

*The Female Inmate Experience: A Tale of Victimization*

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## Introduction

Female offenders are the fastest growing demographic in the American prison system. According to the Bureau of Justice Statistics, the number of female prisoners under jurisdiction rose faster during 2006 than over the previous five years.<sup>1</sup> While the incarceration rate of men increased 2.7% in 2006, the incarceration rate for women rose a staggering 4.5%. Despite this exponential increase and the consequential impact it has on American society, little public attention is given to imprisoned women and their experiences. Additionally, the stigmas attached to criminal offenders are magnified for women in light of societal constructions of gender and notions of female propriety. Mainstream society largely continues to hold a contemptuous view of female offenders for defying feminine virtues of decency, demureness, and domestication. The popular consensus views these women as integrating a male-only domain that necessitates condemnation as opposed to the standard sympathy and tolerance given to law-abiding women. This practice has its historical roots in the “Fallen Woman” myth as described by Mark Kann:

The reason for her ‘rapid and precipitous moral fall’ was that a woman who lost her moral footing had no other basis for restraining her passions, whereas men still had reason... Reformers considered fallen women more blameworthy than male criminals.<sup>2</sup>

As such, correctional administrators have approached female imprisonment with a paradoxical approach of punishing female offenders like men in order to evoke their lost notions of femininity. This disparate methodology fails to consider the intrinsic uniqueness of women who find themselves under criminal justice supervision. In

<sup>1</sup> Heather Couture, Paige M. Harrison, and William J. Sabol, Ph.D. “Prisoners in 2006.” Bureau of Justice Statistics. December 2007. <http://www.ojp.usdoj.gov/bjs/pub/pdf/p06.pdf>

<sup>2</sup> Mark E. Kann. *Punishment, Prisons and Patriarchy: Liberty and Power in the Early American Republic*. 2005. New York: New York University Press

particular, this correctional model fails to take into account the trajectory to deviance that women tend to follow; whether many of these women should even be incarcerated; and the long-term personal, societal, and infrastructural ramifications of their imprisonment. Correctional policies for women would undoubtedly be revitalized and bolstered by a closer examination of the female inmate experience. Accordingly, current practices in penology would benefit from an exploration of the ways that women adapt to correctional environments—in particular, an inquiry into the relationships formed among female inmates and those relationships with correctional staff members that determine the course of women’s imprisonment and post-imprisonment contexts.

### **Pathways to Prison**

*“I believe that one of the most profound indicators of a criminal justice system gone awry is the fact that we are incarcerating the most vulnerable members of our society en masse.”<sup>3</sup>*

Before one can look at the experiences of female offenders, one must first become familiar with who the usual women who fall into this category are. It is not difficult to conjure up an image of the archetypical female inmate after even a cursory look at correctional data. It is as if the French foreshadowed the main demographic of women’s penal institutions when they chose to inscribe Emma Lazarus’s poem “The New Colossus” on the Statue of Liberty which purports the famous invitation to, “Give me your tired, your poor, / Your huddled masses yearning to breathe free, / The wretched refuse of your teeming shore. / Send these, the homeless, tempest-tossed to me,”<sup>4</sup> because

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<sup>3</sup> Silja Talvi. *Women Behind Bars: The Crisis of Women in the U.S. Prison System*. 2007. Emeryville: Seal Press. p. 5

<sup>4</sup> David Lehman. “Colossal Ode: Without Emma Lazarus’ Timeless Poem, Lady Liberty would be just another Statue.” 1 April 2004. *Smithsonian Magazine*.  
<http://www.smithsonianmag.com/arts-culture/10012361.html>

this is an apt description of the majority of women sent to prison. As with most male inmates, female prisoners are usually of low socioeconomic standing and have long been marginalized from mainstream society through denied access to educational and employment opportunities. However, female offenders are subsequently subjugated by their likely histories of victimization as evidenced by several federal studies surveying these women on their encounters with physical and sexual abuse. According to one national study, 57 percent of women in state prisons, as well as 40 percent of female federal prisoners, report such prior abuse.<sup>5</sup> When statistics like these are taken into account, it is hard to dispute the assertion that this country is further victimizing women who are already victims.

Proponents of increasingly punitive adjudication of female offenders cite a growing belief that American women are becoming more violent [at an aggregate level] than their predecessors. The reverse is actually true, as researcher Silja Talvi notes,

On the whole, factors leading to female criminal behavior and incarceration are woefully misunderstood and are most certainly inadequately and poorly reported on. Girls and women are *not* growing more violent year by year...The proportion of women in prison for violent crimes has actually *declined* since 1979, when violent offenses accounted for nearly one-half of incarceration in state prisons, compared with one-third of the women's prison population today.<sup>6</sup>

The notion that women are becoming more predatory, conversely, has only been furthered by the sensationalistic media coverage of the scattered heinous crimes perpetrated by women, such as Andrea Yates drowning her five children in 2001.

