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Institut mezinárodních studií, Katedra amerických studií

Zuzana Schmidtová

**Women in the U.S. Prison System: The
Care They Need and the Treatment They
Receive**

Diplomová práce

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Autorka práce: **Zuzana Schmidtová**

Vedoucí práce: **Mgr. Jana Sehnálková**

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Abstrakt

Diplomová práce pojednává o ženách- vězeňkyních v americkém vězeňském systému a o jejich celkovém postavení v rámci tohoto systému. Základní otázku, kterou si práce klade, je schopnost amerického vězeňského systému reflektovat nárůst uvězněných žen a rovněž rozdíly mezi potřebami uvězněných žen a mužů.

Je zde nastíněna základní historie vzniku a rozvoje moderního vězeňského systému ve Spojených státech spolu s jeho současnými základními rysy včetně financování. Jádrem práce se věnuje uvězněným ženám, jejich postavení a podmínkám, které na ně ve vězení čekají. Jelikož uvězněné ženy mají jiné potřeby a požadavky, například ohledně poskytované zdravotní péče, diplomová práce se zabývá jejich potřebami i tím, jak se odlišují od potřeb mužů- vězňů.

Podstatná část práce se věnuje poskytování zdravotní péče ve vězení. Na tomto příkladu je ukázáno, že ženy mají jiné potřeby co se týče poskytovaných ošetření, diagnostiky i léků i jak je nakládáno ve vězení s těhotnými nebo psychicky nemocnými ženami. Jako odpověď na odlišné potřeby žen je diskutován argument zavedení gendrově orientovaného přístupu, který by při poskytování péči ve vězení bral jako nejdůležitější faktor v potaz právě odlišnosti mezi pohlavími. Závěrem je vyjádřen názor, že americký vězeňský systém nebyl a není schopen se vyrovnat s nárůstem počtu uvězněných žen a není také schopen reagovat na jejich potřeby.

Abstract

Thesis deals with female prisoners in the American prison system and their overall position within the system. The research question is whether the American prison system is able to reflect the increase of incarcerated females as well as the differences between needs of incarcerated males and females. Likewise, the thesis also aims at researching whether the prison system offers the care incarcerated females need.

The thesis outlines a brief history of the U.S. modern prison system's origin and development as well as its current main attributes together with financing. The main part is devoted to incarcerated women, their positions and conditions that await them in the prison. Because the needs of incarcerated women differ from men's, for example regarding the health care, this thesis tries to describe their needs as well as how they differ from the needs of male inmates.

An important part of the thesis is devoted to health care provision in the prison. Health care is a good example that illustrates that female inmates have different needs regarding check-ups, diagnosis and needed medications. It is also described how pregnant and mentally ill inmates are treated. As an answer to different needs of female prisoner a possibility of gender-responsive treatment is discussed. This treatment would consider gender as the most important factor while providing needed care and treatment. The conclusion of the work is that the American prison system has not been able to effectively cope with the increase of incarcerated females as well as to react to their needs.

Klíčová slova

Vězení, vězenkyně, drogy, uvěznění, soud, ženy, zdravotní starostlivost, válka proti drogám.

Keywords

Prison, female prisoner, drugs, incarceration, females, court, health care, War on drugs.

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Prohlášení

1. Prohlašuji, že jsem předkládanou práci zpracovala samostatně a použila jen uvedené prameny a literaturu.
2. Prohlašuji, že práce nebyla využita k získání jiného titulu.
3. Souhlasím s tím, aby práce byla zpřístupněna pro studijní a výzkumné účely.

V Praze dne

Zuzana Schmidtová

Poděkování

Mé nejhlubší poděkování patří vedoucí mé diplomové práce, Mgr. Janě Sehnákové za její nekonečnou trpělivost při pročitání různých verzí jednotlivých kapitol. Bez jejích skvělých postřehů a nápadů by tato práce byla velmi ochuzena. Chtěla bych také poděkovat paní Mary Golek za to, že mi skrze organizaci Dismas House otevřela cestu k této problematice a také paní Mary Nellis, která se podílela na čtení první verze. Velké díky patří samozřejmě i mým rodičům, kteří mě nikdy neomezovali v tom, čemu se chci věnovat a vždy mě v mém studiu podporovali.

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Jméno: Zuzana Schmidtová
E-mail: Horova23@seznam.cz
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<p>Zdůvodnění výběru tématu práce (10 řádek):</p> <p>Díky své praxi v neziskové organizaci ve Vermontu jsem měla možnost nahlédnout do fungování amerického vězeňského systému i do následné resocializace bývalých vězňů. V posledních letech zažívá americký vězeňský systém systematický „boom“ co do počtu vězňů. Platí to i o ženách-vězeňkyních. Jejich situace je v rámci vězeňského systému specifická, protože ten byl primárně vystavěn pro mužské obyvatele a rostoucí počet žen a jejich specifické potřeby zde těžko nacházejí své místo. Tomuto tématu se v posledních 15 letech začala věnovat v amerických vědeckých kruzích zasloužená pozornost a já bych ráda tato data spolu se svým vlastním zkoumáním zveřejnila i ve zdejších podmínkách.</p>
<p>Předpokládaný cíl (10 řádek):</p> <p>Cílem práce je přiblížit postavení ženy v americkém vězeňském systému a zaměřit se na problematiku témata, která se pojí s rapidním zvyšováním počtu uvězněných žen, a to zejména:</p> <ol style="list-style-type: none"> 1. důvody pro nárůst ženské kriminality 2. etnická a společenská charakteristika uvězněných žen 3. žena jako matka a její pobyt ve vězení 4. zdravotní problematika uvězněných žen 5. zneužívání žen ve věznicích 6. vyhlídky do budoucnosti- alternativní zařízení a formy trestů pro ženy- matky
<p>Základní charakteristika tématu (20 řádek):</p> <p>Ženská kriminalita je tématem, které v posledním období zaměstnává mnoho akademiků i sociálních pracovníků. V posledních 50 letech došlo k nebyvalé emancipaci žen, s čímž se ale neoddelitelně pojí i markantní nárůst ženské kriminality. Z důvodu koncipování vězeňského systému pro mužské obyvatele má americký vězeňský systém v současné době mnoho nevyhovujících parametrů pro ženské obyvatele. Chybí zejména promyšlený systém zařízení, kde mohou pobývat matky i se svými malými dětmi, rozvinutá péče o těhotné ženy, nebo jen primární gynekologická péče. Důležitou součástí ženské vězeňské problematiky je i sexuální násilí, zejména ze strany dozorců, nebo nucený sexuální styk výměnou za drobné služby nebo ústupky dozorců. Neoddelitelnou součástí je i sociální rozměr ženské kriminality a následného věznění, které rozvrací rodiny a často ničí vztah matka-dítě, které je pak následně umístěné do náhradní nebo ústavní péče.</p>
<p>Předpokládaná struktura práce (15 řádek):</p> <ol style="list-style-type: none"> 1. Úvod 2. Změna postavení ženy od 2. poloviny 20. století- emancipace žen, rostoucí požadavky na profesní i osobní úspěch, neúplná rodina, rostoucí kriminalita žen 3. Vězeňská zařízení pro ženy v USA a specifika péče o uvězněné ženy 4. Problematika ženy-matky ve vězeňském systému 5. Násilí na ženách ve vězení 6. Možnosti alternativních programů, resocializace a rekvalifikace 7. Závěr

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Preface

Despite being an American studies major graduate student, I did not have any knowledge about the American prison system, let alone the gender-related issues within it. The experience that changed my attitude and inspired my passion for this topic took place in 2009 when I came to the United States for the first time. The place was Burlington, the biggest city in Vermont. More specifically, it was the Dismas House, a non-governmental organization, a so-called half-way house for former prisoners.

