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WOMEN IN FEDERAL PRISON: PATHWAYS IN, PROGRAMS OUT

KIM WHITE*

ABSTRACT

One of the fastest growing populations in most correctional systems is female offenders and the impact of these rising numbers is significant. The author speaks to the rising female population numbers, the types of crimes and behaviors that lead to their incarceration, the characteristics of female offenders, the impact their incarceration has on their families and children, and how gender responsive programming is pivotal to their effective and successful reentry into society.

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INTRODUCTION

One of the fastest growing populations in federal, state, and local prisons is female offenders.¹ The incarceration of women in the last two decades has reportedly increased 108% since 1990.² For example, the Bureau of Justice Statistics (BJS) reports that in 1998 over 900,000 women were under some form of correctional supervision.³

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Note: Points of view or opinions stated in this article are those of the author and do not necessarily represent the official position or policies of the Federal Bureau of Prisons or the U.S. Department of Justice.

1. See PEGGY BURKE & LINDA ADAMS, CLASSIFICATION OF WOMEN OFFENDERS IN STATE CORRECTIONAL FACILITIES: A HANDBOOK FOR PRACTITIONERS 1 (1991).

2. ALLEN J. BECK & PAIGE M. HARRISON, BUREAU OF JUSTICE STATISTICS, U.S. DEP'T OF JUSTICE, PUBL'N NO. 188207, PRISONERS IN 2000 BULLETIN 1 (Aug. 2001), available at <http://ojp.gov/bjs/pub/pdf/p00.pdf> [hereinafter BECK & HARRISON, PRISONERS IN 2000].

3. LAWRENCE A. GREENFELD & TRACY L. SNELL, BUREAU OF JUSTICE STATISTICS, U.S. DEP'T OF JUSTICE, PUBL'N NO. 175688, WOMEN OFFENDERS SPECIAL REPORT 1 (Dec.

Recent data reveals that the percentage of women coming in contact with criminal justice or corrections agencies continues to rise, even outpacing the growth of their male counterparts.⁴

These statistics certainly lead advocates, researchers, criminal justice professionals, and corrections administrators to ask a number of questions.⁵ What is contributing to the increased confinement of female offenders?⁶ What are the pathways which lead some women to commit crimes resulting in their incarceration?⁷ What impact does this trend have on the children of those confined?⁸ Are there programs, once women are confined, that can help them reintegrate back into society and potentially reduce the risk of them returning to prison?⁹ This article will present perspectives on factors contributing to the growth of the female offender population primarily within the federal prison system, describe programs available to address the various needs of this population, and illustrate the efforts being made to facilitate offender reentry and the ultimate goal of reducing recidivism rates.

I. CONTRIBUTING FACTORS IN PRISON GROWTH

Jail and prison populations have been on the rise since the late 1980s.¹⁰ With the enactment of various legislative initiatives, notably the Comprehensive Crime Control Act of 1984,¹¹ which eliminated parole and established mandatory minimum sentences for a variety of criminal conduct,¹² prison populations in the United States grew

1999), available at <http://ojp.usdoj.gov/bjs/pub/pdf/wo.pdf>.

4. BECK & HARRISON, PRISONERS IN 2000, *supra* note 2, at 5.

5. See BURKE & ADAMS, *supra* note 1, at vii.

6. See *infra* notes 11-20 and accompanying text.

7. See MERRY MORASH & PAMELA J. SCHRAM, THE PRISON EXPERIENCE: SPECIAL ISSUES OF WOMEN IN PRISON 18-47 (2002); see also Katherine van Wormer, *Addictions and Women in the Criminal Justice System*, in THE HANDBOOK OF ADDICTION TREATMENT FOR WOMEN 470, 474-75 (Shulamith Lala Ashenberg Straussner & Stephanie Brown eds., 2002).

8. MORASH & SCHRAM, *supra* note 7, at 77-80.

9. See, e.g., MERRY MORASH ET AL., NAT'L INST. OF JUSTICE, U.S. DEPT OF JUSTICE, WOMEN OFFENDERS: PROGRAMMING NEEDS AND PROMISING APPROACHES 1-2 (Aug. 1998), available at <http://www.ncjrs.gov/pdffiles/171668.pdf>; see also van Wormer, *supra* note 7, at 479-83 (describing treatment services available for women offenders).

10. See FED. BUREAU OF PRISONS, U.S. DEPT OF JUSTICE, STATE OF THE BUREAU 2005, at 8 (2005), available at <http://www.bop.gov/news/PDFs/sob05.pdf> [hereinafter STATE OF THE BUREAU 2005].