However, stories like this fail to illuminate the fact that the majority of women who

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<sup>5</sup> United States General Accounting Office, "Women in Prison: Issues and Challenges Confronting U.S. Correctional Systems," Report to the Honorable Eleanor Holmes Norton, House of Representatives, December 1999.

<sup>6</sup> Talvi, p. 10. Italics original

commit violent crimes do so out of the need to survive. The high preponderance of female-perpetrated survival crimes corresponds to the equally significant national rates of domestic abuse committed against women. Despite the void of sensationalistic media coverage reporting domestic violence in this country, it is an ever present and growing problem. According to Department of Justice reports, an average of three American women are murdered by their husbands or boyfriends each day.<sup>7</sup> Coupled with the aforementioned stats showing the prevalence of physical and sexual abuse females endure, it is evident that many women in correctional facilities are there as a result of an attempt to end their histories of violation and repression.

### **A Deadly War**

*“The drug war is a proxy for racism. Most modern politicians wouldn’t dream of explicitly advocating that society persecute or enslave poor people or members of minority communities. But that is exactly what is happening as a result of the ‘get tough on crime’ drug-war policies of the past few decades.”<sup>8</sup> - ACLU Drug Law Reform Project Attorney Andy Ko*

While crimes against their abusers accounts for a major reason many women are in prison, the “War on Drugs” national policy agenda is the central contributing factor to the mass incarceration of American women. At this point, drug violations and property offenses account for a majority (59 percent) of females in state prisons; by comparison, men in both of these offense categories add up to 39.5 percent.<sup>9</sup> The prevalence of women charged for drug offenses has its origins in several factors—most notably the

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<sup>7</sup> Callie Marie Rennison and Sarah Welchans. “Intimate Partner Violence 1993-2001.” 2003. Washington, D.C.: U.S. Department of Justice.

<sup>8</sup> Talvi, p. 49

<sup>9</sup> Bureau of Justice Statistics, “Drug Use and Dependence, State and Federal Prisoners, 2004,” October 2006.

reduction of downward departures and utilization of conspiracy charges in sentencing practices.

Prior to the passage of the Sentencing Reform Act (SRA) in 1984, federal judges were equipped with the power to take the comprehensive picture of a defendant's history and current lifestyle into account sometimes granting a downward departure from the recommended sanction to a lesser, more applicable punishment. These departures enabled adjudicators to fully consider one's upbringing, community influences, current obligations, and potential among a host of other relevant factors. The SRA, however, removed judicial discretion from sentencing decisions instead mandating adjudicators to adhere to a strict grid of offenses and corresponding sanctions. The abandonment of downward departures especially impacts female offenders due to their probability of having contributory histories of abuse and being the primary caretaker of their children.

On that same token, federal conspiracy statutes give prosecutors increased latitude when charging defendants in felony drug cases. Under these laws, defendants who are shown to have contributed the slightest assistance to a drug enterprise, even unknowingly, can face the same sanctions as those who knowingly perpetrated the more serious charges unless those defendants with lesser involvement supply prosecutors with information on their higher-ranking "co-conspirators." Unfortunately for many women, their minimal involvement—through such activities as answering the phone or relaying a message—cannot be mitigated because they have no information on their [male] significant other's, family member's, or friend's criminal activities. This is such a common occurrence that experts have denoted a separate designation for it altogether. This trend toward sentencing women on so-called drug conspiracy charges is colloquially

known as the “girlfriend problem,” in reference to the fact that so many of these convicted women were not involved in the drug manufacturing, dealing, or trafficking operations that their boyfriends or husbands were participating in.<sup>10</sup> Conversely, higher-ranking [male] participants in drug activities almost always have more information to offer prosecutors than the standard female defendants in exchange for reduced sentences. Accordingly, women often fall prey to the ever popular trend of plea bargaining and find themselves serving their time for his crime.

Perhaps the most devastating effect of the War on Drugs is the subsequent denial of federal benefits that people convicted of felony drug charges are subjected to once released from prison. If having to disclose themselves as ex-felons on applications does not present enough of a roadblock to gainful employment and other opportunities for upward mobility, the refutation of essential federal assistance and services will. As Talvi notes,

Food assistance, higher-education funding, and even income tax deductions for pursuing a college degree are all yanked away from most felony drug offenders. It is utterly illogical and absurd that nearly every other category of ex-offender—including sex offenders, murderers, arsonists, and perpetrators of domestic violence—is eligible for these benefits.<sup>11</sup>

Denied access to benefits is particularly relevant to female offenders who are generally impoverished prior to entering prison and attempting to reunite with and care for their children after prison. Facing both a lack of sustenance and the means to improve their social capital, many women ex-offenders feel their only resort is an illicit lifestyle—either through direct participation in the economic underworld or through substance

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<sup>10</sup> Talvi, p. 268

<sup>11</sup> Talvi, p. 27

abuse in order to avoid the bleak reality of their situations. The cumulative effect of the drug war on female offenders, therefore, is felt both in their pathways to prison and any chance they have at later successes in life.

