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Women in the Criminal Justice System

A pattern of disturbing growth and unsettling consequences follows these women.

by Kayla Gassmann and Kirsten D. Levingston

Women are being charged with crimes, convicted, and sentenced to prison at much higher rates than just 20 years ago. In this article, Kayla Gassmann and Kirsten D. Levingston explore this disturbing trend, probe the reasons behind it, assess the consequences for women and their families, and discuss recommendations for reform.

There are more than two million people behind bars, locked away in federal and state prisons and jails across the country. Increasingly, women are occupying those cells—women like Michaelene Sexton. A drug-addicted single mother of three convicted of selling cocaine to fund her habit, Sexton is serving a 10-year prison sentence. Hamedah Hasan is serving a 27-year sentence; this single mother of three was living in shelters and enrolled in a welfare-to-work program when she was convicted of participating in a drug conspiracy.

In 1980, only 12,300 women were incarcerated in state and federal prisons. By 2006, that number had risen to 111,400. Over the course of their lifetime, women are now six times more likely to spend time in prison than they were 30 years ago. If we include women on probation and parole, a total of more than one million women are currently under the supervision of the criminal justice system in the United States.

Much of this increase is due to the toughening of the drug laws. From 1986 to 1999, the number of women incarcerated in state prisons for drug offenses increased by 888%, compared to a rise of 129% for other offenses. Overall, drug offenses accounted for half of the increased number of women in state prisons in this period. Women are more likely to be in prison for drug or property offenses and less likely to be imprisoned for a violent crime, compared with men.

Women now account for more than 7% of the population in state and federal prisons. This seemingly small percentage masks the alarming fact that, since 1985, the number of women in prison has increased at almost double the rate for incarcerated men. The fact that women are still a relatively small percentage of the prison population conceals the harsh consequences of conviction that uniquely affect women.

*“Two-thirds of
all female state
prisoners are
mothers of a
minor child.”*

Kirsten D. Levingston (Kirsten.Levingston@nyu.edu) is director of public initiatives at the Brenman Center for Justice at New York University School of Law, and Kayla Gassmann is a third-year student at New York University School of Law.

The Characteristics of Women in Prison

You know, I was so exhausted living my life the way I'd been living. When I got arrested the third time I was just praying and saying God please just help me ... I can't live in the street anymore, I can't use any more drugs, but I don't want to stop. And then people from the [treatment] program came into the jail. I said, this is it, this is my way out.

—*Woman who formerly abused drugs*

Women who go to prison have faced serious personal, social, and economic challenges in their lives. Many risk factors are strongly related to women's involvement in the criminal justice system—including substance abuse, mental illness, and prior physical or sexual abuse. Nearly three quarters of women in state prison have a mental health problem, compared to 55% of men. Forty percent of those imprisoned reported that they were using drugs at the time. Women offenders report extremely high rates of physical and sexual abuse, totaling nearly 60% of state inmates, 50% of federal inmates, 47% of women in local jails, and 40% of women on probation. The incidence of prior victimization accords with the path of many juvenile girls who are brought into the criminal justice system by running away from abusive homes; after they are returned, they often violate a court order not to run away again and thus become delinquents.

Nearly half of women in state prisons have not completed high school. Sixty percent were not employed full-time at the time of their arrest, nearly one third were receiving welfare benefits, and 37% had incomes less than \$600 in the month preceding their arrest. Imprisonment also has a disproportionate effect on communities of color. Black

women are three times more likely than white women to be imprisoned, while Hispanic women have a 69% higher chance of imprisonment than white women.

In the rare instances when women are convicted of violent offenses, they are twice as likely as men to have had a prior relationship with the victim—either as an intimate, relative, or acquaintance. Fully 62% of women convicted of violent offenses knew their victims, compared to 36% of men. Currently, there are 51 women on death row throughout the country, and more than half were sentenced to death for killing their husband, boyfriend, or children.

The Consequences of Incarceration Exacerbated health problems. Although we have seen that drug addiction, mental illness, and prior victimization are the conditions driving many women into the criminal justice system and prison, prison services remain woefully inadequate to address these issues. The inadequacy is two-fold. First, the number of women in need of healthcare and treatment services outpaces the availability of those services. Second, where treatment is available, it may not be suitably tailored to meet the unique issues of trauma and abuse women in prison have suffered. Some facilities, for example, treat drug addiction through group therapy that includes men and women. For women whose drug use and addiction are driven by physical and emotional abuse by men, this method is ineffective.

