

# WOMEN IN PRISON PROJECT

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## WHY FOCUS ON INCARCERATED WOMEN?

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Largely as a result of harsh, mandatory drug sentencing laws, the United States has witnessed an extraordinary increase in the number of incarcerated women. New York has been no exception: from 1973 to 2006, the number of women in New York State prisons increased by almost 645%. Almost 30,000 women are currently under custody of New York State or City criminal justice systems, either in prisons or jails, or on parole or probation. Along with the total prison population, the number of female inmates in New York has been steadily declining over the last nine years – in 2005, however, the female prison population rose by 1.7%. As of March 2006, there were 2,852 women in the state's correctional facilities.<sup>1</sup>

Prison is an ineffective and inhumane response to the social ills that drive crime. The need to focus on women in prison does not deny the need to identify and address the difficulties that men prisoners face. However, because women have unique life experiences, occupy different familial and social roles, and commonly enter prison in more dire economic circumstances than men, criminal justice policies and programs must be created to suit women's particular needs and issues. Such a gender-specific approach would not only provide critical support for women in prison, but would also create a ripple effect of benefits for children, families and communities directly affected by incarceration.

The following is an explanation of some of these issues:

- Women are more marginalized and discriminated against than men in all sectors of society; the unequal playing field that plagued an incarcerated woman before her arrest follows her through the criminal justice system. Failure to recognize and address the particular needs of women intensifies the difficulties they face at all points along the criminal justice continuum. Additionally, as women comprise a much smaller percentage of the total prison population than men, both in New York State (4.4%) and nationwide (7%), their specific problems are more easily overlooked.<sup>2</sup>
- Women's incarceration exacts a devastating social, emotional and economic toll on families and communities: about 75% of New York's female inmates reported being parents, compared to 58% of men. The majority of incarcerated mothers were the primary caretakers of their children, many as single parents. Women are also more likely than men to have more than one child. An estimated 11,000 children have a mother incarcerated in a New York prison or jail. Although over two-thirds come from – and will likely return to – New York City or its suburbs, more than 40% of New York's women prisoners are incarcerated in Albion Correctional Facility, located more than 370 miles away from their families and homes.<sup>3</sup>
- Most children with fathers incarcerated in New York live with their mothers, while most children of incarcerated mothers live with a grandparent, other relatives, or in foster care.<sup>4</sup> Since New York enacted its own version of the federal Adoption and Safe Families Act (ASFA) in 1999, incarcerated mothers and fathers face an increased risk of

permanently losing parental rights to their children. Under ASFA, if a child has been in foster care for 15 of the last 22 months, the foster care agency is almost always required to file a petition to terminate parental rights. The median minimum sentence for women in New York State prisons – 36 months – far exceeds this 15-month timeline, yet ASFA makes no exception for incarcerated parents.<sup>5</sup> ASFA does have an exception for children placed in kinship care with relatives; because more children of incarcerated mothers are placed in foster care than children of incarcerated fathers, ASFA likely has a disproportionate affect on incarcerated mothers.