I can truly say that this was a life-changing experience. What I saw was a community which was ready to help to incorporate the former prisoners and the ex-inmates back to society. Most of them seemed rough on the outside with vivid drug or alcohol abuse history, some of them fighting really hard not to start again.

And there was me, a foreigner who had absolutely no idea what she could expect. Somehow I did not notice the fact that I would share the same house, kitchen, bathroom with all of them. My duties, except for administrative tasks, were to keep them company, offer them a different (European) view of reality and simply talk with them, watch TV and share their positive as well as negative moments while being in the Dismas House.

As a result, I spend one of the best summer with them and the Dismas staff. I spoke to them, slowly uncovered their past, reasons and incidents that brought them to prison. We spoke about the problems and obstacles they had to face once released.

As this was my first initial contact with former prisoners, I started to study more about this issue, I could not leave unnoticed that I was not able to read about female prisoners in books discussing incarceration. After some time, I realized an important fact - male authors write about the prison system as if incarceration was the same for men and women while female authors write mostly about female prisoners.

Even though my thesis can never elaborate on each and single detail of this problematic issue, I would be honored if it will increase an interest at least in some people, because only future will show how much this phenomenon will transform the American society.

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Introduction

According to one estimate, at some point in mid-February 2000, the United States's prison population reached 2 million prisoners. Together with the fact that the United States claims the world's largest prison population - more than one-fourth of the world's prisoners - and the highest incarceration rate, this topic attracted the attention of media, academic researchers and also state and federal governments that found themselves overwhelmed with all the various issues related to prison population.

However, majority of this attention focuses almost exclusively on male offenders who make up an overwhelming majority in the prison population. There are three most important differences between male and female prisoners that indicate why female inmates receive less attention. First, female prisons are smaller than an average male prison. Second, there are a lot less of them. The third factor is the most important for this thesis- male and female inmates are different in their behavior and needs, however due to their numbers and the fact female inmates do not tend to riot, they receive much less attention.

It took rather long time for academics and researches to explore female incarceration issues and it was not until the late 1970s and early 1980s that first articles and studies were devoted to the topic of female prisons and its inhabitants. This trend has started with Freda Adler and continues till today, represented mostly by female psychologists, criminologists, political scientists, gender studies professionals etc.

In 1971, President Richard Nixon declared "War on drugs" which was launched to end the scourge of addiction by drastically expanding the net of imprisonable drug offenses and imposing extremely harsh sentences on anyone involved in the drug trade. This included and specifically affected small dealers and users, many of them females. In 2011 the "War on drugs" celebrated its 40th birthday. Through these forty years, the incarceration rate for women in the U.S. has increased by more than 800 %. While in 1980 there were over 12,000 imprisoned women, by 2010 the number skyrocketed to over 200,000.¹ It is obvious that the "War on drugs"

¹ Manning Marable and Ian Steinberg and Keesha Middlemass eds., *Racializing Justice, Disenfranchising Lives: The Racism, Criminal Justice, and Law Leader* (New York: Palgrave Macmillan, 2007), 87.

policy did not have a deterrent effect; however its effect on female incarceration rate is more than visible.

This thesis is a case-study of how the U.S. criminal justice system is treating women. In particular, the thesis focuses on the differences between male and female inmates and their different needs with respect to programming and health care. The study is based on available materials, books, journals, articles in the newspapers as well as studies by agencies which are responsible for monitoring the situation and providing statistics about prisoners e.g. FBI's Uniform Crime Reports. The core of these sources was recommended by author's mentors Richard Gagne and Mary Golek from the Dismas House², Vermont as well as from Celia M. Winkler, a sociology professor at University of Montana.

The main purpose of this thesis is to show how the American prison system has been treating female offenders. Because females were historically rarely visualized as perpetrators of crime, the prison system has never fully adjusted to accommodate, punish and rehabilitate them. If the system is not working for men, for whom it was originally designed, i.e. male's prisons are overcrowded, they don't have adequate program opportunity etc., how can it treat and solve issues and problems of female inmates?

The thesis will especially point out the situation and position of imprisoned women. As a result, description of their problems, needs and demands, this thesis aims to answer the following questions: Has the prison system reflected the increasing numbers of incarcerated females? Does the U.S. prison system reflect differences between males and females and does it provide adequate care in respect to their needs?

The thesis is divided into five chapters that try to offer reader a possibility to gradually examine the current situation within the prison system. The first part of this work offers a basic overview of the history of American prisons, together with an overview of prison classification and financing. As mentioned earlier because of the overall lack of information regarding this subject, this chapter will define basic terms,

² The Dismas House is a non-profit, non-governmental organization which was established to help former prisoners. The main aim is to provide an accommodation, food and programming for a period of up to six months, so that the transfer of released prisoners back to society would be easier. Through their services, former prisoners have a better chance to find a job, build a stable environment around them and not to start with their previous addictions.

introduce the general thinking about the role of prison system and look at the differences among different types of facilities.

In the next chapter, the thesis moves from the description of the prison system as unified environment to describe more specifically the trends related to female incarceration, the statistics and overall tendencies in approaching incarcerated female offenders. This chapter also tracks the newly emerging public narrative that females were getting more violent. This has been an important aspect that changed the perception of female criminals as a group and resulted in harsher sentences towards them. The increased inclination to violence dominated academic research in the 1970s and 1980s through which four theories describing and explaining female violence emerged. Subsequently, the research produced four theories describing and explaining the emergence of female violence. These theories and their conclusions fundamentally shaped the perception of female prisoners. Though most of these findings are nowadays questionable, at the time they emerged they were considered solid basis for research about female offenders.

From characterizing the female prison population, Chapter 3 aim is to look more closely at the problems that arise solely in female prisons. Increased deprivation and phenomena such as pseudo-families, pregnancies or mother-children ties are issues that do not exist in male prisons and can be observed only in facilities for female inmates.

Additionally, from all the problems described in Chapter 3, Chapter 4 focuses more closely at one of the most important problems female inmates and female prisons need to challenge - provision of health care. This thesis aims to show that provision of the same health care standards to both male and female offenders is nonsensical. Women not only tend to need more health care, but because of their role as mothers which includes pregnancies and postpartum periods, they are in bigger need of regular check-ups, healthy diet (especially while pregnant) and medical and cosmetic supplements (such as pads). Special part is devoted to pregnant inmates and mentally ill convicts and their treatment.

The final fifth part is trying to offer a possibility how to the prison system should treat incarcerated women. The thesis first sums up opinions of both opponents and supporters of the way how current American prison system is managed, and then provides the most successful examples of gender-related treatment as well as author's own analysis of this topic.

A Note on Sources

Through the thesis, it becomes obvious that the author inclines to support the gender-related treatment. There are several reasons for that, among them the fact that the topic of female incarceration has been researched particularly by females. Theirs as well as the author's primary impulse for the research was to find a better way how to treat female offenders, once it became more than clear that the number of incarcerated female skyrocketed without governments and their officials reflecting it in their prison policies.

Through the research, the author did not run across any exception to the following trend – only female researchers write and challenge the conditions undertaken by imprisoned females. This does not mean that only female authors can understand what it means for a woman to be incarcerated. However, it is beyond doubt that female prisoners open up more easily to a female than to a male researcher.