Sixty percent of women in state prison and 42% in federal prison have a history of drug dependence. But only about 40% participate in any drug counseling, and only about 15% receive professional treatment. In 2006, 73% of women inmates in the state system and 60% in the federal system had a

mental health problem. Yet only one-third of inmates in state prison receive any kind of treatment; even fewer receive treatment in the federal system.

Many women enter prison with continuing health problems. "These are women for whom the mainstream health system has failed or been inadequate, both from the standpoints of prevention and treatment," said Richard Mauery, a senior research scientist at The George Washington University School of Public Health. Incarcerated women engage in activities with health risks, such as smoking or physical inactivity, at higher rates than those who are not incarcerated. Many enter the corrections system with physical conditions associated with poverty and poor nutrition, such as asthma, obesity, diabetes, hypertension, anemia, and ulcers. Faced with inadequate health care in prison, the stressful physical and emotional conditions of prison life only exacerbate existing health problems.

Family disruption and loss. Rapidly rising incarceration rates affect children and families as well as women behind bars. Two-thirds of all female state prisoners are mothers of a minor child. Nine out of 10 mothers reported that their children lived with a grandparent, other relative, or a friend. By contrast, nearly 90% of fathers in prison report that their children live with their mother. The majority of parents in state and federal prisons are incarcerated over 100 miles away from their previous residence, making visitation difficult. In the federal system, 43% are held more than 300 miles away from their last home. More than half of mothers in state prison, and 42% of mothers in federal prison, reported that they had never received a personal visit from their children.

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These familial effects are also skewed by race. One of every 14 black children has a parent in prison, compared to one in every 125 white children. Thus, black children are almost nine times more likely than white children to have a parent in prison, and Hispanic children are three times more likely. Termination of parental rights is also an important issue for families in this situation. In 1997, the Adoption and Safe Families Act (ASFA) established that states can take steps to terminate parental rights if children have spent 15 of the last 22 months in foster care. Sixty percent of mothers in prison are expected to serve more than 24 months. Thus, the growth in the number of women sentenced to prison raises the specter of mothers losing custody of their children.

Alternatives to Incarceration

"When people are in crisis, it's one of the best opportunities to change. If you can intervene during the crisis of arrest and incarceration, and help someone identify ways to change, it's a tremendous opportunity," says Arlene Lee, who has served on the staff of the Federal Resource Center for Children of Prisoners. In some jurisdictions, rather than

incarcerating women, judges are directing them to programs where they receive treatment, education, and employment training in the community, while under strict supervision. These programs have protected public safety while effectively addressing the real problems underlying a woman's involvement in the system. Alternative sentencing is part of the strategy that has allowed New York City to reduce crime and jail populations. Moreover, by keeping program participants in their own communities, alternative sentences lead to less family disruption and stronger communities.

Critical Resistance, a group that advocates against prisons and prison expansion, issued a 2007 report offering alternatives to a gubernatorial proposal to increase the number of prison beds for women in California. The report included these sound recommendations: (1) reduce the number of women in prisons through reforms to parole, medical release, geriatric parole, and other methods; (2) provide six months housing to women paroled from prison, since homelessness is a major reason for reincarceration; and (3) reapportion funds saved from foregoing new prison construction to create community-based programs that provide women leaving the system with housing, clothing, and skills development. While those who

Resources

To learn more about women and the criminal justice system, visit the Web sites of the following organizations:

Critical Resistance
(www.criticalresistance.org)

The Sentencing Project
(www.sentencingproject.org)

Women's Prison Association
(www.wpaonline.org/resources)

profit from filled prisons want to keep them that way, using alternatives such as these to reduce the number of women in prison will avoid the human and financial toll it takes on individuals, families, and communities. Policy-makers should pursue them not just for women, but also for the raft of men and young people behind bars.

Conclusion

The criminal justice system has become a repository for women with personal, social, and economic problems—such as mental illness, substance abuse, poverty, and prior physical and emotional victimization. Because women continue to play the primary caretaker role for children, their incarceration destabilizes families in a unique way. And because of ongoing racial and class divides, the hardships of women's incarceration fall disproportionately on poor families and families of color. Unless alternatives to incarceration are explored and widely implemented, we are in real danger of creating a permanent underclass of women and children with less access to opportunity, benefits, and services, exacerbating the problems that led women to prison in the first place. ■

F O R D I S C U S S I O N

What are the unique problems facing women in the criminal justice system and in prison? What programs could successfully address these problems?

Women comprise a small, but rapidly growing, portion of the prison population. Should prisons develop different rehabilitative and educational programs for women than men? Should we spend more money, per inmate, on women than men? Why (not)?

What are the social benefits of incarceration? What are its negative consequences?