11. Comprehensive Crime Control Act of 1984, Pub. L. No. 98-473, §§ 201-2304, 98 Stat. 1976, 1976-2194 (1984).

12. See JOHN SCALLA, BUREAU OF JUSTICE STATISTICS, U.S. DEPT OF JUSTICE, PUBL'N NO. 187285, FEDERAL DRUG OFFENDERS, 1999 WITH TRENDS 1984-99 SPECIAL REPORT 4 (2001), available at <http://ojp.usdoj.gov/bjs/pub/pdf/do99.pdf>.

to historic and unprecedented proportions.¹³ For instance, in 1990, the prison population grew to 65,526, more than doubling since 1980.¹⁴ Currently, the Bureau of Prisons (BOP) reports population numbers approaching 200,000.¹⁵

As the numbers reveal, the rate of prison growth accelerated at the federal level over a relatively short period of time.¹⁶ Drugs, weapons, and immigration violations continue to drive the increased levels of crowding within federal prisons.¹⁷ While discretionary funds are diverted to other important national priorities,¹⁸ prisons cannot be constructed quickly enough to keep up with the projected inmate population.¹⁹ Certainly, some may view this data as an over-simplification of the progressive growth of federal prisoners, as there are other factors that contribute to the growth of incarcerated American citizens. Reasonable minds may disagree regarding the merits of the criminal laws that lead to conviction and incarceration, but few would argue that there is any indication that the growth rate will diminish in the near future.²⁰

II. PATHWAYS TO PRISON FOR WOMEN

As with the male population, the number of women entering the criminal justice arena is also increasing.²¹ But why is the prison population for female offenders rising at a greater rate than for males?

13. STATE OF THE BUREAU 2005, *supra* note 10, at 8; *see also* ALLEN J. BECK & DARRELL K. GILLIARD, BUREAU OF JUSTICE STATISTICS, U.S. DEP'T OF JUSTICE, PUBL'N NO. 151654, PRISONERS IN 1994 BULLETIN 1 (Aug. 1995), *available at* <http://ojp.usdoj.gov/bjs/pdf/pi94.pdf> (demonstrating the rise in prison populations in the United States).

14. BECK & GILLIARD, *supra* note 13, at 1; BECK & HARRISON, PRISONERS IN 2000, *supra* note 2, at 1.

15. PAIGE M. HARRISON & ALLEN J. BECK, BUREAU OF JUSTICE STATISTICS, U.S. DEP'T OF JUSTICE, PUBL'N NO. 215092, PRISONERS IN 2005 BULLETIN, 1-2 (Nov. 2006), *available at* <http://ojp.usdoj.gov/bjs/pub/pdf/p05.pdf> [hereinafter HARRISON & BECK, PRISONERS IN 2005]; *see also* STATE OF THE BUREAU 2005, *supra* note 10, at 51.

16. *See* BUREAU OF JUSTICE STATISTICS, U.S. DEP'T OF JUSTICE, SOURCEBOOK OF CRIM. JUST. STAT. 2003, at 519 (2004), *available at* <http://www.albany.edu/sourcebook/pdf/t657.pdf> (update Nov. 2004) (indicating that the total federal prison population increased sevenfold between 1970 and November 2004, while drug offenses as a percentage of total offenses more than tripled over that time).

17. *See* BECK & HARRISON, PRISONERS IN 2000, *supra* note 2, at 13; HARRISON & BECK, PRISONERS IN 2005, *supra* note 15, at 10; STATE OF THE BUREAU 2005, *supra* note 10, at 51.

18. KRISTENA HUGHES, BUREAU OF JUSTICE STATISTICS, U.S. DEP'T OF JUSTICE, PUBL'N NO. 212260, JUSTICE EXPENDITURE AND EMPLOYMENT IN THE UNITED STATES, 2003, at 1, 3-4 (Apr. 2006), *available at* <http://ojp.usdoj.gov/bjs/pub/pdf/jeeus03.pdf>.

19. *See* BECK & HARRISON, PRISONERS IN 2000, *supra* note 2, at 9.

20. *See generally* HARRISON & BECK, PRISONERS IN 2005, *supra* note 15, at 1-13 (documenting the growth rate in the United States prison population).

21. *Id.* at 4.

Do women become involved in criminal activity for the same reasons as men? Statistics from the BJS reveal that the nation's "war on drugs" has disproportionately impacted females.²² BJS statistics reveal that the nation's "war on drugs" has disproportionately impacted females and has caused the number of women sentenced for drug related offenses to double since the 1990s.²³ As one scholar noted, "[w]omen who have become addicted to illegal substances (and their children who are parted from them) have been especially hard hit by the harsh sentences that are being handed out."²⁴

This may be a result of women who are involved in the drug trade being unwilling to cooperate or perform informant activities if family members are also involved in the drug trade.²⁵ While this hypothesis is debatable, what is not debatable is that, while the rate of violence generally has not increased for female offenders,²⁶ drug convictions have risen exponentially.²⁷ At the end of 2006, approximately 61% of women confined were serving sentences in federal prisons for drug-related offenses,²⁸ as compared to nearly 53% of men.²⁹ Drug offenses represent the largest source of population growth for women in federal prisons, with immigration violations and non-violent related offenses also contributing to the overall number of female inmates.³⁰ Comparatively, however, women sentenced for immigration violations generally serve shorter prison terms.³¹

22. See MORASH & SCHRAM, *supra* note 7, at 19-20; see also van Wormer, *supra* note 7, at 471.

23. BECK & HARRISON, PRISONERS IN 2000, *supra* note 2, at 11.

24. van Wormer, *supra* note 7, at 472. In 1999, an estimated 1.3 million minor children had a mother under the supervision of the justice system. GREENFELD & SNELL, *supra* note 3, at 1.