Generally, there were three different groups of sources used in this study. First group includes general literature, which provides a common overview of the U.S. prison system, such as Robert M. Regoli and John D. Hewitt's *Exploring Criminal Justice System* or Robert M. Bohm's and Keith M. Haley's *Introduction to Criminal Justice System*.³ Their books were written for college students as well as for everybody who wants to understand how the American criminal justice system was designed and how it works. This group of sources was used to understand and describe the history of prison system, the daily routine of prisons, their financing and security measures.

The second group includes researches from female authors who focus on the issue of imprisoned females from a rather radical or feminist way. While taking into account their often biased opinions and positions for general reference, the use of these authors, such as Victoria Law's *Resistance Behind Bars: The Struggles of Incarcerated Women*⁴, in this work is rather limited for obvious bias.

The last group of – on which this study relies the most – includes works by respected professionals such as Susan F. Sharp assistant professor of sociology, and expert on gender and crime. In her book *The Incarcerated Women: Rehabilitative*

³ Robert M. Regoli and John D. Hewitt, *Exploring Criminal Justice- The Essentials* (Massachusetts: Jones and Bartlett Publishers, 2009) and Robert M. Bohm and Keith M. Haley, *Introduction to Criminal Justice System* (New York: McGraw-Hill, 2009).

⁴ Victoria Law, *Resistance Behind Bars: The Struggle of Incarcerated Women* (California: PM Press, 2009).

*Programming in Women's Prisons*⁵ she describes the current problems of incarcerated women and then tries to offer a solution through implementation of different innovative programs such as mother-children programs, special health-care unit for pregnant mothers, intensive courses dedicated to improving parental skills etc. This work is one of the best available, due to the fact that it describes not only the depth of problems but offers also solutions.

Another well-respected author is Katherine van Wormer, professor of social work specializing in the area of women in prison and addiction treatment. In her book *Working with Females Offenders: A Gender Sensitive Approach*⁶ she tried to analyze women from every spectrum of criminal justice system. She described not only female offenders and their problems, but also women who were victims of partner abuse or rape, women as survivors of crimes as well as women who work in law enforcement. This work provided a very rare opportunity to understand that women are not only the offenders or victims, but that they also work as police officers, probation officers or judges. The book is balanced, refusing to accept the claim of some biased authors who belong to the second group of sources, that there are female offenders on one side and unfair male law enforcement officers on the other.

The last author I referred to the most often is Joycelyn M. Pollock, professor at Southwest Texas State University who specializes at women in the criminal justice system, ethics, law, and corrections. Her book *Women, Prison & Crime*⁷ specifically points out the differences and disparities between male and female prisons and describes the journey of a woman once she commits a crime. In her work, she examines who the female offenders are, what were their reasons for committing crime, what happened once they entered the prison and how they adjusted to it. In the end, she offered a review of gender-responsive programming. She can see both positive as well as negative aspects of these programs and does not hesitate to criticize them when necessary.

⁵ Susan F. Sharp ed., *The Incarcerated Woman- Rehabilitative Programming in Women's Prisons* (New Jersey: Prentice Hall, 2003).

⁶ Katherine Van Wormer, *Working with Females Offenders: A Gender Sensitive Approach* (New York: John & Sons, 2010).

⁷ Joycelyn M. Pollock, *Women, Prison, & Crime* (California: Wadsworth, 2002).

1. The American Prison System: History, Development and Statistics

*“Crime is a socially constructed category and often says more about the society’s values and traditions, even hang-ups, than about the individuals whose behavior is defined as criminal. In other words, society gets the criminals it creates and even, in a sense, deserves.”*⁸

1.1 Development of the Prison System through the History

Since its inception, the most important task of the “modern”⁹ prison system has been to change prisoners so it would be much easier to re-enter the society once they were released. However, the methods used to accomplish this task have changed through the history of modern United States prison system.

The first modern prison approach in the United States was the Pennsylvania system (sometimes also called the “separate system”), and was highly influenced by the morality and belief system of the Quakers. Rehabilitation was provided through solitary confinement, producing handicraft and by reading the Bible, since it was believed that only by finding their way back to God, one can be redeemed and thus re-socialized. In this system, there was absolutely no contact with other inmates. Prisoners entered the prison with a hood over their eyes and never saw or heard another human being. In order to assure complete isolation, extremely expensive prisons were built at the beginning of the 19th century, so that each prisoner would have own cell where he lived, worked and prayed. The Pennsylvania system prisons were built among others in New Jersey, Rhode Island, New York City¹⁰ and Missouri.¹¹

These prisons were so infamously well-known for their conditions and on the other hand praised for their innovation in being the first modern prisons in the U.S. that even today they are synonyms for all the changes prison system went through. Among prisons built according to the Pennsylvania system, Walnut Street Jail, built in Philadelphia in 1787, is considered the first modern prison constructed in the U.S.¹²

⁸ Katherine Van Wormer, *Working with Females Offenders: A gender sensitive approach* (New York: John&Sons, 2010), 63.

⁹ By modern prison system is meant a system in which prisoners are detained for a longer period of time, rather than punished, crippled or sentenced to death as it was common in previous centuries.

¹⁰ The prison was named the Tombs and it is still operating as Manhattan Detention Complex in Lower Manhattan.

¹¹ Robert M. Bohm and Keith M. Haley, *Introduction to Criminal Justice System* (New York: McGraw-Hill, 2009), 381.

¹² Matthew W. Meskell, “An American Revolution: The History of Prisons in the United States from 1777 to 1877,” *Stanford Law Review* 51 (1999): 847.

Eastern State Penitentiary, also located in Philadelphia, became another gloriously infamous prison, as it was considered the most expensive public building built in those days.¹³ In 1842, Charles Dickens, shattered by what he saw during the visit he paid to Eastern State Penitentiary, wrote:

„I believe that very few men are capable of estimating the immense amount of torture and agony which this dreadful punishment, prolonged for years, inflicts upon the sufferers. . . . I hold this slow and daily tampering with the mysteries of the brain, to be immeasurably worse than any torture of the body: and because its ghastly signs and tokens are not so palpable to the eye and sense of touch as scars upon the flesh; because its wounds are not upon the surface, and it extorts few cries that human ears can hear; therefore I the more denounce it, as a secret punishment which slumbering humanity is not roused up to stay.“¹⁴

Because the opinion of Charles Dickens was not considered rare, the second modern prison approach called the Auburn system, named after Auburn Penitentiary (also known as “congregate” or “silent” system) emerged. The primary difference between the Auburn and the Pennsylvania systems was that there was a possibility for inmates to work together during the day outside their cells with other prisoners, though in a total silence. However, as speaking was considered evil, this work was done in total silence. It was thought that one prisoner could have bad influence on those who were already close to rehabilitation and who already found the salvation through the Bible. One of the most famous prisons built in the Auburn system is Sing Sing, built in 1825 in Ossing, about 30 miles outside New York City.¹⁵

During the first half of the 19th century, long discussions were held about which system was more suitable for the prisoners and their needs. Ultimately, the Auburn system prevailed because it both avoided the harmful psychological effects of total confinement and more importantly allowed more inmates to be housed in less space. The most significant factor for adopting the Auburn system, however, was the idea that the Auburn system, with its emphasis on work, was more compatible with the emerging factory production systems in the United States.¹⁶

¹³ It cost \$780,000 in 1829. Accessed August 28, 2012, <http://www.easternstate.org/learn/timeline>.

¹⁴ Adam Gopnik, “The Caging of America: Why do We Lock up so Many People?”, *New Yorker*, January 30, 2012, http://www.newyorker.com/arts/critics/atlarge/2012/01/30/120130crat_atlarge_gopnik?currentPage=1 (accessed August 12, 2012).

