 per cent of women experienced unequal opportunities for career advancement; only 53 per cent of female respondents had children and the average age of respondents was 35.

•Women are increasing their representation in the police forces, from less than one per cent in the early 1970s to five per cent by 1988. The RCMP announced a goal of having 20 per cent women by the year 2013.

## SELECTED RESOURCES

### **Alberta Advisory Council on Women's Issues**

Telephone: 422-0668

Identify issues and provide information to public.

### **Alberta Family and Social Services: Family Court Services**

Telephone: 427-8343

Family Court Service assists people who want to make an application to family court for custody or access, spousal or child maintenance, etc.

### **Alberta Human Rights Commission**

Telephone: 427-7661

Promotes understanding and compliance with the Individual's Rights Protection Act.

### **Alberta Status of Women Action Committee**

Telephone: 421-0306

Provides advocacy and referral.

### **Alberta Women's Secretariat**

Telephone: 422-4927

Provides information to women regarding legal, social, cultural, public and personal rights and responsibilities.

### **Dial-a-Law**

Telephone: 1-800-332-1091 (Toll Free)

Offers pre-recorded tapes which contain general information about the law, legal rights and legal procedures. (Some topics available in Spanish, Polish, Vietnamese, Cantonese, and Punjabi.)

### **Edmonton John Howard Society**

Telephone: 428-7590

Services to offenders, ex-offenders, their families, and those at risk of being in conflict with the law.

### **Elizabeth Fry Society of Edmonton**

Telephone: 421-1175

Offers support to individuals (especially women) in conflict with the law.

### **Lawyer Referral Service**

Telephone: 1-800-661-1095 (Toll Free) Assists people in finding a lawyer when they are financially able to retain one but do not know where to call.

### **L.E.A.F. (Women's Legal Education and Action Fund)**

Telephone: 462-5172

Promotes equality for women through public education and litigation.

### **Legal Aid Society of Alberta**

Telephone: 427-7575

Provides legal services for eligible low income people. Fees vary depending on legal aid, tariff and work involved.

### **Legal Resource Centre**

Telephone: 492-5732

1-800-232-1961 (outside Edmonton)  
Provides legal education, information, referrals, speakers bureau, and library for the general public.

### **Native Counselling Services of Alberta**

Telephone: 423-2141

Provides legal information and counselling services for Native and non-Native people.

### **Police Service, Victim Services Unit**

24 hour crisis callout 421-2213

North Division 478-2107

South Division 428-4447

West and Downtown Division 428-3320

Provide assistance to victims of crime or tragedy.

### **Salvation Army Correctional and Justice Services**

Telephone: 424-4527

Provide support to those affected by the justice system.

### **Student Legal Services of Edmonton**

Telephone: 492-2226

Provide free legal assistance as agents in Criminal and Civil Court to people who do not qualify for Legal Aid and are not able to afford a lawyer.

### **The Support Network (was Community Connections)**

Telephone: 424-3242

Crisis intervention services, suicide prevention services, information/resource line and directory.

### **W.A.V.E.S. Women Against Violence Establishing**

**Support** Telephone: 428-9393

Provides support for women and their children, including legal advocacy and support through the judicial system.

A number of these organizations have offices outside Edmonton. Check in your local directory.

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This issue of Alberta Facts was compiled and written by Alison MacDonald, Sheila Kushniruk, Ivone Martins and Pearl Bennett of the Edmonton Social Planning Council. Assistance was provided by the Elizabeth Fry Society the Alberta Law Society, the Legal Resource Centre and the Alberta Advisory Council on Women's Issues. For more information about the Edmonton Social Planning Council, its regular publication First Reading and Alberta Facts, or other publications, please contact:

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# In a race for wealth crime can pay



By  
June  
Sheppard

At the close of 1908, the Edmonton Police Force consisted of the Chief, four Sergeants and six Constables.

Almost thirty years later there was a murder in the city—one murder and everyone in town was shocked and incredulous. It was never solved, by the way!

Today in Edmonton and in Canada, crime of one kind or another is commonplace on the urban scene. And as far as I can see we really don't know what to do about it.

Moreover, I'm far from convinced that the judicial system know what to do about it.

In the United States, the situation is much worse. History shows us that a tradition of violence, a frontier mentality as well as slavery and an acceptance of guns by a majority of the population has influenced the development of many serious problems.

What then have been the influences and the developments that have changed or are chang-

ing Canada? Specifically, what have been the influences in our own city, so that violence, the ready use of weapons, senseless killings, and the involvement of an ever-younger segment of the population have steadily become a significant and disturbing part of daily life here.