25. van Wormer, *supra* note 7, at 471.

26. See GREENFELD & SNELL, *supra* note 3, at 2.

27. See, e.g., TRACY L. SNELL & DANIELLE C. MORTON, BUREAU OF JUSTICE STATISTICS, U.S. DEP'T OF JUSTICE, PUBL'N NO. 145321, WOMEN IN PRISON SPECIAL REPORT 3 (1991), available at <http://www.ojp.gov/bjs/pub/pdf/wopris.pdf> (indicating that the percentage of women sentenced to state prisons for drug offenses nearly tripled between 1986 and 1991, from 12% to 32.8%, while percentages for violent crimes and property offenses declined during that time by approximately one-fifth and one-quarter, respectively).

28. Federal Justice Statistics Resource Center, <http://fjsrc.urban.org/analysis/ez/var.cfm> [hereinafter FJSRC]. Reports were generated for variables "type of offense" by "gender" for 2000, 2003, and 2006 from Prisoners in Federal Prisons at year-end.

29. See FJSRC, *supra* note 28.

30. BUREAU OF JUSTICE STATISTICS, U.S. DEP'T OF JUSTICE, PUBL'N NO. 210299, COMPENDIUM OF FEDERAL JUSTICE STATISTICS, 2003, at 108 tbl.7.10 (2003), available at <http://ojp.usdoj.gov/bjs/pub/pdf/cfj03.pdf> (indicating that as of September 2003, violent offenses in the federal prison system only accounted for 3.6% of the female prison population).

31. *Id.* at 112 tbl.7.16 (indicating the mean time served for female federal prisoners for immigration violations was 16.2 months as of September 30, 2003).

Notwithstanding the reality of the related conviction statistics, there is research that reveals that the women who end up in prison have very different pathways into crime than do men.³² This type of research was nearly non-existent before the 1990s. Experts agree, however, that women are more likely to be convicted of crimes involving property or drugs than are men.³³ Approximately 80% of female offenders have substance abuse problems,³⁴ and about half report committing their offense while under the influence.³⁵ Moreover, one in three report committing offenses in order to support their drug habits.³⁶ Research indicates that, as compared to men, women use drugs more frequently,³⁷ use harder drugs for different reasons,³⁸ and confront greater difficulty in areas linked to substance abuse.³⁹ For example, women may have a higher physiological predisposition to addiction and higher relapse rates.⁴⁰ Thus, there appears to be a drug-crime connection with female offenders.

Recent research illustrates how relevant social, psychological, and economic issues impact female offenders differently and to a greater extent than male offenders.⁴¹ Notably, Joanne Belknap advocates using an approach that incorporates a “whole-life” perspective in the study of crime causation.⁴² For instance, female offenders are more likely to come from single-parent homes,⁴³ with 17% living in foster care or in a group home setting at some point in their lives,⁴⁴ and frequently have at least one family member who has been incarcerated.⁴⁵ Additionally, female prisoners report a significantly higher rate of victimization from sexual and/or physical abuse,⁴⁶ have low

32. See *infra* notes 36-57 and accompanying text.

33. HARRISON & BECK, PRISONERS IN 2005, *supra* note 15, at 9.

34. van Wormer, *supra* note 7, at 472.

35. MORASH & SCHRAM, *supra* note 7, at 25.

36. *Id.*

37. Neal P. Langan & Bernadette M.M. Pelissier, *Gender Differences Among Prisoners in Drug Treatment*, 13 J. SUBSTANCE ABUSE 291, 292 (2001).

38. *Id.* at 295, 299.

39. *Id.* at 292-93.

40. *Id.* at 292, 297-99.

41. See JOANNE BELKNAP, *THE INVISIBLE WOMAN: GENDER, CRIME, AND JUSTICE* 66-81 (3d ed. 2007).

42. *Id.* at 468.

43. SNELL & MORTON, *supra* note 27, at 1, 4-5.

44. *Id.* at 5.

45. *Id.* at 5. Studies indicated that nearly half, or 46.6%, of female inmates indicated that an immediate family member had also served time. *Id.*

46. See BARBARA BLOOM ET AL., NAT'L INST. OF CORRECTIONS, U.S. DEP'T OF JUSTICE, *GENDER-RESPONSIVE STRATEGIES: RESEARCH, PRACTICE, AND GUIDING PRINCIPLES FOR WOMEN OFFENDERS* 5, 41-42 (June 2003), available at <http://www.nicic.org/pubs/2003/018017.pdf> [hereinafter BLOOM ET AL., *GENDER-RESPONSIVE STRATEGIES*]; Barbara Owen & Barbara Bloom, *Profiling Women Prisoners: Findings from National Surveys and a*

education levels and employment skills,⁴⁷ and tend to live in poverty.⁴⁸ Finally, women in prison report involvement in abusive relationships⁴⁹ and suffer from mental illness.⁵⁰ Particularly noteworthy is the reported connection between abuse, self-medicating and criminal conduct among female offenders.⁵¹ Abuse, mental and physical illness,⁵² substance abuse,⁵³ economic and social marginality, and homelessness all contribute to female criminality.⁵⁴