¹⁵ Robert M. Regoli and John D. Hewitt, *Exploring Criminal Justice- The Essentials* (Massachusetts: Jones and Bartlett Publishers, 2009), 262.

¹⁶ Robert M. Bohm and Keith M. Haley, *Introduction to Criminal Justice System* (New York: McGraw-Hill, 2009), 381.

Due to the doubts if even the Auburn system provides the right way of how to treat the majority of inmates, in the second half of the 19th century, a new reformatory principle was introduced with a strong emphasis on reform, rehabilitation and re-socialization especially among younger offenders. A typical example of an institution which embraces this reformatory movement is Elmira prison opened in 1876 in New York State.¹⁷ One of the main ideas implemented at Elmira was a three-level system where every inmate first joined the last, third level, and by reaching the first one was granted parole. However, lack of financial resources and skilled employees who would work with the offenders was the primary reason why the reformatory era became outdated at the beginning of the 20th century.

Great Depression saw another trend in the prison system, especially as the unemployment was on rise, prohibition was established, and gangsters such as Al Capone, became common symbols of the decade. All these factors contributed a decision to change Alcatraz from a military prison to a federal prison in 1933.¹⁸ Subsequently, cities protested against the presence of prisons in their area and many inmates were transported to remote areas, especially to abandoned farms. On these converted farms, inmates raised cattle and grew corn, since it was believed that the prison system should be financially self-efficient. However, high rates of escapes and inability of many prisoners who grew up in urban areas to perform farm tasks helped to establish new trends in the prison system.

As a result, after the World War II, the work of psychologists and psychiatrists were introduced into the prison system, placing a new emphasis on the physical and emotional state of inmates. It was through the perseverance of psychologists and psychiatrists that prisons became oriented towards successful rehabilitation and re-socialization of convicts.

Another change to the prison system was brought by human rights movement demanding better condition and treatment. An example of this was the closure of Alcatraz in 1963, an institution known for housing some of the worst offenders (such as Al Capone, Robert Franklin Stroud or Rafael Cancel Miranda). This decision was made by Attorney General Robert Kennedy, as a response to unsatisfactory

¹⁷ Joecelyn M. Pollock, ed., *Prison Today and Tomorrow* (Massachusetts: Josh and Bartlett Publishers, 2006), 27.

¹⁸ Alcatraz Island was first a facility for lighthouses, then military fortification, followed by military prison. From 1933 till 1963 it served as a federal prison, later it was pronounced a national recreation area.

conditions.¹⁹ Because of this, the Supreme Court ruled in *Cooper v. Pate* (1964) that inmates have the right to sue in federal courts in order to address their grievances. This marked another important moment in the expansion of inmates's rights.

Finally, the most current era of prison system development began in the 1970s with the so called "War on drugs". While this "War" began around 1914, there was a marked correlation between this idea and an increase in imprisonment rates beginning with Richard Nixon's presidency which started in 1969. With passage of the *Comprehensive Drug Abuse Prevention and Control Act* of 1970, the federal government began to take a more active role in drug enforcement and drug abuse prevention. Meanwhile in 1973 the Drug Enforcement Administration was created and became an important player within the federal law enforcement apparatus devoted to fighting the drug abuse problem. It was during this time that decades of increasing arrests for drug possession started and a tightening of drug legislation including reduced parole and probation was introduced. There is no sign that this era is coming to a close any time soon.

1.2 General Prison Statistics

Data and statistics on inmate population have been available since the 1920s when *Uniform Crime Reports (UCR)* were established. The UCR are primary sources of crime statistics in the United States, and have been administered by FBI since 1930. The UCR focuses on monitoring the nature and type of crimes within the U.S., and serve as a source of reliable information for use in law enforcement administration. The FBI gathers the information for these reports from law enforcement agencies which represent more than 300 million U.S. inhabitants. However, the UCR are only a measure of arrests and therefore do not include crimes unknown to police or offences for which police decided not to arrest.²⁰

From the UCR is it visible that in 1925, there were 91,669 inmates which meant there were 79 inmates per 100,000 inhabitants. The number of inmates increased during the Great Depression due to the catastrophic economic situation (1933: 137 inmates per 100,000 inhabitants) and decreased during the World War II because

¹⁹ Marylin D. McShane, *Prisons in America* (New York: LFB Scholarly Publishing LLC, 2008), 32.

²⁰ "About the Uniform Crime Reporting Program," The FBI- Federal Bureau of Investigation, <http://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2010/crime-in-the-u.s.-2010/aboutucrmain> (accessed September 10, 2012).

most of them were deployed before they even entered the prison (1944: 132,456 inmates in total, i.e. 92 inmates per 100,000 inhabitants).²¹

As mentioned previously, significant changes occurred in the 1970s when the “War on drugs” was declared. During this time the probability that one might serve prison time for even minor offenses dramatically increased. Not only did the drug legislation tighten during this time but the 1970s was also an era of higher unemployment together with the factor of all unemployed veterans from the Vietnam war, many of them wounded or with PTSD (post-traumatic stress syndrome), unable to re-enter the society. As a result, between 1973 and 1979, the incarceration rate grew from 99 to 133 inmates per 100,000 inhabitants.²²

However, looking at the statistics the FBI provided, one could say that the 1970s was the last decade in which a direct link between worsening economic trends and increasing number of inmates could have been made. In comparison the 1980s and 1990s offered more employment opportunities and improved people’s economic situation, however, there was no positive effect of these improvements on the incarceration rate - on the contrary, the incarceration rate continued to grow.

According to the UCR, while in 1980 the incarceration rate was 139 inmates per 100,000 inhabitants; in 1990 it grew to 297 inmates per 100,000 inhabitants. In 2000, it skyrocketed to 478 inmates per 100,000 inhabitants. The total number of inmates grew from 500,000 inmates in 1985 to 1 million in 1995. In 2000, the prison population reached 1.5 million incarcerated persons and finally it grew over 2 millions in 2007.²³

The highest incarceration rate per state was achieved in Louisiana in 1999 (776 inmates per 100,000 inhabitants) followed by Texas (762 inmates per 100,000 inhabitants). By contrast, Minnesota had the lowest incarceration rate (125 inmates per 100,000 inhabitants). The most probable reason for this low incarceration rate is in 1973 approved *Minnesota Community Correctional Act* which argues that prison is a place for violent and dangerous offenders while accept the fact that for a successful rehabilitation of many non-violent offenders, prison is neither suitable nor necessary. Thus, Minnesota is the leading state for providing community programs for local non-

²¹ Michal J. Lynch, *Big Prisons, Big Dreams: Crime and the Failure of America’s Penal System* (New Jersey: Rutgers University Press, 2010), 50.

²² *Ibid.*, 116.

²³ Robert M. Regoli and John D. Hewitt, *Exploring Criminal Justice- The Essentials* (Massachusetts: Jones and Bartlett Publishers, 2009), 293.

violent offenders which create local employment opportunities, bring finances into the local budget and create desired social/community services.

Significant differences in incarceration rates are also visible regionally. For example, in 2007, the Northeast had the lowest incarceration rate (274 inmates per 100,000 inhabitants), followed by Midwest (319 inmates per 100,000 inhabitants); West reached 361 inmates per 100,000 inhabitants while the highest, unrivalled incarceration rate was achieved by the South (508 inmates per 100,000 inhabitants).²⁴ Though the differences between regions the U.S. correctional system, as described below, is unified in its functions.