- Nationally, 25% of adult women in prison either have given birth during the year prior to their incarceration or are pregnant at the time of their arrest. The New York State prison system has two nursery programs that allow incarcerated mothers to keep their infants with them for up to 18 months: one at Bedford Hills Correctional Facility, in New York's Westchester County, which has the capacity to house 26 mothers and infants, and another at Taconic Correctional Facility, also in Westchester County, which has the capacity to house 17 mothers and infants.<sup>6</sup>
- Women have lower incomes than men, less opportunity to make money, and a disproportionate responsibility for caring for their children and elderly relatives – labor that is often unpaid. Women commonly enter prison in more dire economic circumstances than men: nationally, about 40% of women prisoners were employed full-time prior to their arrest, compared with 60% of men; 37% of women prisoners had an income of less than \$600 in the month prior to their arrest, compared with 28% of men; nearly 30% of women prisoners reported being on public assistance before arrest, compared to less than 8% of men. This harsh economic reality fuels women's illegal activity, like larceny, forgery, transporting or selling drugs, or prostitution.<sup>7</sup>
- Eight out of ten women who enter New York's criminal justice system each year are convicted of non-violent or "victimless" crimes; most women convicted of violent offenses have no prior violent felony arrests or convictions. About 35% percent are incarcerated for drug offenses, compared with nearly 30% of men. Over 83% of women inmates in New York report having a substance abuse problem before their arrest, compared with 63% of male inmates. Nevertheless, alternative to incarceration programs specifically for women are few, and prison-based treatment opportunities are severely limited.<sup>8</sup>
- Women's incarceration, like men's, has a terrible and disproportionate affect on poor communities of color: more than 71% of New York's female inmates are African American or Latina, most of whom come from a handful of low-income urban neighborhoods in New York City. This statistic becomes even more skewed among women incarcerated for drug offenses: more than 82% are women of color.<sup>9</sup>
- An overwhelming majority of women inmates are survivors of physical or sexual abuse. A 1999 study of women incarcerated at Bedford Hills Correctional Facility found that more than 90% had endured sexual or physical violence in their lifetimes. Nationally, female inmates are up to eight times more likely than male inmates to report having been physically or sexually abused in their past. Women and girls who have experienced childhood violence are more likely to engage in criminalized self-destructive activities and be arrested than women whose lives are free from such trauma. Moreover, women inmates who have experienced violence are more likely than women without abuse histories to be targeted for sexual harassment and abuse from correction officers.<sup>10</sup>

- More than 14% of women in New York's prisons are known to be HIV+, a rate of infection almost double the rate for male inmates (7.3%), and more than 100 times the rate in the general public (.14%). About 23% of female inmates are infected with Hepatitis C (HCV), significantly higher than the rate of HCV infection for male inmates (13.6%).<sup>11</sup>
- Women inmates in New York suffer from mental illness at far higher rates than male inmates or women in the general public. The New York State Office of Mental Health has classified 30% of women under state custody as currently or potentially in need either of psychiatric treatment for a major mental disorder or of short-term therapy with medication, as compared to 11% of male inmates.<sup>12</sup>
- In New York State, almost 60% of women in prison have not finished high school; 40% read at an 8<sup>th</sup> grade level or below.<sup>13</sup>
- Female inmates often do not have access to the same programs as male inmates. For example, New York State's Department of Correctional Services (DOCS) offers over 30 different vocational programs in male correctional facilities, and only 11 such programs at women's facilities. Over 30% of women in New York's prisons are currently on the waiting list for a vocational program. Another 11% have finished their vocational program assignment. Over 50% of the women at Albion are on the vocational program waiting list.<sup>14</sup>
- Like incarcerated men, women inmates commonly receive less than adequate services, including insufficient family reunification planning, substandard health care, and little opportunity for rehabilitation through substance abuse treatment, trauma counseling, and vocational and educational programs. These deficiencies undermine women's and men's ability to heal, take responsibility, and successfully reintegrate into their communities and reconnect with their families upon release.
- Women are significantly less likely than men to recidivate: a recent DOCS study found that the three-year recidivism rate for women was approximately 28%, compared with a rate of 41% for men.<sup>15</sup>
- The stigma assigned to currently and formerly incarcerated women is often greater than the stigma assigned to their male counterparts. Women are generally stereotyped as more "passive" and less inclined to commit crimes than men. Female offenders are thus commonly considered to be even more "deviant" and "abnormal" than males who commit crimes.

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<sup>1</sup> New York State Division of Criminal Justice Services Data Sheet 03/06/06, revised 03/14/06. When New York enacted the Rockefeller Drug Laws in 1973, only 384 women were incarcerated in New York State prisons, of whom 102 were drug offenders; by January 2005, the number of women incarcerated for drug offenses had increased by more than 850% to 973. Letter from New York State Department of Correctional Services' Director of Public Information, May 15, 2001 (on file at the Women in Prison Project). Marc Mauer, et al., *Gender and Justice: Women, Drugs, and Sentencing Policy*, The Sentencing Project (1999). Other figures derived from *Hub System: Profile of Inmate Population Under Custody on Jan 1, 2005*, State of New York Department of Correctional Services (hereinafter *DOCS Hub Report 2005*); James J. Stephan, *Census of Jails, 1999*, Bureau of Justice Statistics, U.S. Department of Justice (August 2001). At year-end 2004, there were 22,971 women on probation in New York State. Letter from New York State Department of Probation and Correctional Alternatives, November 4, 2005 (on file at Women in Prison Project). In 2002, there were 4,190 women on parole in New York State. Figure derived from Camille Graham Camp and George M. Camp, *The 2002 Corrections Yearbook*, Criminal Justice Institute, Inc.