III. FEDERAL FEMALE OFFENDERS — HISTORY AND DEMOGRAPHICS

The federal prison system was created in 1891 with the enactment of the Three Prisons Act, authorizing the first penitentiaries.⁵⁵ The BOP was created in 1930 as a subdivision of the Department of Justice.⁵⁶ The system was originally designed to house male offenders⁵⁷ and by 1910, there were only twenty-six female offenders serving federal sentences.⁵⁸ These few female offenders were typically boarded in female units within state facilities.⁵⁹ Assistant Attorney General Mabel Walker Willebrant, however, won approval to establish the first federal women's prison in Alderson, West Virginia in 1927.⁶⁰ Currently, of the 114 federal institutions,⁶¹ there are twenty-seven

California Sample, 75 PRISON J. 165, 169 (1995) [hereinafter Owen & Bloom, *Profiling Women Prisoners*].

47. BLOOM ET AL., GENDER-RESPONSIVE STRATEGIES, *supra* note 46, at 8; Owen & Bloom, *Profiling Women Prisoners*, *supra* note 46, at 175.

48. BLOOM ET AL., GENDER-RESPONSIVE STRATEGIES, *supra* note 46, at 48; Owen & Bloom, *Profiling Women Prisoners*, *supra* note 46, at 167.

49. BLOOM ET AL., GENDER-RESPONSIVE STRATEGIES, *supra* note 46, at 53, 55; Owen & Bloom, *Profiling Women Prisoners*, *supra* note 46, at 171 (noting that one study found that 88% of the study's sample had been exposed to some form of abuse during their lifetime).

50. BLOOM ET AL., GENDER-RESPONSIVE STRATEGIES, *supra* note 46, at 7, 44; *see also* MORASH ET AL., *supra* note 9, at 1.

51. BLOOM ET AL., GENDER-RESPONSIVE STRATEGIES, *supra* note 46, at 52.

52. *See id.* at 53 (describing the link between mental illness and criminality in depth).

53. *See id.* (describing the link between substance abuse and criminality in depth).

54. *See id.* at 52-54 (describing the reasons behind female criminality in more depth).

55. Three Prisons Act of 1891, ch. 529, 26 Stat. 839 (1891).

56. Federal Bureau of Prisons Act of 1930, ch. 274, 46 Stat. 325 (1930) (codified as amended at 18 U.S.C. § 3621).

57. *See generally* PAUL W. KEVE, PRISONS AND THE AMERICAN CONSCIENCE: A HISTORY OF U.S. FEDERAL CORRECTIONS 36-50 (1991) (describing the first three federal penitentiaries — Leavenworth, the Atlanta Penitentiary, and McNeil Island — created to house male inmates).

58. *Id.* at 79.

59. *Id.*

60. *Id.* at 80-83.

61. Federal Bureau of Prisons, About the Bureau of Prisons, <http://www.bop.gov/about/index.jsp> (last visited Jan. 9, 2008).

that house female offenders.⁶² Of the women who are confined federally, the average age is 38.7,⁶³ about 66% of the female population is Caucasian,⁶⁴ about 18% are non-U.S. citizens.⁶⁵ About 28% of the women are of Hispanic descent⁶⁶ and 29% are African American.⁶⁷ The average sentence imposed for women is 78.4 months versus 117.7 months for men.⁶⁸

IV. GENDER-RESPONSIVE PROGRAMS — A WAY OUT

Managing female offenders presents a new set of challenges for any corrections administrator,⁶⁹ not because women are inherently more difficult to accommodate, but because women are different from men and they come to prison with different problems.⁷⁰ For example, women have higher rates of chemical dependency,⁷¹ are more likely to have histories of trauma,⁷² pre-existing medical and gynecological conditions,⁷³ and are typically the primary, if not sole, caregivers for children.⁷⁴ In addition, because the number of female offenders is small compared to the gross number of male offenders,⁷⁵ crafting gender-responsive programs and operations can be challenging. Nevertheless, administrators should maintain a sense of professional and moral obligation to address the housing, treatment, programming, and reentry needs of this population whenever possible.⁷⁶ Clearly,

62. Federal Bureau of Prisons, Institutions Housing Female Offenders, http://www.bop.gov/locations/female_facilities.jsp (last visited Jan. 9, 2008).

63. Federal Bureau of Prisons SENTRY/KEY Indicators computer system (Nov. 2007) (on file with author). The SENTRY/KEY Indicators computer system is an internal computer database of the Federal Bureau of Prisons.

64. *Id.*

65. *Id.*

66. *Id.*

67. *Id.* The demographic percentages exceed 100% because some women are identified in more than one demographic category. *Id.*

68. *Id.*

69. MORASH ET AL., *supra* note 9, at 1; *see also* BLOOM ET AL., GENDER-RESPONSIVE STRATEGIES, *supra* note 46, at 22 (citing a study conducted by Merry Morash and Timothy Bynum that found that 40% of state prison administrators surveyed believed that their "most serious problem" was providing services and programs for female offenders).

