

HOW THE CRIMINAL JUSTICE SYSTEM IS ANTI-WOMEN

Women accounted for 6.9%¹ of all prisoners nationwide by midyear of 2003 and their rate of incarceration continues to increase at a much faster rate than that of the male prisoner population.² In addition, almost one million women are on probation or parole.³ Most women entering the criminal justice system are convicted of non-violent and/or drug crimes. The criminal justice system poses unique harm to women in the form of sexual abuse, medical neglect, denial of reproductive rights, economic survival, and challenges to motherhood.

THE INCARCERATION OF WOMEN HAS SKY-ROCKETED IN RECENT YEARS.

- The chance of a woman going to prison in her lifetime in 2001 were 1.8% compared to .3% of 1974, a six fold increase.⁴
- When all forms of correctional supervision, including probation, parole, jail, and state federal prison are considered, more than one million women are now under the supervision of the criminal justice system in the United States.⁵
- The public pays an estimated \$25,000 annually to house a woman in prison and \$25,000 a year for each child of an incarcerated mother placed in foster care.⁶

THE EXHORBITANT INCREASE IN THE INCARCERATION OF WOMEN IS DUE TO THE WAR ON DRUGS AND ANTI-DRUG LAWS.

- **More and more women are being incarcerated for drug offenses.** From 1986 to 1999, the number of women incarcerated for drug offenses increased by a staggering 888% compared to a rise of 129% in the incarceration rate for all other non-drug offenses.⁷
- **Most incarcerated women are racial minorities who come from an abusive and/or an underprivileged background.** About half of the women in state prisons had been using drugs and/or alcohol at the time of the offense. About 44% of incarcerated women reported that they were sexually assaulted during their lives. Incarcerated women were twice as likely as the general population to grow up in single-parent household, which means that they are also more likely to be poor. Only 4 out of 10 were employed fulltime at the time of the offense.⁸ African Americans and Latinas account for 43% and 12%, respectively, of the female prison population.⁹

SEXUAL ABUSE AND MEDICAL NEGLECT OF WOMEN IN CUSTODY IS WIDESPREAD IN THE CRIMINAL JUSTICE SYSTEM.

- **Sexual abuse is a major problem for women in prisons.** Sexual violence or the threat of violence is widespread throughout prisons, but relatively few studies have been able to document its precise prevalence. Exacerbating the problem, around 70% of guards in women's correctional facilities are men. These guards are responsible for monitoring women prisoners at all times and in all places, including showers and bathrooms. This partially accounts for high numbers of rape, sexual assault, extortion, and groping during body searches.¹⁰ Ironically, what is considered a crime outside of prisons is effectively ignored by the system, or at worst condoned as a reality of prisoner life.

- **Guards use physical assaults, threats of stopping visitations by children and other family members, and sentence extensions in order to retaliate against and deter women from reporting abuse.**¹¹ Consequently, in 1997, only 10 prison guards were disciplined for abuse and of those 10, only 7 were prosecuted.¹²
- **Women are denied medical services.** Women who suffer from treatable diseases or mental illnesses have limited access to health care.¹³ Furthermore, gynecological and reproductive services are insufficiently provided to women.¹⁴
- **Women face many health issues in prison.** At the end of 1999, the 3.4 % of the women in state prisons were HIV-positive. Studies show that Hepatitis C affects between 22% and 55% of female prisoners. Sexually transmitted infections are also a problem for female prisoners, as 3.28% have Syphilis, 1.4-6% have Chlamydia, and .7-7.4% have Gonorrhea. Many incarcerated women have mental health problems such as anti-social personality disorder, depression, post-traumatic stress disorders, all potentially due to histories of abuse.¹⁵ In addition to STDs and stress-related illnesses, women in prison suffer from chronic conditions like asthma, diabetes, and heart disease.¹⁶

“THE SAME SYSTEM THAT FAILS BATTERED WOMEN PROSECUTES THEM WHEN THEY FIGHT BACK IN SELF DEFENSE.”¹⁷

Many of women convicted of violent crimes were convicted for defending their children or themselves from abuse.¹⁸ It is likely that most battered woman who kill in self-defense have been forcibly prevented from leaving abuse, or previously survived abuse, sexual assault, and death threats from her abuser.¹⁹ Criminalizing domestic abuse may not be the solution. Some groups suggest that the criminalization of domestic abuse, while done with good intent, is ineffective.²⁰ It decreases the number of women who kill their abusers in self-defense, but it does not decrease the number of women killed by their abusers. This means that the system protects the abuser more than the victim. Furthermore, the criminalization approach has had negative effects on marginalized women of immigrant communities who are often arrested or deported when they report domestic abuse.