1.3 Correctional System Overview

Within the United States correctional system, there are three major settings focused on incarceration: jails, reformatories, and prisons. The distinction between these settings depends upon the duration and/or severity of the punishment as well as the age of an offender. Incarceration facilities exist at all three levels of government: federal, state and local (county and city). The general rule says that the federal government operates its own prison system as well as each state and local jurisdictions operate their own prison and jail system. Federal institutions are administered by Federal Bureau of Prisons (BOP)²⁵ and are operating 114 institutions all across the country.²⁶

An overview of each is presented below.

Table 1.1²⁷

Jail	- county or city administered institution - a jail serves two primary functions: either to await a trial, or for incarceration of a person that has been sentenced to an incarceration of a year or less
Reformatory	- typically houses first-time offenders older than 16 and younger than 30 who have been convicted of a felony

²⁴ Michal J. Lynch, *Big Prisons, Big Dreams: Crime and the Failure of America's Penal System* (New Jersey: Rutgers University Press, 2010), 186.

²⁵ BOP was established in 1930 within the U.S. Justice Department under the Hoover Administration.

²⁶ Robert M. Bohm and Keith M. Haley, *Introduction to Criminal Justice System* (New York: McGraw-Hill, 2009), 397.

²⁷ Table by author.

	- previously, “reformatory” was used as a synonym for prison, later “reformatories” were renamed as “correctional facilities”
Prison	- a state or a federal facility created for a long-term confinement for serious or/repeat felonies, ²⁸ as opposed to jails where one can be incarcerated only up to one year

Subsequently, prisons are classified according to their security level (amount of security required to incarcerate inmates taking into consideration different levels of potential violence or escape). An institution’s security level is determined by two factors: 1. the degree of external or perimeter security surrounding the prison, and 2. the measures taken to preserve internal security within the institution.²⁹

There are five security levels, each is described in the table below:

Table 1.2³⁰

<u>SECURITY LEVEL</u>	<u>DESCRIPTION</u>	<u>OFFENDERS</u>
Minimum security level (814 prisons around the U.S.) ³¹	include work camps or farms, fenced around the perimeter, though there are generally no high walls or armed guards in watch towers	less serious and non-violent offender with short sentences with relative privileges (are able to leave the facility to visit the family) and access to educational programs
Low security level (725 prisons around the U.S.) ³²	the facilities usually have a double-fenced perimeter, guards normally do not carry weapons.	nonviolent offenders with persistent alcohol and/or drug problems; they have mandated program participation which is aimed at gaining skills needed to more successful re-socialization

²⁸ Robert M. Regoli and John D. Hewitt, *Exploring Criminal Justice- The Essentials* (Massachusetts: Jones and Bartlett Publishers, 2010), 261.

²⁹ Robert M. Bohm and Keith M. Haley, *Introduction to Criminal Justice System* (New York: McGraw-Hill, 2009), 399.

³⁰ Table by author.

³¹ Robert M. Regoli and John D. Hewitt, *Exploring Criminal Justice- The Essentials* (Massachusetts: Jones and Bartlett Publishers, 2010), 267.

³² *Ibid.*, 267.

Medium security level (530 facilities)³³	guards are mostly unarmed but prisoners are closely watched and under constant surveillance of cameras, these facilities house around 250,000 inmates ³⁴ and were built to maximize control over inmates with elements such as watchtowers, electric fences, high walls etc.	mix of violent and property offenders serving less than a life sentence
Maximum security level (335 facilities)³⁵	have very tight external and internal security applied through armed-guard towers, electronic detectors, and external armed patrols; internal security consists of such features as cell-bloc living, restrictions of inmate movement and protocols for closing off areas in order to contain riots and disruptions	present serious escape risks or pose risks to themselves, other inmates or staff
Super maximum level (62 facilities)	20 years ago there was only one super-max prison in the U.S., found in Marion, Illinois. ³⁶ ; inmates have restricted access to both other inmates and guards and are under constant surveillance of cameras and under lockdown for 23 hours of the day with a possibility of one-hour of exercise.	most violent, dangerous and predatory criminals viewed as a security threat being incarcerated in standard correctional facilities

1.4 Financing

Each of the three types of facilities (jails, state and federal prisons) which are designated to incarcerate prisoners in the United States are financed differently. Jails are funded through local taxes and conditional appropriations given by federal and state authorities. State prisons are generally funded by state taxes and conditional

³³ Robert M. Regoli and John D. Hewitt, *Exploring Criminal Justice- The Essentials* (Massachusetts: Jones and Bartlett Publishers, 2010), 268.

³⁴ *Ibid.*, 268.

³⁵ *Ibid.*, 268.

³⁶ *Ibid.*, 268.

appropriations provided by federal authorities. Finally, federal prisons are funded by federal taxes and appropriations provided by Congress.³⁷

Lately, the number of private prisons is increasing. One of the first privately operated state prison was Kentucky's minimum-security Marion Adjustment Center opened in 1986.³⁸ There are two ways private sector is working its way through the prison system: either by takeover of the publicly-operated prisons or by getting contracted by the government to build and operate a newly-build prison. Privately owned prisons profit both from revenues states pay them and from the cheap labor of inmates, as majority of their prisoners work for big companies such as IBM, Motorola, Macy's, Microsoft, Dell, Compaq, Honeywell. All together, exactly 32 states and federal government reported that a percentage of their inmates was held in a privately operated facilities. Almost 130,000 prisoner inmates (8% of all state and federal prison inmates) were kept in this kind of institutions.³⁹

The total spending on federal, state and local prisons and jails was over 68 billion dollars in 2009.⁴⁰ Among the ten states with the highest correctional budget in 2009, California ranks first with almost 8 billion dollars, followed by New York (almost 4 billion dollars) and Texas (almost 3 billion dollars). This ranking has been consistent since 1996.⁴¹ If the Federal Bureau of Prisons (the federal agency that is in charge of all the federal prisons across the U.S.) were included, it would rank second behind California with a budget of almost 6 billion dollars. On the other side of the spectrum is South Dakota with only 70 million dollars that were invested into the corrections.⁴²

³⁷ Robert M. Regoli and John D. Hewitt, *Exploring Criminal Justice- The Essentials* (Massachusetts: Jones and Bartlett Publishers, 2010), 102.

³⁸ *Ibid.*, 154.

³⁹ S.J.Hartnett, "The Annihilating Public Policies of the Prison-Industrial Complex; or, Crime, Violence, and Punishment in An Age of Neoliberalism", *Rhetoric & Public Affairs* 11, No. 3 (March 2008): 491-533.

⁴⁰ Justice Policy Institute, "Pruning Prisons: How Cutting Corrections Can Save Money and Protect Public Safety," http://www.justicepolicy.org/images/upload/09_05_REP_PruningPrisons_AC_PS.pdf (accessed October 20, 2012).

⁴¹ "Financing Prisons." Public Bonds, http://www.publicbonds.org/prison_fin/prison_fin.htm (accessed October 29, 2012)

⁴² Robert M. Bohm and Keith M. Haley, *Introduction to Criminal Justice System* (New York: McGraw-Hill, 2009), 391.

Table 1.3 Distribution of the correctional budget⁴³

The largest amount- almost 70% was designated for salaries and benefits of correctional employees.
9 billion dollars were used to secure inmate healthcare.
Almost 3 billion for capital improvements, i.e. new constructions, equipment etc.
2 billion dollars for food.
1.5 billion was designated for resocialization programs and education.