70. MORASH ET AL., *supra* note 9, at 1.

71. BLOOM ET AL., GENDER-RESPONSIVE STRATEGIES, *supra* note 46, at 6.

72. *Id.* at 44-45.

73. *Id.* at 6-7.

74. MORASH ET AL., *supra* note 9, at 1 ("More than two-thirds of all women in prison had children under the age of 18, and among them only 25 percent (versus 90 percent for the men) said their children were living with the other parent.").

75. Federal Bureau of Prisons, Quick Facts About the Bureau of Prisons, <http://www.bop.gov/about/facts.jsp> (last visited Jan. 9, 2008) (citing BOP figures for the total number of male offenders as 186,279 versus 13,337 female offenders).

76. *See generally* MORASH ET AL., *supra* note 9 (explaining the results of a National

a one-size-fits-all perspective on policies, programs, and preparation is not appropriate or effective.⁷⁷ As with many issues involving male and female comparisons, recognizing that there are legitimate gender differences is not only politically correct, but it is imperative in the care and custody of society's female prisoners.

The BOP's mission is to protect society by confining inmates in safe, secure, and humane facilities, and to provide self-improvement opportunities to facilitate community reentry and reduce recidivism in the future.⁷⁸ The agency emphasizes the importance of treatment, skill-building activities, education, vocational training, and release preparation in managing inmates.⁷⁹ In an effort to meet the gender-specific needs of female offenders, existing programs and treatment options are continually adjusted.⁸⁰ For instance, because it is more likely women have a history of substance abuse,⁸¹ the agency provides drug treatment for 100% of those who are eligible and are willing to volunteer for treatment.⁸² The treatment continuum includes drug education, non-residential programs, the Residential Drug Abuse Program (RDAP), follow-up treatment, and transitional drug abuse treatment (community-based treatment following an inmate's release).⁸³ At every institution within the BOP, drug education, non-residential drug abuse treatment, and counseling are available.⁸⁴ The RDAP option exists in forty-nine federal prisons for men and nearly all of the stand-alone female institutions.⁸⁵ This program includes individual and group therapy, group counseling, and other skill-building strategies.⁸⁶ The residential-based program is a nine month intensive treatment option that provides a holistic treatment milieu similar to an inpatient community-based program.⁸⁷ Inmates who complete

Institute of Justice study of state-level correctional administrators, prison and jail administrators, and program administrators finding that women have special needs in certain programming areas including housing, substance abuse, mental health treatment, and reentry into the community).

77. BLOOM ET AL., GENDER-RESPONSIVE STRATEGIES, *supra* note 46, at 76.

78. STATE OF THE BUREAU 2005, *supra* note 10, at 5.

79. *Id.* at 10-14.

80. See generally BLOOM ET AL., GENDER-RESPONSIVE STRATEGIES, *supra* note 46 (highlighting gender-responsive strategies utilized to better serve female offenders); see also MORASH ET AL., *supra* note 9 (describing programs initiated by correctional institutions that seek to address the specific needs of women).

81. See BLOOM ET AL., GENDER-RESPONSIVE STRATEGIES, *supra* note 46, at 6; see also MORASH ET AL., *supra* note 9, at 1.

82. STATE OF THE BUREAU 2005, *supra* note 10, at 12.

83. *Id.* at 12-13.

84. *Id.* at 12.

85. Federal Bureau of Prisons, RDAP Locations, http://www.bop.gov/inmate_programs/RDAP_locations.pdf (last visited Jan. 9, 2008).

86. STATE OF THE BUREAU 2005, *supra* note 10, at 12.

87. *Id.* at 13.

the program are given up to six months in a Residential Reentry Center (RRC),⁸⁸ and non-violent inmates are given up to one year off of their sentences.⁸⁹ Inmates who complete the program also receive transitional services linking them to community resources and support.⁹⁰ Over 92% of those who are eligible volunteer to participate,⁹¹ and statistics reveal that three years after treatment participants are 15% less likely to recidivate following release from prison.⁹²

To address the education deficits of offenders, every inmate without a high school diploma, male or female, is required to participate in a literacy program for 240 hours, or until obtaining a General Equivalency Diploma (GED).⁹³ There are also other secondary and advanced education courses available.⁹⁴ In addition, the BOP offers a variety of vocational training and apprenticeship programs for women,⁹⁵ including traditional cosmetology⁹⁶ and culinary arts programs,⁹⁷ as well as nontraditional training programs for women in building trades, stationary engineering, animal training and plumbing.⁹⁸ The goal is to provide valuable occupational training opportunities that will translate into employment for the women upon release.⁹⁹

Female offenders pose unique challenges with respect to medical care in prisons.¹⁰⁰ Female offenders' poor health is often attributable to "poverty, poor nutrition, inadequate health care, and substance abuse."¹⁰¹ Historically, once confined, women use health care services three times more often than their male counterparts,¹⁰² frequently

88. OFFICE OF RESEARCH AND EVALUATION, FED. BUREAU OF PRISONS, TRIAD DRUG TREATMENT EVALUATION PROJECT FINAL REPORT OF THREE-YEAR OUTCOMES: PART 1, at 66 (Sept. 2000), available at http://www.bop.gov/news/PDFs/TRIAD/TRIAD_pref.pdf.