### **The Concrete Womb**

In her landmark exposition of female penology, *Women in Prison*, Kathryn Watterson conjures the analogy of prison as a concrete womb that force feeds dependency to its inhabitants. This environment is so atypical to a productive, healthy adult lifestyle that Watterson maintains, “The only other time we know of in life where nearly every moment is dictated for us by other people is infancy.”<sup>12</sup> The concrete womb is maintained by the correctional staff’s possession of absolute control and regulation of institutional life. Beginning with prisoner reception, this authority is most visibly manifested in inmate appearance and the extent to which they may individualize their standard institutional dress codes. Generally speaking, female prisoners are given masculine clothes or drab muumuus to wear in addition to the institutional inexistence of the most basic grooming instruments and products that are not made for men and/or Caucasian skin and hair. However, one manner in which female inmates adapt to the controlled environment of correctional life is through gender reconstruction.

In prison as well as in the outside world, gender is a social construction, flexible in both appearance and behavior.<sup>13</sup> This flexibility is most commonly employed with names, clothing, and hairstyles. Female inmates who choose to exhibit conventional

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<sup>12</sup> Kathryn Watterson. *Women in Prison: Inside the Concrete Womb*. 1973 (Revised Edition: 1996). Boston: Northeastern University Press. p. 79

<sup>13</sup> Barbara Owen. “*In the Mix*”: *Struggle and Survival in a Women’s Prison*. 1998. Albany: State University of New York Press. p. 142



conceptions of femininity are generally classified as “femmes” and referred to by their given, legal names. Conversely, female inmates who decide to espouse traditionally perceived male traits can be classified as “studs” and/or “butches” and typically like to be called by male variations of their given names or referred to by nicknames, their last names, or initials. While female inmates adopting the “femme” lifestyle are denoted by female pronouns, female inmates adopting the masculine lifestyle are denoted by male pronouns often even by correctional staff. Additionally, masculine inmates usually attempt to wear pants as much as possible (even under the institutional muumuus if forced to wear them) along with male undergarments like boxer shorts and [tank top] undershirts. Studs and butches are also fond of walking with a loose, swagger-like gait with their pants sagging below their waist like many men do (especially in inner-city, urban environments). Moreover, they tend to frequently grab their crotch in the manner that some men do. Butches and studs are additionally likely to be distinguishable from the femmes since most masculine persona-adopting female offenders wear their hair cut considerably shorter and closer than femmes do. The adornment of jewelry can also serve as a gender indicator in female correctional institutions though it is more ambiguous. While some women accuse masculine acting inmates of only doing so for exploitative purposes given the high demand placed on studs and broads, it would be fair to say that assuming male personas constitutes a popular adaptation to the female correctional experience and one of the few available means of regaining agency in a rigidly controlled setting.

### **Family Functions**

The adaptive evolution of the prison “play family” has long been documented by researchers of women’s correctional institutions (see Appendix A: Literature Review). This relatively innocuous innovation is often publicized in both an academic and nonacademic context given its supportive value to incarcerated women and its emphasis on conventional gender roles and familial expectations. As criminologist Barbara Owen details, the dynamics of the play family are both structured and malleable at the same time:

The prison family, like families on the street, may be small or large, and may last a significant period of time or dissolve and transform. The family structure reflects the dominant role played by women in the free world and continues to find expression in prison life. While the basis of some families may be the romantic dyad or couple, families can also be formed by individual women developing close ties and taking on family relations. Typically, an older woman will take on the role of the mother, with a “youngster” taking on the role of the “kid.” Women who are taking on the “butch” or the aggressive role may be a dad, a son, or a brother, but these designations are often fluid.<sup>14</sup>

The fluidity of play families is further echoed in the extended kinship networks that some women form leading a given family to sprawl to encompass generational cousins, grandchildren, and so on. Conversely, the conventionality of these groups is evidenced by the shared responsibilities and division of labor.

While each familial unit has its distinct characteristics, those female inmates occupying male relative roles are generally responsible for protecting their womenfolk with the women being held responsible for any domesticated duties that must be assumed to the extent that the institution will let them. Furthermore, grandparents, parents, and other older relatives are expected to and often relish the positional authority they have to

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<sup>14</sup> Owen, p. 134

dispense advice to the younger family members. It is along these lines that platonic play families are formed where a more experienced inmate takes an interest and/or concern for a peer with less correctional familiarity and becomes a mentor for her—a mutually advantageous relationship that can attract additional beneficiaries and mentors. However, by in large the progression of prison families in women’s prisons is rooted in two causes: female inmate separation from their children and the necessitation of normative gender expectations and functions for a female population devoid of male peers.