No, it is not New York; it is not Los Angeles; it is not Toronto, but it is becoming a place where fear is on the increase, where women hesitate to walk a block alone even before it's dark, and where the gun and the knife, weapons generally, are in more and more hands.

I suspect the reason we don't have impressive success in changing this unhappy development, not just in our city but in so many places today, is that we don't know or want to look at the causes.

I was reading recently about the low crime rate in Japan and Switzerland although neither (particularly Japan) is totally exempt.

Two reasons given are the maintenance of close family structure and the generally active participation of citizens in the fight against crime.

We cannot deny the loosening of family bonds in our country, and I believe it is still a small number of our citizens

who put effort into joining with others to find ways of fighting the crime we so deplore. The few who do need more help.

There are those people who would place the blame for increasing crime on migrants to our country and our city. It seems illogical to me that people whose legal status may still be tenuous and who are eager for opportunity to advance would imperil their chances. This is not to deny that some second-generation migrants have become involved in crimes.

I believe a powerful influence on the "have nots" in our society and especially the young has been the accepted social value that success is to be measured above all else, in the acquisition of possessions. And then to have it revealed in recent years *just how* many "successful" men acquired their almost unbelievable wealth has sent a message that "crime certainly can pay."

Even when such men go to prison (with only "a million or two" left in their pockets), that message still has power to influence.

# Crime is a social problem ...get-tough approach leads to disaster



By  
**Jonathan  
Murphy**

*"Canadian Police Association president Mike Dungey said Tuesday his members are tired of politicians, cry babies and bleeding hearts making it difficult to keep the streets safe; 'It's time that lawmakers and others of their ilk are made accountable for their actions'. He hailed moves by Alberta Solicitor General Steve West to force convicts to clean up highway ditches and put young offenders in work camps."*

*Edmonton Journal, September 16, 1992*

Crime is big business. Not so much for the criminal, but for an ever-growing army of police, prosecutors, and jailers. Now journalists and politicians are on the bandwagon, selling newspapers and collecting cheap votes by fanning the flames of fear. Politicians from Ronald Reagan to Steve West have pinned their political ambitions on a get-tough approach.

Every day we are bombarded by a collage of headlines, pictures, movies and speeches, screaming variations on a simple theme. Punks are terrorizing our neighbourhoods. Murderers are going free so they can slaughter more innocent citizens. More criminals must be jailed and jail conditions should be harsher.

Canadian politicians should take a good look at crime and punishment in the States before they rush headlong into simplistic solutions. Since the late 1970's, the United States has

been indulging in an orgy of harsh treatment of criminals. If getting tough works, it should be working there.

During wimpish Jimmy Carter's presidency, there were only about 475,000 Americans in jail at any one time (U.S. Bureau of Statistics, 1992). By 1990, that number had reached 1,144,214.

Just in case troublemakers didn't get the message, the U.S. Supreme Court decided that capital punishment wasn't cruel after all. Many states jumped at the opportunity to electrocute, poison, shoot, gas or hang their least favorite citizens. From 1977 through 1989, 143 Americans were executed. Several thousand are on death row.

Did the new approach work? Not to the slightest degree. Serious crime rates escalated through the 1980s. Murders, for example, rose by 18 per cent between 1987 and 1991

(FBI, 1992). The United States has by far the highest murder rate of all developed (OECD) countries. In 1988, while Britain suffered 1.3 murder victims per 100,000 people, and Canada 2.2 per 100,000, the Americans managed a cool 8.6.

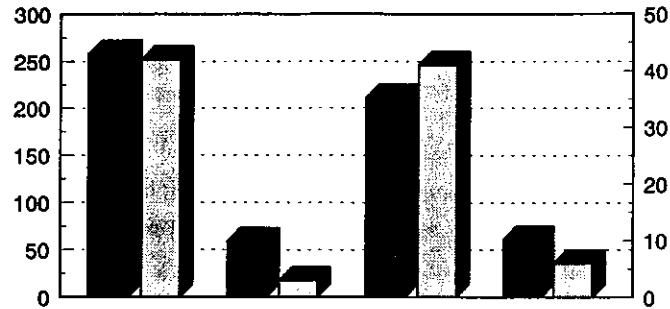
While justice is blind, it has always been able to differentiate between the races. Blacks make up only 12 per cent of the total U.S. population, but in 1990 they amounted to 43 per cent of the jail population. Together with hispanics, they made up well over half (57 per cent) of inmates, a rise from 51 per cent in 1978. Of the 2,243 inmates on death rows in 1990, 943 or 40 per cent were black.