As the type of inmates have changed over the years, prisoners became younger and more violent, it is no wonder that ultimately more finance is going into the salaries, as in 1960 there was one correctional officer for every 9 inmates, while today it is one officer for every 4.5 inmates.⁴⁴

The average cost per day for one inmate in the U.S. in 2009 was 79 dollars or 28,835 dollars per year. Rhode Island spent the highest amount per prisoner per day (170 dollars) while California the lowest (40 dollars a day).⁴⁵ In 2011 however, the total cost per inmate per year averaged \$31,286 and ranged from \$14,603 in Kentucky to \$60,076 in New York.⁴⁶

As the prison system in the United States gradually developed, the need to separately accommodate women emerged. Female inmates became part of the prison system with its own prisons, statistics and needs. Their numbers, reasons why female incarceration rate increased so rapidly as well as reflection on their increasing violence tendencies will be described in the next chapter.

⁴³ Robert M. Bohm and Keith M. Haley, *Introduction to Criminal Justice System* (New York: McGraw-Hill, 2009), 391.

⁴⁴ Robert M. Regoli and John D. Hewitt, *Exploring Criminal Justice- The Essentials* (Massachusetts: Jones and Bartlett Publishers, 2010), 286.

⁴⁵ Robert M. Bohm and Keith M. Haley, *Introduction to Criminal Justice System* (New York: McGraw-Hill, 2009), 392.

⁴⁶ Christian Hendrichson and Ruth Delaney, "The Price of Prisons: What Incarceration Cost Taxpayers",

http://www.vera.org/download?file=3542/Price%2520of%2520Prisons_updated%2520version_072512.pdf (accessed October 29, 2012).

2. Women in the U.S. Prison System: Numbers, Causes and Consequences

“The typical female offender is not a corporate or company criminal, a terrorist, a burglar, or a murderer. Instead, she is likely to engage in theft, fraud, drug offenses, forgery, embezzlement, and prostitution.”⁴⁷

This chapter will explore history of female imprisonment, the way females have been treated while incarcerated. Their growing numbers finally stimulate a debate about the reasons why they enter the prison in the first place. This debate was partly endorsed by feminist movement, especially by one of the first very influential books about female prisoners wrote by Freda Adler in the 1970s. She and many others discussed reasons why females’ incarceration rates increase as well as theories about how economy, chivalry and others influence it. Many authors also questioned the violent tendencies of women- the outcomes are also concluded below as well as a profile of female offender and the crimes she commits.

2.1 History of Female Imprisonment

The first female prison The Mount Pleasant Female Prison, was opened in 1835.⁴⁸ However, since it was simply a separate building on the compound of the already existing Sing Sing prison in New York, some consider the Indiana Women’s Prison, founded in 1873, as the first true all-female prison in the United States.⁴⁹ While some may assume that with a lack of female prison, female criminality was non-existent prior to the 1830s, such assumptions are flawed. Females were simply incarcerated in the same prisons as their male counterparts, usually in segregated areas. Females generally received inferior treatment because of their small numbers and suffered from a social perception that they were unredeemable.⁵⁰ For example, the first female inmates accepted to the Auburn prison in 1825 were housed at the attic. As the number of female offenders increased, separate buildings to house women

⁴⁷ Katherine Van Wormer, *Working with Females Offenders: A Gender Sensitive Approach* (New York: John& Sons, 2010), 44.

⁴⁸ Robert M. Bohm and Keith M. Haley, *Introduction to Criminal Justice System* (New York: McGraw-Hill, 2009), 382.

⁴⁹ Katherine Van Wormer, *Working with Females Offenders: A Gender Sensitive Approach* (New York: John& Sons, 2010), 57.

⁵⁰ Joycelyn M. Pollock, *Women, Prison, & Crime* (California: Wadsworth, 2002), 8.

were built (as the one in Sing Sing) until the very first female prison was opened in Indiana.

The approach toward female prisoners was always different from treatment male criminals received. In a culture very much influenced by Puritan's morality, many considered woman initially more "pure", so once she committed a crime she was considered a bigger threat to society than a fellow male criminal. As Susan F. Sharp, an assistant professor of sociology at the University of Oklahoma puts it "Women involved in criminal activity were worse than men, because they not only sinned, but they also loosened the moral constraints on men."⁵¹ Many women entered prison for crimes against good manners, prostitution, or having a child out of wedlock. Most prisons where females were incarcerated offered domestic training and women could gain many advantages, even earlier release, by maintaining a feminine appearance and behaving according the rules obedient women should follow.

From the end of the 19th century till the Great Depression there were some certain pioneering tendencies which became visible with regard to female imprisonment. These were seen particularly in the area of providing better services to female prisoners. As previously mentioned, there was a social belief that a woman once fallen could not be re-socialized again. Nevertheless, according to this new pioneering approach, some reformers regarded women as good candidates for rehabilitation, most likely because their crimes were less serious (most of the females were incarcerated for crimes against morality or simple vagrancy). This new penology⁵² included educational instructions, work release programs, and vocational activities, all led by female prison reformers. However, this movement toward reforming women prisoners lost momentum during the era of Great Depression, when prison funding became scarce. A lack of funding, combined with resentment towards programs for female offenders, led to a treatment without interest or comprehension. The pioneering era was forgotten, and female prison again became a place where unmoral women were incarcerated so that they can be transformed to obedient and moral ladies.

Beginning in the 1930s new female prisons opened, primarily in the Midwestern and the Northeastern regions of the U.S., because the east coast had

⁵¹ Susan F. Sharp ed., *The Incarcerated Woman- Rehabilitative Programming in Women's Prisons* (New Jersey: Prentice Hall, 2003), 20.

⁵² Penology is a section of criminology that describes different practices that society uses to repress crime.

already established a prison system with an emphasis on female inmates. By this time almost every state had some place where to incarcerate female criminals, whether it was a separate unit within a male prison, separate building or even a separate prison. The prisons still differed from male cell-bloc prisons with their family-style living plan. In this system, females generally lived in small household units where they were responsible for tidying and cooking, so that they would again become accustomed to their role and duties in the outside world.

Until the 1970s authors such as Rita J. Simon, an American professor of sociology that focuses on women and criminal justice system, refer to female prisoners as to “forgotten offenders”⁵³. Female prisoners simply did not draw any attention to themselves. First, there were not many female offenders (around 6000 female inmates) when compared to males. Second, Simon claims, prisoners are likely to receive attention only “if they riot, destroy property, endanger the lives of guards and fellow inmates, and submit a list of demands for reforming the institution.”⁵⁴ This was certainly not typical for female prisoners. A final reason for the lack of interest in female prisoners was the overall nature of crimes they committed, which were usually regarded as less threatening to society than crimes committed by males.

The 1960s and 1970s, however, marked an important change in prison system because of increasing civil rights awareness and protests made by various oppressed groups. It was around this time when issues of female prisoners were brought to light. Protests against inhumane conditions and violations of human rights were the first initial steps taken to secure more interest towards the female inmate issues.

Though awareness was raised in the 1960s and 70s, true transformation in the treatment of female prison population did not begin until the end of the 1970s. Few factors, among them *War on drugs*, contributed to the changes that were brought about. First of all was the so often mentioned *War on drugs*, paralleled with a mass media campaign dramatizing crimes of violence and portraying the population (and to certain degree also women) as getting more dangerous, violent and non-feminine. Kathryn Watterson, an academic who deals with class, race and gender in prison system, argues that today women are still being punished for breaking not only social laws but also unwritten moral laws. As emerged from her research many women

⁵³ Rita J. Simon and Heather Ahn-Redding, *The Crime Women Commit. The Punishment They Receive* (New York: Lexington Book, 2005), 91.