The standard “pains of imprisonment” (Sykes) felt by any prisoner are augmented for women prisoners who routinely desire a more substantive relationship with their children during their incarceration [as opposed to their male counterparts] given the fact that most female offenders are the primary caretakers of their children prior to imprisonment. Owen skillfully captures the bittersweet motivational tool that female prisoners’ children often serve:

For many women, reuniting with their children becomes a primary goal and acts as a form of informal social control during their days in prison. Reunification immediately upon release was the goal of almost half of the women interviewed in our profile survey, but this desire often conflicts with the reality of raising a child under the restricted circumstances of their release.<sup>15</sup>

The separation between women offenders and their children is enhanced by the relative lack of female correctional facilities in relation to male correctional institutions. Given that there are so few penal institutions for women in the first place, these offenders are generally shipped lengthy distances from their home communities where the caretakers of their children often reside. Furthermore, since most of these women and their families/ the guardians of their children live in impoverished urban communities, there are no

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<sup>15</sup> Owen, p. 120

familial or communal resources to fund multi-hour trips to visit incarcerated mothers. Connections to the outside world also create problems for a woman trying to live her life within the prison world; she may be torn between “doing her own time” and thinking about her family on the streets.<sup>16</sup> Many female prisoners will voluntarily admit the stress and pain that go hand in hand with feelings that they have abandoned and disappointed their children while knowing that their kids’ lives will ultimately go on with or without them. In this manner, prison families offer both a supportive network of women experiencing the same loss and a means of escaping the current and probable future desolation of their real-life familial situations.

Few members of the public can conceptualize the magnitude of the near absolute removal of people of the opposite sex from one’s world. Although many correctional officers in women’s institutions are men, their positions as custodial authorities elevate them above peer, relational status. This occurrence, coupled with the attempts to subvert institutional control by gender reconstruction discussed earlier, gives rise to a premium market of female inmates who assume male identities. Not only are these male-identifying inmates able to provide some normative gender stabilization in play families, but they are also able to sustain many inmates’ romantic fantasies and ideals.

### **Let’s Talk About Sex: Same-Sex Relationships among Inmates**

*“It seems sex for prisoners is considered dessert in our culture—too special and rare a treat for bad children. When the topic of sex in prison comes up, some people are shocked and curious, as if they’ve never considered what people do with their sexual and emotional needs when they’re confined behind bars. Others seem to think that if you lose your liberty for breaking a law, you also ought to lose your sexuality and your right to intimacy and sexual contact.”<sup>17</sup>*

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<sup>16</sup> Owen, p. 126

<sup>17</sup> Watterson, p. 285

As the above quote by Watterson signals, prisoner sex and relationships are generally perceived as taboo topics in mainstream society. Whereas these occurrences in male correctional institutions are the stuff of innumerable “don’t drop the soap” jokes, the sexualized female prison environment is the stuff of pornographic propaganda on the one hand and intriguing but ignored phenomena on the other. Despite this, Owen illustrates the reasons for increased academic interest in female offenders’ sexual activity relative to male offenders:

This can be partially explained by attention in the outside world to the sexuality of females, traditional expectations of women in terms of sexual behavior, and the morally based theoretical explanations of female delinquency and criminality. Additional impetus for this focus, in contrast to male prison behavior, is that such same-sex behavior is more open, less sanctioned, and more observable in the female prison population. From early descriptions in the classic literature to present observations, such behavior appears consensual and socially accepted by both participants and nonparticipants.<sup>18</sup>

Despite these commonalities in same-sex relationships among female prisoners, these relationships can manifest themselves in a multiplicity of ways. In general, though, there are three classifications for female inmate homosexual relationships—all of which were likely concurrent adaptations to the formation of women’s correctional environments.

First, there are romantic relationships, which most women in relationships with their fellow inmates would claim to be in. These relationships arise much in the same way that heterosexual “free world” relationships do: two people with initial shared ground and attraction develop intimacy through steady conversation and time spent with each other and eventually become romantically involved and committed to one another.

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<sup>18</sup> Owen, p. 138

Romantic relationships among women in prison, while wholly sustentative, are also prone to inmates who identify as “gay for the stay” and have no plans to continue any homosexual activity once released from prison. Conversely, some romantic relationships have withstood one or both inmates release and/or subsequent imprisonment throughout substantial periods of time. One can see how these relationships emerged as female offenders were separated from their societal romantic partners and denied access to heterosexual relationships [with the exception of staff-inmate relations discussed later] while needing even greater levels of intimacy, empathy, and support in their correctional space than their pre-institutionalized lives mandated.