There has also been a trend in the U.S. towards incarcerating more poor and unskilled people. Between 1979 and 1986, the proportion of state inmates with at least twelfth grade education dropped to 38 per cent from 47

# Crime in Four Neighbourhoods

Crimes per 1000 residents, 1991

Violent crimes per 1000 residents



Community	Alberta Avenue	Glenora	Inglewood	Brander Gardens
Crime per 1000 residents	258	59	211	61
Violent Crime Per 1000 residents	42	3	41	6

Source: Edmonton Police Service, 1992

per cent. The percentage employed before incarceration also declined.

The American approach worsened race and class hostility, culminating in numerous riots, inevitably sparked by incidents of police brutality towards minorities.

It is hard to conceive of a worse example for Canadian decision-makers to follow. Our justice system is already heavily weighted against the poor and the dark-skinned. Less than 10 per cent of Albertans are of aboriginal descent, yet upwards of one-third of inmates in Alberta jails and young offenders centres are native. Sixty-five per cent of federal inmates surveyed in 1989 had reached a grade level of nine or below (Canada Employment and Immigration, 1992). The net result of tougher penalties on Canadian criminals will be exactly the same as in the States. More poor and minority

people in jail, further alienating and impoverishing them.

The law and order lobby responds that something must be done to stop the crime wave. But truth be told, the image of a middle class held hostage to crime is a myth. The great bulk of violent and property crimes are committed by poor people, against other poor people. The attached table compares 1991 crime statistics in four communities; the two affluent areas of Glenora and Brander Gardens and the two poorer neighbourhoods of Inglewood and Alberta Avenue. While all crime levels were much lower in the affluent areas, the difference is most striking in violent crimes. There were 42 violent crimes per 1000 residents of Alberta Avenue in 1991, *fourteen times* the figure for Glenora.

Laws are simply the rules we as a society create in order to make our lives bearable. People

who find their lives unbearable are naturally less concerned about rules which don't bring them any benefit. Putting them in jail makes them and their friends and families even *less* concerned about those rules. Public panic and misinformation spread by media and unscrupulous politicians hampers progress against the real cause of the problem, which is poverty.

The only real motivation for incarcerating more Indians, welfare recipients, and other social victims is to exact revenge. The desire for revenge is not a very attractive emotion. But even if that doesn't bother us, we should consider how much we are prepared to pay for the pleasure of hurting people. The riots in Los Angeles showed how high can be that price.

# Spending big bucks to provide inferior juvenile justice

By Jim  
Hackler

The Province of Alberta claims it needs to save money, but it wastes millions of dollars in the operation of juvenile justice. Cumbersome legal processes funnel excessive funds into the hands of lawyers, delay the procedures, and damage juveniles. The noble intention of protecting the rights of juveniles has backfired. The current abuses do not come from judicial decisions, but from delays, inefficiencies, and lack of flexibility. Other countries do better.

Melbourne has over three million people, five times the size of Edmonton or Calgary, but its five judges are much more effective than the eight judge systems found in both Edmonton and Calgary. The juvenile court in Toulouse, France, serves approximately 1,100,000 people. When I visited in the late 1980s, three juveniles were incarcerated. The four juvenile court judges put their energy into services that alleviate problems leading to delinquency and relatively little into legal ritual.

An Alberta case illustrates the problem. The parents were separated and lived in two different cities. The 15 year old daughter was living in a small town with a family which treated her like one of their own. She had been in no trouble in the community, but she dated a 20 year old. The family did not approve. The father heard of the situation, drove to the small town, picked up his daughter and moved her to his apartment in a larger city. The girl disliked the woman living

with her father and stole \$11 from her father's wallet to buy a bus ticket back to the small town. The father swore out a warrant for her arrest for theft, the police picked up the girl, put her in the local detention centre, brought her to a detention centre in the larger city, and she arrived in court charged with theft. A social worker had difficulty making an intelligent recommendation.

The girl wanted to return to the small town. The father, who had legal custody, was concerned about the older boyfriend, even though the girl was no longer seeing him. The charge of petty theft remained. Duty counsel recommended a not guilty plea. Therefore, a trial was necessary. But what to do with the girl in the meantime? Since she pleaded not guilty, the father refused to house her. The girl was sent back to the detention centre. She turned to the social worker and said, "Why did I plead not guilty?" After a couple of days, the girl came back, pleaded guilty to theft before a different judge and was sent home with her father.