<sup>2</sup> See note 1, *DOCS Hub Report 2005*; Allen J. Beck and Paige Harrison, *Prisoners in 2004*, Bureau of Justice Statistics, U.S. Department of Justice (October 2005).

<sup>3</sup> See note 1, *DOCS Hub Report 2005*; Lawrence A. Greenfield and Tracy L. Snell, *Women Offenders*, Bureau of Justice Statistics, U.S. Department of Justice (December 1999, rev. 10/3/00); E. Michele Staley, *Female Offenders: 2001-2002*, State of New York Department of Correctional Services (June 2003); *Collateral Casualties: Children of Incarcerated Drug Offenders in New York*, Human Rights Watch (2002); Christopher J. Mumola, *Incarcerated Parents and Their Children*, Bureau of Justice Statistics, U.S. Department of Justice (August 2000).

<sup>4</sup> See note 3, *Collateral Casualties: Children of Incarcerated Drug Offenders in New York*.

<sup>5</sup> See note 1, *DOCS Hub Report 2005*; New York's ASFA is codified in sections of the Social Services and Domestic Relations Law, and Family Court Act.

<sup>6</sup> *Women in Criminal Justice: A Twenty Year Update*, U.S. Department of Justice, Office of Justice Programs (October 1998); *Profile and Three Year Follow-up of Bedford Hills and Taconic Nursery Programs: 1997 and 1998*, State of New York Department of Correctional Services (2002).

<sup>7</sup> See note 3, *Women Offenders*.

<sup>8</sup> See note 1, *DOCS Hub Report 2005*; See note 3, *Female Offenders: 2001-2002; Preliminary Data Tables Year 2002 Court Commitments*, State of New York Department of Correctional Services; *Characteristics of New Court Commitments 2001*, State of New York Department of Correctional Services, and previous years.

<sup>9</sup> See note 1, *DOCS Hub Report 2005*; "Current Age by Inmate Gender and Race/Ethnic Status; Drug Offenders Only, Undercustody Population NYSDOCS 12/31/2005," State of New York Department of Correctional Services (on file at Women in Prison Project).

<sup>10</sup> Browne, Miller and Maguin, *Prevalence and Severity of Lifetime Physical and Sexual Victimization Among Incarcerated Women* (International Journal of Law & Psychiatry 22 (3-4), 1999); Beth E. Richie, "Exploring the Link Between Violence Against Women and Women's Involvement in Illegal Activity," in *Research on Women and Girls in the Justice System Plenary Papers of the 1999 Conference on Criminal Justice Research and Evaluation*, National Institute of Justice (Sept. 2000); *Survey of State Inmates, 1991*, Bureau of Justice Statistics, U.S. Department of Justice (May 1993); *Substance Abuse and the American Woman*, National Center on Addiction and Substance Abuse (June 1996); Tracy L. Snell and Danielle C. Morton, *Women in Prison, Survey of State Inmates, 1991*, Bureau of Justice Statistics, U.S. Department of Justice (1991).

<sup>11</sup> Laura M. Maruschak, *HIV in Prisons, 2003*, Bureau of Justice Statistics, U.S. Department of Justice (September 2005). See also John A. Beck, Esq., *Health Care in New York State Prisons*, Testimony Presented Before the Standing Committee on Health and Corrections of the New York State Assembly (April 30, 2004).

<sup>12</sup> See note 3, *Female Offenders: 2001-2002*. Figure includes New York State Office of Mental Health Classification Levels 1 through 3.

<sup>13</sup> See note 1, *DOCS Hub Report 2005*.

<sup>14</sup> The number of vocational programs cited here includes one program solely for "youth offenders." "Vocational Program Status of Females Under DOCS' Custody on 1/1/04," State of New York Department of Correctional Services (on file at the Women in Prison Project).

<sup>15</sup> Leslie Kellam, *2000 Releases: Three Year Post-Release Follow-Up Study*, State of New York Department of Correctional Services (December 2004).