89. *Id.* at 65.

90. *Id.* at 68, 70.

91. STATE OF THE BUREAU 2005, *supra* note 10, at 9.

92. *Id.*

93. *Id.* at 11.

94. Federal Bureau of Prisons, Education, Vocational & Job Training, http://www.bop.gov/inmate_programs/edu.jsp (last visited at Jan. 9, 2008).

95. EDUCATION BRANCH, FED. BUREAU OF PRISONS, U.S. DEP'T OF JUSTICE, OCCUPATIONAL TRAINING PROGRAMS DIRECTORY: LEARNING SKILLS FOR WORK 3 (Sept. 2006), available at http://www.bop.gov/inmate_programs/occ_train.pdf.

96. *Id.* at 49. It is important to note that these programs are not offered at all of the prisons within the BOP.

97. *Id.* at 15.

98. *See, e.g., id.* at 16-17, 24.

99. Federal Bureau of Prisons, Education, Vocational & Job Training, *supra* note 94.

100. BLOOM ET AL., GENDER-RESPONSIVE STRATEGIES, *supra* note 46, at 6 ("Women frequently enter jails and prisons in poor health, and they experience more serious health problems than do their male counterparts.")

101. *Id.*

102. *Id.*

for concerns involving their reproductive system.¹⁰³ Female offenders are at a greater risk for cancer due to high risk behaviors,¹⁰⁴ lack of preventative health care,¹⁰⁵ and a higher incidence of sexually-transmitted diseases.¹⁰⁶ There is also concern regarding pregnancy upon initial commitment¹⁰⁷ and the inevitable placement of newborns following birth.¹⁰⁸ The BOP often has physicians on staff at all federal facilities, with an emphasis placed on providing in-house or contract gynecological specialists for female offenders.¹⁰⁹ Advocacy groups are always concerned about whether women are shackled when transported to local hospitals during child birth.¹¹⁰ Within the BOP, however, it is extremely rare for women in labor to be restrained.¹¹¹ Additionally, in the highly unusual event restraints are used for security reasons, staff follow doctor's guidance during the medical procedure to ensure the health of the mother and baby.¹¹²

Along with physical health, mental health is a concern for women entering the prison system. Research confirms the prevalence of physical and sexual abuse of females during childhood and into their adult lives.¹¹³ The Bureau of Justice Statistics reports that 57% of women inmates in state prisons, compared to 16% of men, admit prior abuse.¹¹⁴ Other reports reveal that 80% of female offenders reported abuse.¹¹⁵ Female offenders also report a higher incidence of mental disorders than male offenders.¹¹⁶ Dual diagnosis or co-occurring

103. *Id.*

104. *Id.* at 7.

105. *Id.* at 39.

106. *Id.* at 6-7.

107. *Id.* at 28.

108. FED. BUREAU OF PRISONS, U.S. DEP'T OF JUSTICE, LEGAL RESOURCE GUIDE TO THE FEDERAL BUREAU OF PRISONS 26 (2004), available at http://www.bop.gov/news/PDFs/legal_guide.pdf [hereinafter FED. BUREAU OF PRISONS, LEGAL RESOURCE GUIDE].

109. GEN. GOV'T DIV., U.S. GENERAL ACCOUNTING OFFICE, GAO/GGD-00-22, REPORT TO THE HONORABLE ELEANOR HOLMES NORTON, WOMEN IN PRISON: ISSUES AND CHALLENGES CONFRONTING U.S. CORRECTIONAL SYSTEMS, 64 (Dec. 1999), available at <http://www.gao.gov/archive/2000/gg00022.pdf>.

110. BLOOM ET AL., GENDER-RESPONSIVE STRATEGIES, *supra* note 46, at 124.

111. See FED. BUREAU OF PRISONS, U.S. DEP'T OF JUSTICE, PUBL'N NO. P5566.06, USE OF FORCE AND APPLICATION OF RESTRAINTS PROGRAM STATEMENT 16-17 (Nov. 2005), available at http://www.bop.gov/policy/progstat/5566_006.pdf.

112. *Id.*

113. BLOOM ET AL., GENDER-RESPONSIVE STRATEGIES, *supra* note 46, at 5.

114. CAROLINE WOLF HARLOW, BUREAU OF JUSTICE STATISTICS, U.S. DEP'T OF JUSTICE, PUBL'N NO. 172879, PRIOR ABUSE REPORTED BY INMATES AND PROBATIONERS 1 (1999), available at <http://ojp.usdoj.gov/bjs/pub/pdf/parip.pdf>.

115. BLOOM ET AL., GENDER-RESPONSIVE STRATEGIES, *supra* note 46, at 5 (stating that a study conducted by Barbara Bloom and Barbara Owen found that 80% of female California inmates sampled reported physical or sexual abuse prior to incarceration).