The second and smallest class of female prisoner participants in same-sex relationships is the group of offenders who openly identify themselves as lesbians both inside and outside of prison. From what research has been done on this group, there does not seem to be one specific trajectory that professed prison lesbians follow. Owen highlights this ambiguity:

Some of these women state they remain faithful to their woman partners on the outside, some develop new relationships with new partners inside, and a few claim to be celibate while inside. A few are serving time with their partner...Although some of the women interviewed in this study claimed to be “gay on the streets,” this prior sexual orientation does not always translate into their relationships at CCWF.<sup>19</sup>

The lack of definitive data and resolutions on these inmates is largely attributable to their small sample size.

The third and final type of same-sex relationship in female penal institutions is the exploitative relationship. This category in itself has three sub-categories: friendly,

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<sup>19</sup> Owen, p. 141

emotional, and outright exploitation. Friendly exploitative relationships result from well-positioned inmates offering loans of commissary and bartering goods within the prison economy to those inmates with a need for such goods. Due to the inherent unreliability of lending, these exchanges are usually kept between friendship networks sometimes overlapping into play families. Moreover, there are generally no threats of violence in terms of collecting loan repayment in friendly exploitative relationships. Secondly, there are emotionally exploitative relationships initiated by more savvy inmates who prey on new inmates who seem to have considerable resources. The more experienced prisoners involved in these relationships will often position themselves in a position to secure the new and ignorant offender's trust by seemingly befriending and/or mentoring them while beguiling them out of their goods and resources. The extreme manifestation of emotionally exploitative relationships can be seen in outright exploitative relationships as Owen describes:

The third category of exploitative relationship involves outright extortion. Usually carried out by a "toughie," this activity has no basis in any relationship. Instead, a woman with little social support in the prison, one who is thought to be "weak" or a "punk," may be pressured into surrendering her goods to another prisoner, either in a one-time confrontation or ongoing extortion.<sup>20</sup>

These manipulative relationships mirror some of the uglier trends seen in male correctional relationships. While "punks" are generally not raped like they are in male prisons, they are still relegated to the lower strata of the prison society in female institutions. Moreover, these weaker women are the ones subject to the rare occurrences of domestic violence in female inmate same-sex relationships. Despite the extortion of "punks" in female prisons, studies highlight the absence of sexual coercion and violence

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<sup>20</sup> Owen, p. 150

present in the male correctional sexualized environment. Owen's research specifically addresses this question:

The fear of same-sex advances was voiced by many of the women as they described their concerns over coming to prison. Throughout this study, the women and staff interviewed agreed that force was rarely used in recruiting individuals for relationships. The standard disclaimer "I don't play" or "I don't use" was sufficient declaration of one's desire to stay out of these arrangements.<sup>21</sup>

### **Inmate-Staff Relationships and the Impact of the Prison Rape Elimination Act**

The blurring of inmate-staff boundaries is a problem correctional administrators have had to contend with since the inception of penal institutions. Correctional staff professionalism is an intrinsic necessity for correctional institutions that house women. This imperative requirement is rooted in the manner in which females are socialized to value and protect their physical and spatial privacy at a much more rigorous standard than males are. Naturally it follows that most women are extremely jarred when they first enter correctional institutions to be strip- and cavity-searched among mixed company and later having to adjust to showering and using the restroom in full view of inmates and officers. Male staff access to private spaces in female institutions thus presents a problem of privacy violation and also presents the opportunity for rape and coercion. Not only do female inmates who are violated by officers have to face a reminder of their probable histories of violation but they are persistently reminded of their incapacitation and helplessness in life since their testimony will never be given the full weight of a staff member's. As a result, many women prisoners are desecrated and mistreated by the very officials charged with ensuring their protection.

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<sup>21</sup> Owen, p. 147



Allegations of correctional staff abuse became so widespread that it was addressed in the Prison Rape Elimination Act (PREA) passed in 2003 which championed safe [sexual] environments for both male and female inmates. This legislation was unanimously passed on both sides of the aisle to ensure that all U.S. correctional facilities would practice zero tolerance for sexual violence and abuse among offenders as well as between staff and offenders<sup>22</sup> (further details in Appendix B). PREA has undoubtedly added a level of professionalism and security to the sexualized correctional environment that was hitherto lacking. The only area that PREA has not been able to influence as strongly is the need for aggressive prosecutions of correctional staff members who have been accused of wrongdoing. A proper adjudication process that properly sanctions convicted officers would do well to increase female inmate trust in the grievance process and criminal justice system which would lead to a greater amount of abuse disclosure.

