

YOU ARE THE ADMINISTRATOR

■ Legal Oversight

Inmate Phil McKenzie was determined to get out of the segregation unit of the prison at all costs. He cut his arms and legs and tried to hang himself with the tube from his breathing machine (provided to address his sleep apnea). When that didn't work, he broke off a sharp piece of metal from the machine, which he first used to slice his neck and then swallowed, in hopes of causing internal bleeding. Corrections staff managed to save McKenzie and released him from isolation to get him much-needed medical and mental health treatment. McKenzie had a long history of depression, and when he returned to segregation 5 weeks later, he hanged himself, thereby becoming the 13th inmate in the state to commit suicide in less than 2½ years.

Inmate advocates have filed suit in federal court, claiming that McKenzie and 18 other inmates who committed suicide or attempted suicide were driven to harm themselves by the conditions they endured in isolation units in prisons around the country. Most states operate segregation units, though some have recently reacted to lawsuits by no longer putting mentally ill inmates in such units. Others have implemented more frequent monitoring of the inmates, increased training of staff, and removed fixtures that could be used for hangings.

Around the country, department of corrections staff are struggling with how to treat violent inmates who are out of control and need to be segregated from others for their own safety, as well as the safety of other inmates and staff. However, for the mentally ill inmates who fall into this category, placement in segregation (which often results in being locked in a cell for 23 hours a day with just 1 hour for shower and recreation in an outdoor cage) can amount to a death sentence.

The expert retained by the state to examine McKenzie's case concluded that "confining suicidal inmates to their cell for 24 hours a day only enhances isolation and is antitherapeutic." The department of corrections vowed to adopt all of the resulting recommendations, including better inmate assessments, better supervision and monitoring of inmates, and better officer training.

- How can prison and jail administrators deal with mentally ill and special-needs offenders?
- Are segregation units ethical and safe for mentally ill inmates?
- How can specialized inmate programming help offenders like McKenzie?
- What standard should the courts employ to determine cases like this one?

Source: P. Belluck, "Mentally Ill Inmates at Risk in Isolation, Lawsuit Says," *New York Times*, March 9, 2007, available at <http://www.nytimes.com/2007/03/09/us/09prison.html?ex=1331096400&en=7b9093960e12d25d&ei=5124&partner=permalink&exprod=permalink>, accessed October 10, 2007.



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Women Offenders

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CHAPTER 16

CHAPTER OBJECTIVES

- Provide an historical overview of the treatment of women in correctional institutions.
- Describe extent of female crime, characteristics of incarcerated women, and how they differ from male offenders.
- Identify some innovative programs and best practices to improve services for women offenders as well as sources for more information.

■ Introduction

Women offenders are vastly outnumbered by male offenders and are typically ignored by most governmental policy makers and correctional administrators. Although women offenders share many substantive issues with male offenders, they have a number of unique needs and problems that are not the same as those of their male counterparts. This requires that prisons for women be different in form and substance from facilities for males.

Meeting the needs of women offenders can be achieved by implementing what are known as “gender-responsive” programs and services. Being gender responsive means implementing policies, programs, and procedures developed specifically to meet the needs, problems, and strengths of women offenders, not just superimposing programs designed for men on women’s facilities. Implementing gender-responsive programs and services strengthens the management and security of women’s correctional facilities and, if operated in compliance with research-based principles, should also improve the chances of women leading more successful, crime-free lives upon release.

■ History of the Treatment of Women in Correctional Facilities

Although the number of female offenders has increased over time, most correctional systems continue to operate several facilities for men and one or two for women. These facilities are typically smaller and more complex than male facilities, because they house all levels of custody and include the full array of functions from intake to release incorporated throughout the male system.

The treatment of women offenders has evolved over time and continues to evolve today. Attitudes toward and beliefs about women offenders are a direct reflection of how society views women in general and change as modifications take place in the larger society. These changes are slow and not uniform across the country. For example, a basic thing such as complete separation of male and female inmates is still a problem in some jurisdictions, particularly in local jails, and can result in abuse and less programming and services for women.

From colonial times until the mid-1800s, few women broke the law. Those who did were considered “fallen women” and thought to be beyond help. Because few in power cared what happened to them, women were thrown in the same cells with men, where they were regularly victimized and suffered a host of indignities.