THE CRIMINAL JUSTICE SYSTEM VIOLATES WOMEN’S REPRODUCTIVE RIGHTS.

- **Incarceration, especially the trend toward longer sentences, denies women the right to have and raise children.**
- **Medical neglect in the criminal justice system jeopardizes women’s fertility.** The failure to screen for and treat health problems such as sexually transmitted infections and cervical cancer results in infertility and preventable hysterectomies.²¹
- **Women can be charged with child abuse or drug trafficking if they test positive for drugs during pregnancy.** It is estimated that at least 200 women in 30-40 states have been “arrested and criminally charged for alleged drug use or other actions during their pregnancy,” the majority of them being poor women of color.²² This criminalizes a medical problem, violates women’s privacy rights, and undermines the doctor-patient relationship, without doing anything to help women to have healthy babies.
- **Many jails, prisons, and detention centers interfere with women’s abortion rights.** Most jails and prisons make women pay for an abortion and all of the costs of security and transportation to a clinic. In addition, many jails require women to obtain a court order before they will take her to a clinic, which can cause such long delays that they can no longer get an abortion. Fourteen departments of correction have no official policy to guarantee women in state prisons access to abortion.²³
- **Women receive inadequate prenatal care.** Women report problems with access to health care, especially obstetrical specialists, prenatal vitamins, and appropriate diets and work assignments. Substandard practices, including forcing women to quit “cold turkey” and failing to provide methadone to women who use heroin, result in preventable miscarriages and stillbirths.²⁴
- **State violence puts pregnant women in danger.** Women’s pregnancies are endangered by the U.S. Citizenship and Immigration Services (part of the Department of Homeland Security which replaced INS) or police officers

during violent raids, coercive interrogations, aggressive searches, and inadequate medical services in prisons, all of which can cause premature deliveries, loss of the fetus, or endangerment and sometimes loss of the mother's life.²⁵ Because of the inhumane conditions in prison, according to a 1985 California study, only 20% of pregnant prisoners had live births.²⁶

- ***Irrational security measures dehumanize and endanger women during childbirth.*** In most states, it is standard practice to shackle all prisoners during transportation to medical facilities and during the medical visit. Pregnant women are routinely shackled during active labor and after they give birth; they are often restrained while they are giving birth as well. Illinois is the only state whose legislature has banned this practice.²⁷

THE CRIMINAL JUSTICE SYSTEM POSES UNIQUE CHALLENGES TO WOMEN AND THEIR FAMILIES.

- ***Women bear the brunt of illegal or aggressive police raids and ICE searches.*** Because women are more often at home or with children, they are disproportionately affected by legal and illegal police and INS raids and searches, both of which cause undue stress and humiliation, especially to mothers who are in the presence of their children.²⁸
- ***Family ties are strained when a mother is incarcerated.*** About 78% of women in prison have children, but because they are incarcerated in federal prisons out of state or in state prisons in remote towns, less than half of them are able to see their children and families.²⁹ About 20% of children of incarcerated mothers end up living with their fathers, about 60% live with grandmothers, and about 10-15% are put into foster care.³⁰
- ***Incarcerated women lose their children.*** The Adoption and Safe Families Act of 1997 eliminates parental rights to a child who has been in foster care for 15 out of the previous 22 months. The vast majority of incarcerated women will therefore lose their children if they have to put them in foster care.³¹

ECONOMIC CONSTRAINTS ON WOMEN INCREASE THEIR INCARCERATION RATES.

- ***The criminal justice system criminalizes victims of sexual and physical abuse.*** Victims of sexual or physical abuse are more likely to be forced into homelessness and poverty, conditions that frequently precede drug abuse, prostitution, and committing economic crimes. Abused women living in poverty are thus more likely to be incarcerated and treated as criminals rather than victims.³²
- ***Many former prisoners are denied public support and services, increasing the chance that they will return to prison.*** Anyone convicted of a drug-related felony is prohibited from receiving cash and food stamps or living in public housing. This makes it difficult for women convicted of drug felonies to support themselves and their children.³³ Consequently, two-thirds of people released from prisons are re-arrested within three years, primarily for economic offenses.³⁴

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