116. *Id.* at 46.

disorders are prevalent.¹¹⁷ This is most commonly noted when mental illnesses co-exist with other behavioral health problems, such as substance abuse.¹¹⁸ As a result, administrators observe that it is more difficult for women to adjust to prison than for men to adjust.¹¹⁹ Consequently, the BOP ensures that psychological services, counseling, and programs exist to meet the mental health needs of those confined.¹²⁰ Additionally, many female facilities have psychologists who specialize in trauma and post-traumatic stress disorders. Institutions offer individual and group counseling,¹²¹ tele-psychiatry,¹²² and the previously mentioned substance abuse programs.¹²³

Employment is an important aspect of an offender's incarceration as well. It is the goal of the BOP that every inmate who is able to work will be employed while serving their sentence.¹²⁴ Most jobs are designed to support maintenance of the infrastructure of the facility, services and education activities, and industries.¹²⁵ The most successful employment is the opportunity offered through Federal Prison Industries (FPI).¹²⁶ Institutions with FPI operations allow women, as well as men, to work in factory settings where they earn money, learn valuable work skills, and receive training that may increase an offender's chance of being hired upon release.¹²⁷ Those employed with FPI are the highest paid workers in the prison system, earning up to \$1.15 an hour.¹²⁸ To the general public, that may not seem like much, but women send money home to help support children,¹²⁹ to create institution savings accounts to help prepare for release,¹³⁰ and to meet financial obligations with respect to court-ordered restitution costs.¹³¹ Research reveals inmates who work with the FPI are

117. *Id.* at 7.

118. *Id.*

119. *Id.*

120. FED. BUREAU OF PRISONS, LEGAL RESOURCE GUIDE, *supra* note 108, at 32-33; Federal Bureau of Prisons, Mental Health Treatment & Counseling, http://www.bop.gov/inmate_programs/mental.jsp (last visited Jan. 9, 2008).

121. FED. BUREAU OF PRISONS, LEGAL RESOURCE GUIDE, *supra* note 108, at 33-34.

122. STATE OF THE BUREAU 2005, *supra* note 10, at 22.

123. FED. BUREAU OF PRISONS, LEGAL RESOURCE GUIDE, *supra* note 108, at 27.

124. Federal Bureau of Prisons, Work Programs, http://www.bop.gov/inmate_programs/work_prgms.jsp (last visited Jan. 9, 2008).

125. STATE OF THE BUREAU 2005, *supra* note 10, at 10.

126. *Id.*

127. *Id.*

128. *Id.*

129. UNICOR Federal Prison Industries, Inc., About Bureau of Prisons Programs, http://www.unicor.gov/about/about_fpi_programs/?navlocation=InmateProgram (last visited Jan. 9, 2008).

130. *Id.*

131. *Id.*

24% less likely to recidivate than inmates without FPI experience,¹³² and are significantly less likely to become involved in institution misconduct.¹³³

V. WOMEN AND CHILDREN

When offenders are incarcerated, children become “inadvertent victims of their parents’ crimes.”¹³⁴ Although men and women share in child-rearing responsibilities, children of female offenders are disproportionately impacted by incarceration.¹³⁵ As of 2003, approximately 1.3 million children had a mother under correctional supervision,¹³⁶ and approximately 59% of women in federal prison had young children.¹³⁷ Of the minor children whose fathers are confined, approximately 90% live with their mothers.¹³⁸ Of those whose mothers are incarcerated, only 28% live with their fathers.¹³⁹ Ordinarily, children will live with extended families with female heads of household,¹⁴⁰ or they are placed in foster care or are subject to adoption.¹⁴¹ With legislation accelerating adoption proceedings¹⁴² and terminating the parental rights of those confined sooner,¹⁴³ many women in prison find themselves losing their parental rights far more quickly than in the past.¹⁴⁴

One can see how the incarceration of a parent quickly shatters the innocence of childhood. The BOP does what it can to diminish

132. *Id.*

133. *Id.*

134. Oregon Dep’t of Corrections, Children of Incarcerated Parents Project, http://egov.oregon.gov/DOC/TRANS/PROGMS/oam_children.shtml (last visited Nov. 10, 2007).

135. WOMEN’S PRISON ASS’N, WOMEN’S PRISON ASSOCIATION RESOURCE LIBRARY BIBLIOGRAPHY 5 (2004), available at http://www.wpaonline.org/pdf/WPA_Annotated_Bibliography.pdf.

136. Women and Prison: A Site for Resistance, Chicago Legal Advocacy for Incarcerated Mothers, Women in Prison Fact Sheet (2003), <http://womenandprison.org/facts-stats.html> (last visited Nov. 10, 2007).

137. GREENFELD & SNELL, *supra* note 3, at 7.

138. Women and Prison: A Site for Resistance, *supra* note 136.

139. *Id.*

140. BELKNAP, *supra* note 41, at 202.

141. Women’s Prison Ass’n, *supra* note 135, at 5.

142. See Adoption and Safe Families Act of 1997, Pub. L. No. 105-89, 111 Stat. 2115 (1997).

143. LENORA LAPIDUS ET AL., CAUGHT IN THE NET: THE IMPACT OF DRUG POLICIES ON WOMEN AND FAMILIES 55-56 (2005), available at http://www.aclu.org/images/asset_upload_file393_23513.pdf.