Following the Civil War, interest in the plight of the less fortunate, including female offenders, grew, particularly in the northeastern part of the United States. Reformers, most of whom were upper-class women, began to believe it was their moral duty to save female offenders. Lobbying by reformers, fueled by a series of scandals involving sexual and other abuses of incarcerated women, increased the demand for separate prisons for women. In 1870, the National Congress on Penitentiary and Reformatory Discipline (which later became the American Correctional Association [ACA]) endorsed the concept of separate facilities for women, and the first facilities for women opened in Indiana (1873), Massachusetts (1877), and New York (1901).¹ Even with the implementation of separate housing, women continued to receive inadequate care with regard to health needs, offense, age, gender, and other factors. Also, women were not given opportunities to develop skills to help them obtain the jobs that were available for them in the community upon release.

Reformers then began to call for more humane institutions better designed and programmed to meet the roles of women at the time. Because women were believed to be the keepers of family values whose sphere of influence was the home, the reformatory model emphasized a more home-like environment or domestic atmosphere called the “cottage plan” or “cottage system.” The goal of programs in these facilities was reformation, not punishment. Even with a nationwide push for this approach, by 1933, only 17 states

had, for the most part, adopted the women's reformatory model as the basic design for their female facilities and programs.¹ Some states continued to keep women, particularly minority women, in male facilities until modern times.²

By the 1940s, many of innovations established under the reformatory movement were abandoned, and women offenders were forgotten by the criminal justice system. This changed with the growth of the civil and women's rights movements of the 1960s and 1970s, when deplorable conditions in prisons in general and women's facilities in particular gained national attention. In addition to poor conditions of confinement in women's facilities, there were serious disparities between the programs provided for men and those available for women. Several federal lawsuits and threats of court intervention finally spurred a number of changes in women's institutions.

Not all of these changes were positive because many confused the concept of *comparable* or *equal* programming as meaning that women's facilities should be the *same* as male institutions.³ This resulted in many facilities for women becoming more custody oriented.⁴ As the number of women in prison grew, primarily as a result of the war on drugs and the "get tough" changes in federal and state laws, there was tremendous pressure to treat women the same as men. This treatment in many cases made women more hostile and more difficult to manage.⁵ Some carried the concept of sameness to extremes, like the Arizona sheriff who declared he was an "equal opportunity incarcerator" and established a "volunteer" chain gang for women (p. 10).⁶

In response to these excesses, the ACA in 1986 passed its Public Correctional Policy on Female Offender Services, which called on correctional agencies to provide programs that were "equivalent" to ones for males and also to offer additional services to "meet the unique needs" women.⁷ The current ACA Public Policies for Corrections are available online at <https://www.aca.org/government/policyresolution/>.

In the 1990s, the Prisons Division of the National Institute of Corrections (NIC) began funding grants to develop a research-based set of policies and practices designed around the specific needs of women offenders to provide a foundation for improved gender-responsive services. In 2003, a landmark study titled *Gender-Responsive Strategies: Research, Practice and Guiding Principles for Women Offenders* was completed by Barbara Bloom, Barbara Owen, and Stephanie Covington (available online at <http://nicic.gov/library/018017>).⁸ This study provides a comprehensive research and policy base for implementing programs for women that meet their specific needs.

By 2013, a number of states including Rhode Island, Washington, and Connecticut had begun implementing gender-responsive programming, and the NIC launched a new program called Gender Informed Practice Assessment (GIPA) to help correctional systems examine their understanding of gender-responsive programming. GIPA is a tool that aids in the assessment of "correctional environments and practices for women in prison settings" and assists systems in strategic planning, training development, and program gap analysis (p. 2).⁹

Correctional administrators now have a strong research base and specific tools to help them implement gender-responsive policies, programs, and practices for women offenders. Time will tell whether they will make the commitment of resolve and resources necessary to make gender-responsive programs a reality nationwide and whether those who follow them will continue the effort.

■ Profiling Female Offenders

According to the Uniform Crime Report, of the 12,408,899 people arrested in 2011, some 25.9% were females.¹⁰ This was an increase over 2000, when of the 9,116,967 people arrested, 2,020,780 or 22% were women or girls.¹¹

The number of women convicted of a crime and sentenced to prison remains much smaller than the number of incarcerated males. For example, according to the National Bureau of Justice Statistics, men are incarcerated at a rate 14 times higher than women. In 2011, women made up only 6.7% of the state

and federal prisoner population¹² compared to 6.9% in 2003.¹³ Their actual numbers, however, grew from 97,491 in 2002 to 111,387 in 2011. Because most states have one or two small facilities for women, even a few additional offenders can create severe overcrowding.