Dealing with family squabbles can be difficult, but three different stays in detention centres and a criminal record is not the best way to handle a family argument. A legalistic system made a bunch of professionals ineffective.

Obviously, we cannot revise our system dramatically, but there are three simple changes that would save a great deal of



money and help juveniles:

1) Let prosecutors gain experience in Family and Youth Court. Alberta rotates prosecutors so they do not get familiar with the workings of the Family and Youth Court. In Quebec and British Columbia prosecutors specialize and their experience expedites court functions. Alberta insults our prosecutors, assuming they have no moral conscience and that none of them are interested in juveniles. Therefore, all prosecutors are punished equally by rotating them in "kiddy's court". The message is clear: Family Court is unimportant and deserves neglect. In the past, excellent prosecutors knew the system and helped it work. Some still excel in spite of our present system, but we need incentives to keep them in Family Court for a few years so their experience can be utilized. If juvenile justice systems create settings where competent people feel a sense of accomplishment, lawyers might take pride working in juvenile courts.

2) Use public defenders. Our current system rewards lawyers for adjournments and inefficiency. There is no financial incentive for defence lawyers to resolve cases out of court, even though it would be advantageous for others. Quebec has skilled public defenders working with experienced prosecutors who resolve many cases before they appear in court. They also come to court with sensible recommendations. Of course, public defenders save too much money

and hence are not popular with the legal profession.

3) Require that Family Court judges have five years experience as prosecutors, public defenders, clerks, or social workers in family court. (Obviously, I am naive about judicial appointments.) Many judges

Those who have served as prosecutors or public defenders know that convicting juveniles is easy, but devising intelligent responses to troublesome youth is extremely challenging. We have good people in our system. It is just harder for them to be effective in Alberta.



*The Young Offender's Act introduced in 1984 has earned some criticism with the increasing number of young people being charged with crime.*

mean well but begin without an understanding of the dynamics and informal mechanisms that help Family Courts deal with complex human issues. We also keep judges isolated and feed their self importance, slowing down their learning even more.

*Jim Hackler is a professor at the University of Alberta in the Centre for Criminological Research .*

# Legal Aid not reaching needy people

By Marvin  
Bloos

*The law, in its majestic equality, forbids the rich as well as the poor to sleep under bridges, to beg in the streets, and steal bread. Anatole France (1894)*

In the nearly 100 years since that was first penned significant steps have been taken to try and equalize the effect of our laws. Not the least of these was the recognition of the importance of representation by a lawyer when one is facing a criminal charge. In the 1970s the provinces and the federal government jointly established legal-aid programs to help those charged with serious criminal offences who were too poor to afford their own lawyer.

In Alberta the Law Society in conjunction with the Attorney General's Department set up the provincial Legal Aid program. As a result of their joint efforts (together with the full cooperation of criminal defence lawyers) Alberta enjoyed one of the best and most inexpensive Legal Aid programs in Canada. Until recently that is. Now however, Legal Aid in Alberta is experiencing profound changes because of inadequate funding.

It was the case that in Edmonton, the more senior and highly skilled lawyers from the criminal defence bar took Legal Aid cases. Therefore it didn't matter whether one was rich or poor, your

chances of being represented in court by skilled legal counsel were very high. That ideal situation is changing rapidly because of major changes made last year which significantly and negatively alter the way lawyers doing work under the Legal Aid program are treated. As a result many senior and experienced lawyers are taking fewer and fewer Legal Aid cases, leaving the work to be done by others, often novice or junior counsel.

As well, and as a result of the underfunding of the program, Legal Aid Alberta has not increased its minimum eligibility guideline rates which were last set in 1985. Not only are the eligibility requirements six or seven years out of date, Alberta has one of the highest application refusal rates in Canada. Thus, many otherwise deserving citizens are being denied the right to legal assistance.

The combined effect of these developments indicates that for many Albertans they must either go without legal representation or they must accept a two-tiered legal system—one for those who can afford to pay their lawyers and a second, lesser system for those who can't.

Criminal law has become very complex because of changes brought about by the Charter of Rights, new developments in the laws of evidence and in science and technology (which means that things like

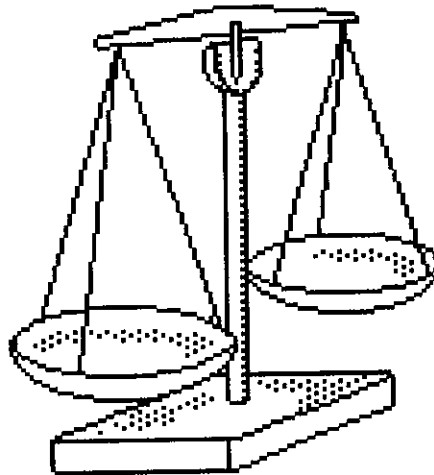
DNA testing and other types of highly specialized scientific evidence are being regularly introduced at trial), as well as other areas and fields of study which affect criminal law. It is now expected that the criminal defence lawyer will not only be competent to deal with these areas when they arise, but that he or she will stand between their client and the rest of the justice system to make sure that miscarriages of justice similar to those of Donald Marshall or Lester Nepeose do not happen again.