144. ANNE HEMMETT STERN, NAT’L RES. CTR. FOR FOSTER CARE & PERMANENCY PLANNING, INFORMATION PACKET: BABIES BORN TO INCARCERATED MOTHERS 9 (2004), available at http://www.hunter.cuny.edu/socwork/nrcfcpp/downloads/information_packets/babies_born_to_incarcerated_mothers.pdf.

the consequences of confinement for the family.¹⁴⁵ Through visiting programs (which allow children to visit with their parents),¹⁴⁶ parenting programs,¹⁴⁷ and the Mothers and Infants Nurturing Together (or MINT) Program,¹⁴⁸ women are able to spend quality time with their children. The Parenting Program offers family literacy education,¹⁴⁹ increased visitation,¹⁵⁰ and there is also a social service component.¹⁵¹ The MINT Program allows female offenders to spend the last trimester of their pregnancy in a community setting where they retain custody of their newborns for several weeks to allow bonding to occur.¹⁵² Women in this program receive prenatal care and education,¹⁵³ and have the opportunity to make arrangements for the care and custody of their child.¹⁵⁴ The BOP is currently investigating various programs that would allow women who are not eligible for the MINT Program to spend an extended period of time with their children in a non-traditional setting within the prison.¹⁵⁵ While controversial in some circles, several states have maintained similar options with observed improvements in offender behavioral adjustment and reductions in recidivism.¹⁵⁶

VI. RESIDENTIAL REENTRY PROGRAMS

Nearly all offenders, male and female, will be released from prison at some point. In an effort to facilitate an inmate's return to the community, Residential Reentry Center (RRC) placement is recommended.¹⁵⁷ The RRC provides a structured, supervised environment

145. Federal Bureau of Prisons, Visiting, Telephones, & Correspondence, http://www.bop.gov/inmate_programs/visiting.jsp (last visited Jan. 9, 2008).

146. *Id.*

147. Federal Bureau of Prisons, Inmate Matters, http://www.bop.gov/inmate_program/index.jsp (last visited Jan. 9, 2008).

148. Federal Bureau of Prisons, Female Offenders, http://www.bop.gov/inmate_programs/female.jsp (last visited Jan. 9, 2008).

149. FED. BUREAU OF PRISONS, U.S. DEP'T OF JUSTICE, NO. 5355.03, PARENTING PROGRAM STANDARDS PROGRAM STATEMENT 4 (1995), available at http://www.bop.gov/policy/progstat/5355_003.pdf.

150. Federal Bureau of Prisons, Visiting, Telephones, & Correspondence, *supra* note 145.

151. *Id.*

152. *Id.*

153. *Id.*

154. *Id.*

155. Bureau of Prisons, Executive Staff Meeting (May 2005) (on file with author).

156. Theresa A. Clark, *The Relationship Between Inmate Visitation and Behavior: Implications for African American Families*, 6 J. AFR. AM. MEN 43, 48-49 (2001).

157. Federal Bureau of Prisons, Community Corrections, <http://www.bop.gov/locations/cc> (last visited Jan. 9, 2008).

within a community-based facility that facilitates the transition.¹⁵⁸ Offenders may receive up to 10% off their sentence imposed, not to exceed six months, in such a facility.¹⁵⁹ During that time, residents are guided through obtaining employment, establishing a residence, continuing substance abuse or mental health care, and reestablishing community ties.¹⁶⁰ The staff at the RRCs are trained professionals and social workers who provide the supervision, guidance, and direction residents need to link with social services, community supervision, and other support organizations,¹⁶¹ thus increasing an offender's likelihood of success.

CONCLUSION

One can see that the circumstances leading women to prison are multi-faceted; consequently, the strategy for preventing recidivism and facilitating the management of those confined must be multi-faceted as well. Correctional professionals must be vigilant to ensure parity in programs, services, processes and resource allocation in a dual-gender system. Maintaining professional boundaries, ensuring zero-tolerance concerning sexual misconduct, and recognizing that the strategies applied must be gender-responsive increase success and reduces litigation. Emphasizing successful programs may be the best way to limit women's recidivism. Education and vocational training, work activities, parenting and child care programs, preventative and responsive mental health, substance abuse and trauma programs, medical care, and community transitional services make a difference. There is more work to be done, and no one strategy will eliminate the need for confinement as an outcome for female criminals. Recognizing that men and women are different facilitates crafting effective operational practices that encompass those differences, potentially eliminating litigation vulnerabilities,¹⁶² and enhancing the reentry outcomes for offenders.¹⁶³

158. *Id.*

159. 18 U.S.C.A. § 3624(c) (West, Westlaw through P.L. 110-176).

160. Fed. Bureau of Prisons, Community Corrections, *supra* note 157.

161. FED. BUREAU OF PRISONS, U.S. DEPT OF JUSTICE, STATEMENT OF WORK: RESIDENTIAL REENTRY CENTER 43 (Aug. 2007), available at http://www.bop.gov/locations/cc/res_reentry_ctr_sow_2007.pdf.

162. BLOOM ET AL., *supra* note 46, at vi.

163. *Id.*