The population of incarcerated women varies by state and can move up or down dramatically with the addition of only a few admissions or releases. In eight states, South Dakota, Idaho, Kentucky, Montana, West Virginia, Wyoming, Alaska, and North Dakota, at least 10% of the prison population was female. Rhode Island, North Dakota, California, and New Hampshire had the greatest decline in women in the population between 2010 and 2011, declining between 15% and 24%. In Kentucky, Alaska, and Tennessee, the population of women increased by at least 14%.¹²

On the basis of arrest and incarceration data, men are more likely to commit violent crime than are women. Men incarcerated for violent crime tend to victimize strangers. Women who commit violent crimes tend to kill or assault family members, husbands, children, or close acquaintances, usually boyfriends. This difference causes the community to view violent men as more dangerous than violent women. But the societal expectations of the proper role of women create more sensationalism and loathing of violent female offenders, particularly those who kill their children.

The involvement in abuse of both illegal and prescription drugs accounts for much of the rise in the number of women in the prison population. This increase in female criminality appears to be more closely tied to changes in government drug enforcement and incarceration policies rather than on any modification of behavior among women in society.³

Men and women offenders' demographic characteristics vary considerably. For example, male offenders tend to be younger than female offenders, they have someone to return to upon release, their children stay with the children's mother, they have less history of sexual or physical abuse particularly as adults, and they have fewer medical/mental health problems.

The demographic characteristics of incarcerated women have stayed relatively constant over the past 40 or so years and are summarized by Morton³ as follows:

- Average 30 years of age and are more likely to be a minority (black or Hispanic) than white
- Grew up in a dysfunctional family and typically do not have a spouse to return to upon release
- Have children who have been displaced either before or during their mother's incarceration and who will be living with a family member, most likely the offender's mother
- Have a high school degree but limited vocational training and spotty work history, typically at minimum wage service jobs
- Have a history of sexual and/or physical abuse, often as both children and adults
- Have significant drug abuse problems and use drugs to self-medicate from the pain of trauma
- Have multiple medical problems, and many have significant mental health disorders.

Particular attention must be paid to women offenders' history of abuse. Trauma, much of which occurs in the home, is no excuse for criminal behavior, but it does put victims at risk for self-destructive behavior. Women who have been victimized are also at risk for further victimization. Female offenders' extensive history of physical and sexual abuse requires that trauma therapy become a critical component in progressive gender-responsive programming.

■ Mothers in Prison

One of the most obvious differences between male and female inmates is the woman's role as a mother. The concerns and problems surrounding child custody and related family matters have a high priority among women inmates, particularly those with minor children. Even if her relationships with her children were

not ideal when she was in the community, in prison, she will miss her children and worry about what is happening to them.³

Giving attention to the issue of mothers in prison is important, as 62% of women in state prison report being a parent and 41% report having more than one minor child. This accounts for approximately 131,000 children. About 61% of women report living with their children immediately prior to incarceration.¹⁴ It is also of concern because many children do suffer “poor emotional health and well-being and lack of physical care and custody” while their mothers are in prison (p. 472).¹⁵ Such problems put these children at risk of second-generational criminal behavior.

Cognizant of the mother–child relationship issues, most corrections facilities provide for children’s visitation. However, given the dysfunctional family environment experienced by many women in prison, programs on parenting and other aspects of working with children are needed. One such program is a cooperative effort between specific correctional facilities and the Girl Scouts of America called “Girl Scouts Beyond Bars.” This program is available in some jurisdictions and is particularly helpful in teaching offenders parenting and developing positive relationships with children. The girls meet once a month with their mothers and the other weeks with their troop. The mothers meet weekly to learn about parenting and developing activities to do with their children.

Pregnant women present another set of problems that need to be addressed. Some jurisdictions struggle to provide even the basic prenatal, delivery, and postpartum medical care that is essential for the health of the mother and baby. The provision of care is exacerbated by the fact that many women received no medical care in the community prior to coming to prison. Also, many women have high-risk pregnancies because of the abuse they have experienced, drug use, or other lifestyle issues. Questions also arise about how to provide a safe environment during the final stages of pregnancy and whether the mother can keep her baby in prison.