### **Conclusion: A Chance for Renewal**

*“Jails are not conducive to women being good mothers. Mothers in jails are not conducive to bringing up good citizens. We have about seventy percent recidivism. Yes, they come back, and their daughters come back, and their daughters, and their daughters’ daughters.”<sup>23</sup> - Lieutenant Audrey Lehre, Assistant Warden, Sybil Brand Institute for Women*

The exponential incarceration of vulnerable women does nothing to help them but does everything to help damage American society and infrastructure. It should be a matter of great concern that almost two and a half million children have a parent in prison.<sup>24</sup> This confounding statistic points to a growing normalization of correctional supervision and the forced dependency it perpetuates. Moreover, these children are set up

<sup>22</sup> Andie Moss. “The Prison Rape Elimination Act: Implications for Women and Girls.” August 2007. *Corrections Today*. American Correctional Association. p. 1

<sup>23</sup> Watterson, p. 335

<sup>24</sup> Talvi, p. 11

for failure as a result of the denied access to federal benefits many of their mothers will incur due to the “War on Drugs”—a denial that traps them in a cycle of low attainment and societal alienation. This cycle in turn gives way to opportunities to victimize others in illicit activities and to be victimized themselves. Tragically, many children of women who have been incarcerated will go on to continue that heartrending legacy unless the correctional course is reversed and tailored to acknowledge the women it continues to lock up.

*“If we are to deal meaningfully with crime, what must be seen is the dehumanizing effect on the individual of slums, racism, ignorance and violence, of corruption and impotence to fulfill rights, of poverty and unemployment and idleness, of generations of malnutrition, of congenital brain damage and prenatal neglect, of sickness and disease, of pollution, of decrepit, dirty, ugly, unsafe, overcrowded housing, of alcoholism and narcotics addiction, of avarice, anxiety, fear, hatred, hopelessness and injustice. These are the fountainheads of crime. They can be controlled. As imprecise, distorted and prejudiced as our learning is, these sources of crime and their controllability clearly emerge to any who would see.”<sup>25</sup> - Former Attorney General Ramsey Clark*

*“We the living are now and throughout time responsible for what happens to the earth, to man, to life. Shall we not learn from life its laws, dynamics, balances? Learn to base our needs not on death, destruction, waste, but on renewal?”<sup>26</sup> - Ansel Adams and Nancy Newhall*

## **Appendix A: Literature Review**

The landmark studies of female imprisonment are generally agreed to be those by Ward and Kassebaum (1965), Giallombardo (1966), and Heffernan (1972). These studies found striking similarities: the world of women’s prisons was quite different than that of male culture; prison culture among women was tied to gender role expectations of sexuality and family and prison identities were at least partially based on outside identities and experiences.<sup>27</sup>

<sup>25</sup> Ramsey Clark. *Crime in America: Observations on Its Nature, Causes, Prevention, and Control*. 1970. New York: Simon & Schuster

<sup>26</sup> Ansel Adams and Nancy Newhall. *This Is the American Earth*. 1960. San Francisco: Sierra Club.

<sup>27</sup> Owen, p.4

Ward and Kassebaum originally premised their study on the search for corresponding female versions of archetypical male inmate roles as advocated by Sykes (1958). The absence thereof served as a catalyst for the two researchers to examine the sexual relationships found in women's prisons. The authors focused on how women adapt to institutionalized life and the concurrent effects on their identities. For Ward and Kassebaum, this adaptation process began as soon as an offender was processed into prison and encountered the unique penal orientation of confusion, humiliation, and loss of control. In particular, they argue that loss of agency is the driving force in female prisoner adaptation. The researchers observed women inmates seeking to regain their autonomy through same-sex relationships with other prisoners and/or belonging to "play families" consisting of prisoners role-playing traditional family units found in society. These families, in their opinion, replaced the group position and solidarity found in male institutions (later seen in gangs). While agreeing that one's adaptation to the prison world is based on degree of criminal experience or maturity, Ward and Kassebaum suggest that women prisoners suffer from "affectional starvation," the need to have emotional and reciprocal relations with another, and possess "psycho-sexual" needs for interaction with men.<sup>28</sup> Accordingly, female offenders replicated traditional male roles in both their play families and same-sex relationships. Ward and Kassebaum incorporated several biological and psychological theories into their study, including the work of their contemporary Alfred Kinsey, and arrived at the conclusion that female prisoners act out conventional male roles to adapt to a world devoid of biological males and subsequently regain some agency in their incarceration. Moreover, the researchers end their study with

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<sup>28</sup> Ibid, p. 5

recommendations to correction staff on how to curb the “problem” of homosexual relationships in female correctional institutions.