⁵⁴ *Ibid.*, 91.

reported that prior to incarceration, they were treated by judges, lawyers and other in criminal justice system not only for the crime they committed but also for stepping out of place and threatening the status quo.⁵⁵

Today, it is rather ironic that with the so much emphasize women's equality, women-centered prison of the early 20th century exist no more. Even more ironically, in an era of gender equality, there are voices demanding a special gender friendly approach towards female criminals taking into consideration their different needs and conditions strengthen. This will be separately discussed in Chapter 5 which aims at describing gender-specific treatment.

2.2 Women in Prison- Numbers and Facts

Previous section discussed how female prisoners were perceived through the history. Additionally this section will add numbers to different eras mentioned above.

Before the mid-1800s, the use of imprisonment for female criminals was very limited. Females were believed to be under the surveillance of their male guardian, whether it was a husband, father or brother, so they were very rarely sentenced. Consequently, in the 1830s, one in 12 prisoners was a woman and later in 1850s women comprised around 3.5% of those incarcerated in all of the 34 states.⁵⁶

In 1925 the incarceration rate was 6 incarcerated females per 100,000 women. In 2000, the ratio climbed to 66 incarcerated females per 100,000 women and in 2010 to 67 incarcerated females for 100,000 female residents.⁵⁷

During the first half of the 20th century, as well as until the mid 1980s the total number of incarcerated females oscillated between 5,000 and 10,000 female prisoners. In 1970 the number of women incarcerated in US prisons reached 5,600 inmates⁵⁸ and in 1980 there were still only around 12,000 incarcerated women. However, in 1999 the total number has already exceeded 100,000 female inmates imprisoned in state or federal prisons with about 952,000 women under some form of

⁵⁵ Kathryn Watterson, *Women in Prison- Inside the Concrete Womb* (Boston: Northeast University Press, 1998), 34.

⁵⁶ Joycelyn M. Pollock, *Women, Prison, & Crime* (California: Wadsworth, 2002), 24.

⁵⁷ Paul Guerino, Paige M. Harrison, and William J. Sabol, "Prisoners in 2010", <http://bjs.ojp.usdoj.gov/content/pub/pdf/p10.pdf> (accessed October 13, 2012).

⁵⁸ Manning Marable, Ian Steinberg, and Keesha Middlemass eds., *Racializing Justice, Disenfranchising Lives: The Racism, Criminal Justice, and Law Leader* (New York: Palgrave Macmillan, 2007), 176.

correctional supervision.⁵⁹ At the beginning of the 21st century, the number has skyrocketed to more than 200,000 incarcerated female which comprises 33% of women imprisoned worldwide.⁶⁰

The increasing number of female offenders mirrors the percentage of female inmates in the inmate population as whole, because the female prison population is increasing faster than the population of incarcerated men.⁶¹ In 1970, women composed 3% of all incarcerated individuals as compared to 6.7% in 1999 and 8% in 2008. Compared to 1990, the number of men in prison increased by 77%, whereas the increase among women was 108%.⁶²

Statistically, the highest number of incarcerated women is in Texas (around 13,000 female inmates) followed by California (11,500 female inmates), Florida (4,000 female inmates) and New York (3,400 female inmates).⁶³ In comparison with countries of Western and southern Europe, whose total population is equal to the population of the U.S.⁶⁴, the U.S. has 10 times more incarcerated women than these countries combined.⁶⁵

The rate of women's incarceration in the US also reflects ethnic/racial disparities. African-American women represent 13% in the whole female population in the U.S., however they make up 48% of the total prison female population. If we add Latin-American women we achieve 65% of the total prison population. African-American women's incarceration rate is 3.8 times the rate for white women, while Hispanic women have a rate 1.6 times higher than white women. These ethnic/racial disparities are consistent across inmate of all ages. Over her lifetime as Marable, Steinberg and Middlemass point out an "Afro-American woman is more than 7 times as likely as a white woman to spend time behind bars".⁶⁶ Racial disparities are also

⁵⁹ Joycelyn M. Pollock, *Women, Prison, & Crime* (California: Wadsworth, 2002), 53.

⁶⁰ Rachel Roth, "Reproductive Laws for the 21st Century Papers: She doesn't deserve to be Treated Like This, Prisons as a Sites of reproductive Injustice," <http://www.centerwomenpolicy.org/news/newsletter/documents/RothCWPSUpdated13July2012FINA L.pdf> (accessed November 9, 2012).

⁶¹ Manning Marable, Ian Steinberg, and Keesha Middlemass eds., *Racializing Justice, Disenfranchising Lives: The Racism, Criminal Justice, and Law Leader* (New York: Palgrave Macmillan, 2007), 177.

⁶² Rosemary L. Gido and Lanette Dalley eds., *Women's Mental Health Issues across the Criminal Justice System* (New Jersey: Pearson/ Prentice Hall, 2009), 63.

⁶³ Marylin, D. McShane, *Prisons in America* (New York: LFB Scholarly Publishing Llc, 2008), 22.

⁶⁴ I.e. United Kingdom, Germany, France, Spain, and Italy.

⁶⁵ Roslyn Maraskin, *Key Correctional Issues* (New Jersey: Prentice Hall, 2010), 31.

⁶⁶ Manning Marable, Ian Steinberg, and Keesha Middlemass eds., *Racializing Justice, Disenfranchising Lives: The Racism, Criminal Justice, and Law Leader* (New York: Palgrave Macmillan, 2007), 172.

reflected in probation framework: two-thirds of white women are more likely to be under probationary supervision while minorities are more likely to be confined to jail and prisons.⁶⁷

Another very important feature is that most of the women mentioned above are mothers and are going to be missed by their children while incarcerated. The trend of missing parent is negatively influencing every generation and can be one of the main reasons why they end up in prison, because as it is evident from the UCR statistics, six out of ten incarcerated women were raised in a household with only one parent. Additionally, more than half of them came from an environment where one or both parents were previously incarcerated or on a probation. Many women suffered from childhood abuse, sexual and/or psychological abuse.⁶⁸

Current research has identified an intergenerational cycle of incarceration among female offenders.⁶⁹ More than 60% of the incarcerated women had one or more children younger than 18 in their care before entering prison. Since many female inmates are mothers of minor children, data suggests that children of imprisoned mothers have experienced similar traumatic childhood events and are more likely to engage in a criminal activity resulting in imprisonment in the future, thus becoming the second or even third generation of inmates.⁷⁰

For purpose of this work, gender is the most important feature. A brief summary of the main differences between male and female criminals is attached below in Table 2.1 followed by arrest by sex for year 2010 in Table 2.2.

Table 2.1 Female v. male inmate statistics⁷¹

Females were less likely to be employed at the time of their arrest and more likely to serve time for drug offense.
Females were more likely to have shorter criminal records.
Female used more drugs and were more likely to commit a crime while under an influence of drugs or alcohol, however less likely to be sentenced for a violent crime.
Females were more likely to be physically or sexually abused as children.

⁶⁷ Marylin D. McShane, *Prisons in America* (New York: LFB Scholarly Publishing LLC, 2008), 41.

⁶⁸ *Ibid.*, 52.

⁶⁹ Rosemary L. Gido and Lanette Dalley eds., *Women's Mental Health Issues across the Criminal Justice System* (New Jersey: Pearson/ Prentice Hall, 2009), 122.

⁷⁰ *Ibid.*, 124.

⁷¹ "About the Uniform Crime Reporting Program," The FBI- Federal Bureau of Investigation, <http://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2010/crime-in-the-u.s.-2010/aboutucrmain> (accessed September 10, 2012); Robert, M. Regoli and John D. Hewitt, *Exploring Criminal Justice-The Essentials* (Massachusetts: Jones and Bartlett Publishers, 2009), 342.