To address the question of prenatal and postpartum environment, the Federal Bureau of Prisons established a program for expectant mothers known as MINT (Mothers and Infants in Transition). In this program, selected mothers in minimum security status can transfer to a community-based facility 2 months prior to delivery. It allows women to be in a supportive environment during the latter stages of their pregnancy, and they can stay approximately 3 months following the delivery of their child for postpartum adjustment. They cannot keep the babies with them but are encouraged to maintain contact with them until release.¹⁶

The New York Department of Corrections has been a leader in allowing newborn babies to stay with their mothers. The New York Reformatory for Women at Bedford Hill has housed a nursery since 1901.¹ In that program, women who give birth while in prison, subject to security clearance, can keep their babies with them for 1 year. The babies live in the cells with their mothers, who are responsible for their care. Parenting and other skills are taught to mothers, and they have the satisfaction of knowing their child is safe and cared for during this period. It allows the mother and child to bond and works best if the mother and child can be released together.

Over the years, other states established similar programs but abolished them depending on agency leadership and resources. Some states even passed legislation prohibiting babies from being kept in prison. According to Maureen Buell of the NIC, seven states, West Virginia, Nebraska, Washington, Ohio, Indiana, Massachusetts, and Illinois, in addition to New York, had nurseries in their women’s facilities in 2013.

■ Sexual Misconduct

Concerned about charges of widespread sexual abuse in jails and prisons nationwide, Congress passed the far-reaching Prison Rape Elimination Act (PREA) of 2003 (available online at <http://nicic.gov/prea>). PREA addresses the problems of sexual abuse (including sexual assault and rape) of anyone incarcerated in federal,

state, or local facilities and covers acts by inmates, staff, volunteers, or any other person who might come into contact with the offender. Staff or others who violate PREA or similar state statutes face dismissal, fines, or imprisonment, and can be required to register as sex offenders. Civil charges can also be brought, and a staff member or other individual can be required to personally pay punitive damages directly to the inmate. Correctional agencies are required to report data relative to sexual assaults, and prosecution of those accused of sexual assault is becoming more common. Correctional agencies can also be found liable for failing to train and properly supervise staff and for not conducting comprehensive background checks.

This legislation is particularly important for women's institutions because sexual assault and rape of female offenders have been long-standing problems throughout the country.¹⁷ In fact, women are more likely than males to be victims of sexual assault by both other inmates and staff.¹⁸ To combat this problem, the NIC has designed and implemented a training program to address sexual assault specifically in women's facilities and encourages all staff working with female offenders to participate in such courses.

■ Developing Gender-Responsive Programming

To properly develop appropriate gender-responsive services for women offenders, it is essential to understand the concept of gender, its effect on society's views of masculinity and femininity, and how it governs what are seen as appropriate roles for men and women in today's society. These roles have certainly changed over time and continue to evolve much more rapidly today than they did in the past. For example, only a few years ago, the idea of women serving as wardens or correctional officers in male correctional facilities was considered unthinkable. Now women working in these capacities are commonplace.

There is little doubt that women offenders differ significantly from male offenders in both their personal histories and their pathways to crime.¹⁹ These differences are especially evident in their gender-based experiences relating to socioeconomic status, domestic violence, sexual abuse, education, and employment, and in frequently having sole responsibility for dependent children.²⁰ To implement gender-responsive programming, correctional systems must take a holistic approach. They must create an environment in which carefully selected staff implement programs with content based on the reality of women offender's lives and attempt to precisely address their unique strengths and challenges.²¹ Programs should also be systemwide, including community corrections, and must have strong support from top policy makers and administrators.

Changing a correctional organization is difficult, but in 2002, New Mexico began a new women-centered approach to its programming for offenders returning to the community that appears to meet many of the requirements for a successful transformation. Governor Bill Richardson made "effective management of female offenders" (p. 64)²² a priority at the New Mexico Corrections Department and supported a gender-responsive approach that made an "effort to find sustainable and effective ways [to] keep women out of the prison system and from returning to prison" (p. 64).²² Carr²² summarized the approach that includes several components designed to improve women's lives and aid them in successfully reentering the community and reuniting with their families, including:

- Gender-specific case management/programming
- A four-phase therapeutic community residential program focusing on female-specific issues and relapse planning
- A long-term transitional program building employment and social skills
- Reentry planning that both works with the offender to find community resources and services and helps develop a feasible parole plan
- Community work release that also provides job skills training and, in some cases, continued postrelease employment

- Visitation initiatives such as therapeutic visits, overnight visits for incarcerated mothers, telecast family reunification opportunities, and even providing gas cards to facilitate family visits
- Access to the New Mexico Women's Recovery Academy (http://www.cecintl.com/facilities_rr_nm_002.html) for women reentering the community with a variety of needs such as education, job training, victim treatment, and substance abuse and mental illness support and counseling services. There is also a halfway house for women who may need additional help transitioning into the community.