Serious criminal charges can no longer be defended on a "part-time" basis. Lawyers doing such work face a heavy obligation in order to be properly prepared to defend their client's interests.

For these reasons, it is important to maintain a very high-quality criminal Legal Aid program. To do otherwise means that indigent persons innocent of a particular offence may face both conviction and jail because they were unable to obtain legal assistance or the assistance they obtained was not sufficient for their particular case. Very often it is the poor who are least able to "fight the system" or for their rights and who often cannot articulate the reasons why they need help or why they have been wrongly refused legal assistance.

The writer is personally familiar with cases in Edmonton where such persons who, having been sentenced to jail, were denied legal assistance for conviction appeals even though they had a valid complaint concerning the

correctness of their conviction. It was only after counsel became involved in their cases that they were able to win the right to be legally represented in court. The great danger is that for every one or two who succeed in attracting the assistance of a lawyer to help them, many more must go without any help at all.



At least one Canadian Court of Appeal has recognized that when an indigent citizen faces a complex and serious criminal charge, there is a right to state-funded and competent counsel of choice. In the view of the court the "counsel provided had to be sufficiently qualified to deal with the case with a reasonable degree of skill".

This should be the minimum standard in Alberta for all indigent persons facing any type of a criminal charge for which they may go to jail or lose their livelihood. The guarantee to the right to counsel should not just be reserved for offences which someone else decides are "complex and serious."

In order to maintain a Legal Aid system that Albertans can be proud of and one which is adequate to the task, the government must be prepared to make the necessary commitments and changes to the program which are now required in order to re-attract the participation of the senior criminal defence bar and in order to ensure that adequate time is allowed for and proper preparation is done by counsel for all those citizens who are forced through necessity to turn to Legal Aid for help.

Our experience with history has taught us that in a democratic society, the rights and freedoms which we guarantee to the least of our citizens are those which we guarantee to all.

*Marvin Bloos is the president of the Alberta Criminal Trial Lawyers Association.*



**United Way**  
OF EDMONTON AND AREA

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Edmonton, Alberta  
T5K 1C5  
Phone (403) 423-2031 or FAX 425-6244**

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***Brown Bag Lunch  
March 8  
To celebrate International  
Women's Day***

***Linda Hughes, publisher of the  
Edmonton Journal will be our  
speaker***

***Bring your lunch and come to  
#31, 9912-106 Street  
March 8 from Noon to 1 p.m.  
to hear Linda and participate  
in questions and discussion***

**Who's new at ESPC**

The Council has some new faces and new spaces. With two new contract workers, a social work practicum student and the Community Resource Project working with the Council we are growing in leaps. We've leased another office space down the hall from our current office to help accommodate everyone.

Anne Fitzpatrick is assisting on the Child and Family Initiative project; Saloni Negi is researching the update to the Other Welfare Manual; Jennie Promislow is a practicum student working on developing a proposal to conduct a national research project on inner city seniors; and Margaret Asch Zedingle Ghebremusse and Gerald Wright are working on the Community Resource Project. Welcome to all.

**Project Updates**

March 12 is the Intercultural Education and Race Relations Resource Fair at the Centre for Education (One Kingsway Ave.). This resource fair is free and it is for anyone interested in sharing resources and ideas to promote cultural understanding and fight racism. It will run from 8:45 a.m. to 3:30 p.m. To pre-register call 423-2031.

Socially Speaking aired on Channel 10 on January 28. The one-hour live phone in show on prostitution was well received and we plan to do a second show March 22 at 9 p.m. on the subject of community development. Be sure to tune in!

Health and Welfare has approved funding for the prostitution needs assessment project. This four-month project will begin in March and will give us an idea of what services would be helpful for prostitutes.

Research is underway for the update to the Other Welfare Manual. This publication will guide people through the Supports For Independence system and provide other links into the community.

The Food Policy Conference will be held on April 22 at Grant MacEwan College, Cromdale Campus. For more information contact Pearl at the Council - 423-2031.