Following Ward and Kassebaum, Giallombardo (1966) also examined play families and same-sex relationships but with an even larger focus on identity creation. She argues, much like Irwin and Cressey (1962), that the informal social order of the prison is based on identities imported from the outside world; Giallombardo suggests that identity in the society of women is based on adoption of a variety of traditional feminine roles, such as wife, mother, or daughter.<sup>29</sup> The researcher asserts that the majority of female offenders assume these “femme” roles with a minority of prisoners assuming male “stud” roles—denoted by modifications to their physical appearance—in direct response to the abundance of femmes. The femmes thus place a premium on the small population of studs, which gives rise to competition and polygamy. Like Ward and Kassebaum, Giallombardo notes the basis of play family roles as those traditional familial roles and obligations purported by the free world. Moreover, she acknowledges the family structure as a manner for female inmates to create nonsexual intimacy with each other and facilitate trust among the women. Ultimately, Giallombardo surmises that incarceration limits the societal roles available to female ex-convicts and their subsequent mobility.

Heffernan (1972) positions her study on the inadequacy of male-dominated theoretical frameworks to properly describe the atmosphere of female correctional institutions. The researcher grounds her study in Sykes’s (1958) themes and his notion of the “pains of imprisonment.” Specifically, she searched for key roles and norms that enable the inmate social system to act cohesively and to reject the rejecters.<sup>30</sup> Heffernan

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<sup>29</sup> Ibid, p. 6

<sup>30</sup> Ibid, p. 7

subsequently devised three archetypical female prisoners: the Square, the Cool, and the Life. Moreover, Heffernan furthers Ward and Kassebaum's and Giallombardo's studies by highlighting women prisoner's pre-prison identities and pathways to prison. The author maintains that first-timers who had previously lived a relatively noncriminal life settle on the Square prison identity; small-time criminals live the Cool; and career criminals live the Life. Additionally, those offenders in the Life were those most involved in same-sex relationships and prison families and were generally the most fulfilled inmates during their incarceration. The fulfillment from the Life came from a sole focus on the institution and not on outside family, friends, and occurrences.

## **Appendix B: PREA and Other Notable Caselaw and Legislation dealing with the Sexualized Prison Environment**

### **❖ The Basics of PREA<sup>31</sup>**

On September 4, 2003, President Bush signed PREA into law. This legislation was unanimously passed on both sides of the aisle to ensure that all U.S. correctional facilities would practice zero tolerance for sexual violence and abuse among offenders as well as between staff and offenders. The act:

- Establishes a zero-tolerance standard in correctional facilities;
- Directs the Bureau of Justice Statistics to carry out a comprehensive annual statistical review and analysis of the incidence and effects of prison rape;
- Establishes within the U.S. Department of Justice the Review Panel on Prison Rape to carry out public hearings concerning the operation of the three facilities with the highest incidence of prison rape and the two facilities with the lowest incidence in each category of facilities identified;
- Charges the National Institute of Corrections with providing training and technical assistance to the field, developing a clearing house and authoring an annual status report to Congress;
- Directs the attorney general to develop grants to assist states in ensuring that budgetary circumstances do not compromise efforts to protect inmates and safeguard the communities to which they return; and
- Creates the nine-person National Prison Rape Elimination Commission to conduct a comprehensive legal and factual study of the penalogical, physical, mental,

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<sup>31</sup> Moss, p. 1

medical, social and economic impacts of prison rape; submit a report on the study; develop recommended national standards for the field; and conduct public hearings to accomplish the work of the commission.

- ❖ “According to a 2002 Fourth Circuit Court of Appeals ruling, there is no fundamental right for prisoners to engage in homosexual acts. The court ruled specifically that prison administrators have the right to place openly gay male prisoners in single cells because of the potential threat of violence or sexual abuse from either party. But female prisoners, the court determined, are generally less violent and homophobic than their male counterparts, and therefore do not need to be covered by the ruling.”<sup>32</sup>
- ❖ “According to the California Department of Corrections and Rehabilitation, prisoners may not engage in “illegal sexual acts,” and must avoid placing themselves in situations that would encourage illegal sexual acts. Such acts include oral sex and mutual masturbation, but can also include “overt acts” like hip thrusts, sexually suggestive letters, or drawings that depict sexual acts.”<sup>33</sup>
- ❖ “[California] Women can be charged with misdemeanors for such acts, and subsequent violations can be prosecuted as felonies.<sup>34</sup> Several other prison systems, including the Kansas Department of Corrections, have made “lewd” contact by a prisoner eligible conduct for prosecution as a predator and sex offender.”<sup>35</sup>

## Appendix C: The Female Inmate Experience in Her Own Words

### Pathways to Prison

*“No matter the damage to our tattered souls, we still have the spark inside us, the indomitable spirit to continue on, to never give up. We may be tattered and torn, but we still love and laugh, we burn bright. I believe every person is redeemable, there are no disposable people. A society which practices that will eventually implode.” - Delecia Hammock, serving thirty-two years for killing an abusive husband<sup>36</sup>*

### A Deadly War

*“If there were only some way for people to understand that there is an entire nation of families locked away, many for one mistake, and they think that it can never happen to*

<sup>32</sup> “Gay Prisoners Not Entitled to Double-Occupancy Cell,” *Prison Legal News* (November 2003): 25.