This and other efforts to implement gender-responsive programs for female offenders, if successful, will benefit the offenders, their families, staff who work with them, and the community at large.

■ Conclusion

Correctional agencies today face many challenges, not the least of which is developing and implementing gender-responsive services for women offenders at all levels of the criminal justice system. Real changes are being made slowly around the country as a more research-based approach is finding both success and support in the field. Change in corrections is, however, notoriously slow, and it will take a systemic approach to implementing gender-responsive policies, programs, practices, and services at all levels of the criminal justice system. Ultimately, effectively addressing the specific needs of women offenders must consider “a gender-responsive approach [including] comprehensive services that take into account the content and context of women’s lives . . . [with programming that reflects] the larger social issues of poverty, abuse, and race and gender inequalities, as well as individual factors that impact women” (p. 17).²¹ It is not enough to provide women offenders with the tools they need to be successful; we must also provide them with “a sustained continuum of treatment, recovery, and support services” (p. 17)²¹ that can effectively keep them from coming into and from staying out of prison.

Chapter Resources

DISCUSSION QUESTIONS

1. Describe how attitudes toward women in general have influenced treatment of women offenders over time.
2. Discuss the differences in criminality between male and female offenders.
3. List the seven characteristics of women offenders and how they might influence programs for incarcerated women.
4. Define what is meant by “gender-responsive” programs and services for women offenders.
5. Identify what is required to provide gender-responsive programming and give an example of how one state has done it.

ADDITIONAL RESOURCES

GOVERNMENT

The NIC has a number of initiatives directed toward expanding gender-responsive services. In addition to the GIPA, the NIC provides several training and technical assistance programs. Accessible through the NIC Learning Center (<http://nic.learn.com/learncenter.asp?id=178409&sessionid=3-43FE93BF-0A40-402C-9EA9-13227BCD6978&page=1>), there are a variety of comprehensive e-courses, webinars, virtual instructor-led training, and even classroom training sessions on a variety of subjects available to corrections professionals, including PREA and working with women offenders. These resources provide the most current information available and enable the wide dissemination of information that can enhance existing programs or aid in the development of new ones.

More recently, new federal initiatives focusing more on gender-responsive programming and recognizing the unique needs of women offenders are available on the Internet. The NIC has partnered with the Bureau of Justice Assistance to establish the National Resource Center on Justice-Involved Women (see <http://cjininvolvedwomen.org/>), which serves as a resource for a variety of professionals who work with women offenders in the criminal justice system. Resources include technical assistance; conferences, training, and meeting announcements; webinars; presentation links; guidebooks; reports and statistics; links to Internet resources; and a variety of other sources of current and innovative gender-responsive materials.

Another resource that links to effective gender-responsive resources is the Center for Effective Public Policy (<http://www.cepp.com/women-offenders>), which provides links to “Noteworthy Projects” and current gender-responsive products and resources. Some state agencies also have program descriptions on their websites. Check yours and surrounding states.

ASSOCIATIONS

The American Correctional Association (www.aca.org) provides model policies and accreditation standards for correctional programs nationwide including a policy on women offenders and some standards specific to women and girls. It also sponsors national conferences twice a year to address the latest trends and programs for offenders and is a link to other related organizations.

The Association of Programs for Female Offenders (www.apfonews.org), an affiliate of ACA, is an organization for those working with or interested in adult and juvenile female offenders to network and addresses the needs of their clients. It cosponsors with a different state biennially a national conference devoted specifically to programming for women and girls in the correctional system.

Women's Prison Association (www.wpaonline.org) is the oldest service and advocacy group in the United States. It operates a number of programs for women offenders in the New York City area.

COLLEGES AND UNIVERSITIES

University and college faculty are the source of much of the study and development that has been done on gender-responsive services for women offenders. In addition to the sources listed below, for example, see the work done at the University of Cincinnati by Dr. Patricia Voorhis and her associates on needs and risk assessment tools based on studies of women offenders.

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