<sup>33</sup> Talvi, p. 201

<sup>34</sup> Cassie Pierson, “‘Illegal Sex’: CDC’s Biased Definition,” California Coalition for Women Prisoners, *The Fire Inside* 18, Summer 2001.

<sup>35</sup> Kansas state legislation, 2003.

<sup>36</sup> Talvi, p. 1

*them or one of their own.”- Elizabeth Cronan, who is serving twenty-eight years for her first offense for conspiracy to manufacture methamphetamine, and who was arrested with less than two grams in her possession<sup>37</sup>*

*“I beseech you all to think about these women—to encourage the American people to ask for reforms, both in sentencing guidelines, in length of incarceration for nonviolent first-time offenders, and for those involved in drug-taking. They would be much better served in a true rehabilitation center than in prison, where there is no real help...no way to be prepared for life ‘out there,’ where each person will ultimately find herself, many with no skills and no preparation for living.”- an open letter from Martha Stewart while serving a five-month prison sentence in Alderson, West Virginia, December 22, 2004<sup>38</sup>*

### The Concrete Womb

“Not Just a Number”- Cara Nicole Barker-Royall, serving time in Texas

*I scream, I shout!  
But my voice is silenced  
behind these razor fences...  
I’m scared to let down  
my defenses.  
My eyes are brown and wide  
rimmed red from the thousands  
of tears I’ve cried.*

*One mistake only leads to  
another.*

*And I’m no longer a wife  
or a mother—  
Just a number...  
You look through me  
as if I don’t exist.  
The fear, the pain, the loneliness  
I continually resist.  
Behind these brown eyes  
I hide the person I really am—  
the way I feel,  
that’s the only way I can  
deal.*

*With the fear that cruises  
through my heart—  
that keeps me apart*

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<sup>37</sup> Ibid, p. 22.

<sup>38</sup> Ibid, p. 22

*from all that's real...  
 This life behind the razor  
 is so surreal!  
 I am human!  
 Not just a number!*

*Will they put a barcode  
 across my head?  
 File away my remains  
 I dread?  
 Will anyone miss me  
 when I'm dead?  
 I am a woman!  
 I have a heart that beats!  
 But this crime,  
 my mistakes—  
 continually defeats, defeats,  
 defeats!  
 I am real!  
 Not just another story—  
 Not only these few words  
 you see.  
 I breathe!  
 I am slowly dying*

*Becoming all I can be!  
 I am not just a number,  
 but a woman,  
 a real person,  
 someone's mother!*

*Not just a number...  
 Not just a number...  
 Not just a number...<sup>39</sup>*

### Family Functions

*“For me, it is going to be easy to go home. I am going to have my family and my support system. A lot of these women are not going to have that. A lot of these women don't have that from the beginning; that is why they are in here.” - Tracy, serving a long sentence for a drug-related violent crime<sup>40</sup>*

*“The only way I can deal with it is just to cut myself off emotionally. Like, I haven't seen my daughters for five years. I know I'm their mother, and I guess they know I'm their*

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<sup>39</sup> Talvi, p. xxiii

<sup>40</sup> Owen, p. 122



*mother, but what kind of mother is that? It can't be real to them. Thinking about it makes me feel dead inside. Sometimes I just want to forget everything and not have to feel anything else inside."* - Prisoner at Alderson<sup>41</sup>

### Let's Talk About Sex

*"It's hard for people to understand how you get into what they call homosexual relationships. But they forget how powerless people feel, how alone they are in there...It doesn't start out as a big sex thing. Actually, it doesn't have anything to do with sex. People see girls holding hands and they just think sex. But it starts out as just a need to know someone cares about you now...People need to be needed—just be warm—have somebody to care about you and recognize you as a person. It's a thing everybody needs—a thing of feeling and touching and reassuring you that you're somebody."* - Theresa Derry, a former inmate<sup>42</sup>

*"What many folks fail to realize is that one of the hardest things to deal with about jail is the sudden complete absence of males. In fact, it is rarely brought up. People ask me whether I ever got to eat ice cream, could I watch any television, could I get newspapers. But no one asks me, Did you have any sex?"* - Pat Singer, a former inmate<sup>43</sup>

### Inmate-Staff Relationships and the Impact of the Prison Rape Elimination Act

*"[Rhonda Spain, serving time in Fluvanna Correctional Center for Women (FCCW) in Troy, VA] added that FCCW she has seen officers getting "lots of sexual favors [after] mixing up [prisoners'] medications."*<sup>44</sup>

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<sup>41</sup> Watterson, p. 302

<sup>42</sup> Ibid, p. 303

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