Table 2.2 Arrests, by Sex, 2010⁷²

Nearly three-quarters (74.5 percent) of the persons arrested in the US during 2010 were males. They accounted for 80.5 percent of persons arrested for violent crime and 62.4 percent of persons arrested for property crime.
The difference between male and female arrest rates in the last decade (2001-2010) was a decrease for men (down by -6,8% from 6,568,579 to 6,122,413) and an increase for women (up by 10,5% from 1,899,440 to 2,099,055)
In 2010 the top four offences committed by women were: 1, Larceny-theft (359,414 arrests) 2, Assaults (226,024 arrests) 3, Drug abuse violation (198,076 arrests) 4, Driving under influence (DUI- 196,727 arrests)
Offences that have risen the most between 2001-2010 were committed by females. These are 1. DUI- +35.9% 2. Larceny- theft +31.7% 3. Vagrancy +30.4% ⁷³ 4. Robbery +29.1%

Above tables tried to distinguish a female from male offender. Additionally, next section will try to describe how a typical female inmate looks like, with respect to her background, education etc.

2.3 Profiles of Arrested Women

One might infer from the growing numbers of women in the prison system that the stories of female inmates are quite varied. In fact, however the stories of women who end up in prison are surprisingly similar and most of them bring their past with them to prison as a burden. As indicated previously, there is often an intergenerational cycle that influences their lives and creates prerequisites for their arrest. Most notably a majority of women in prison have had lives shaped by a multiplicity of abuse.⁷⁴

Women who are arrested are likely to be plagued with poverty, suffer from lack of education, combined with lack of job skills and opportunities. Other prevalent factors include their age (they are usually young) and unmarried with a high percentage of single mothers and lone caregivers of minor children. Most of the women are often involved in unhealthy relationships. These relationships are

⁷² “Ten- Year Arrest Trends- Table 33,” The FBI- Federal Bureau of Investigation, <http://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2011/crime-in-the-u.s.-2011/tables/table-33> (accessed October 8, 2012).

⁷³ Vagrancy and robbery creates only minor part of arrests. Vagrancy up by 30, 4% means from 3,276 arrests to 4,271 arrest and robbery up by 29,1% means from 6,978 arrests to 9,010 arrests. However, the other offences consist of more than 100,000 arrests (DUI, larceny- theft).

⁷⁴ Barbara Owen, *In the Mix- Struggle and Survival in a Women's Prison* (New York: State University of New York Press, 1998), 41.

frequently not with the father of their children but with somebody they depend on financially and emotionally.⁷⁵

Most of these women also bring a burden from their childhood when they were often psychologically and physically abused, quite often also sexually. Many types of abuse are the dominant factors shaping and limiting their lives including battery and rape, not to mention violence against the children who live in the same household.⁷⁶

Rita J. Simon described female prison population in this way: “Women’s most common pathways to crime are based on survival of abuse, poverty, and substance abuse.”⁷⁷ Katherine Van Wormer adds: “We see how much women’s crime is directly related to their disadvantaged economic and social condition, and to their pasts. And to drugs. Not to mention their relationships with men.”⁷⁸

Another often prevalent factor is limited education. Almost 40% of female inmates didn’t finish high-school and only 15% reported graduating. Additionally, only one fourth reported some type of additional educational training, such as college, trade school etc.⁷⁹ Lack of education can also be seen as a consequence of the unstable background of many incarcerated women and can be seen as an important contributing factor in increasing the probability of engaging in criminal activity.

Researchers have tried to find out what are the reasons female criminality is increasing. Except for the lack of education mentioned earlier, there are other factors that might contribute. Below are described the most influential regarding female violence that have changed the perception of female criminality since 1970s.

2.4 Theories about Increased Female Criminality

Feminism was a very popular force in the 1970s, bringing many theories regarding women, their status and of course their relationship towards violence. One of the results of the feminist movement was a sudden fascination with women as criminals. Four theories on female criminality have emerged since the 1970s. These

⁷⁵ Katherine Van Wormer, *Working with Females Offenders: A Gender Sensitive Approach* (New York: John& Sons, 2010), 66.

⁷⁶ *Ibid.*, 66.

⁷⁷ Rita J. Simon and Heather Ahn-Reading, *The Crime Women Commit. The Punishment they Receive* (New York: Lexington Book, 2005), 91.

⁷⁸ Katherine Van Wormer, *Working with Females Offenders: A Gender Sensitive Approach* (New York: John& Sons, 2010), 63.

⁷⁹ Barbara Owen, *In the Mix- Struggle and Survival in a Women’s Prison* (New York: State University of New York Press, 1998), 61.

theories can be classified as the masculinity theory, the opportunity theory, the economic marginalization theory and the chivalry theory.⁸⁰

The *masculinity theory* was introduced in 1976 by Freda Adler, one of the first and most praised criminal theorists. In her famous book titled *Sisters in Crime*, Adler concludes that frustrated women who are denied their equality get involved in aggressive and violent acts.⁸¹ Adler theorized that as women became liberated and assumed traditional male social roles, they also started to assert themselves in typically male ways (aggression etc.) which increased the possibility of engaging in criminal activity. However, this masculinity theory did not correspond with the statistical findings, which stated that the most common type of crime for women in the 1970s was fraud. Fraud was considered a “poor women’s crime”, as many resorted to welfare fraud. As poor women had very little chance to experience female liberation, Adler’s hypothesis was put to rest in the late 1970s, though the book continues to be influential.

The *opportunity theory* claims that “opportunities, skills, and social networks historically have contributed to men’s propensity to commit crimes”⁸² and with female liberation these factors became more available to women as well. That means women are neither more nor less moral than men, nor are they more or less inclined to engage in criminal acts. So as women enter the sphere of higher education, achieve more skills, and higher job position, a whole range of new opportunities open up. This theory is similar to *socialization differences* theory which states out the fact that boys and girls are largely equal in their propensity to commit crime, however the main difference is that they are raised differently: while boys’ socialization include skills enabling delinquent choices (such as playing with guns, cars etc.), girls’ socialization do not.⁸³

A total opposite to the opportunity theory is the *theory of economic marginalization*, which states that it is not the rising employment opportunity for women but its unavailability that forces women to commit crimes. As single mothers are becoming the most significant social group threatened with poverty, this theory

⁸⁰ Barbara Owen, *In the Mix- Struggle and Survival in a Women’s Prison* (New York: State University of New York Press, 1998), 9.

⁸¹ Katherine Van Wormer, *Working with Females Offenders: A Gender Sensitive Approach* (New York: John & Sons, 2010), 65.

⁸² Rita J. Simon and Heather Ahn-Redding, *The Crime Women Commit. The Punishment they Receive* (New York: Lexington Book, 2005), 9.

⁸³ Joycelyn M. Pollock, *Women, Prison, & Crime* (California: Wadsworth, 2002), 49.

concludes that female criminality is on rise because single mothers typically have problems finding well-paying jobs necessary to raise their children. So even if a female gets a job, it does not necessarily result in more equality or improved economic situation. However, this theory does not answer the question of why female criminality persists even after many women move to a higher status occupation.

Finally, *chivalry theory* is another very influential theory that most scientists dealing with female criminality is taking into consideration. The basic concept can be summarized through the statement “if it is equality they want, it is equality they will get”⁸⁴. The theory presumes the decline of chivalry towards females with subsequent police and courts treating women more like men. This ultimately means that there is a tendency to sentence women more often than was previously the case. This is considered an unintended side effect of female’s call for equality. It is based on the assumption that historically, chivalry operates to suppress the recognition of female criminality. However, this assumption was challenged by another claim that chivalry was highly selective, applying only to a certain groups of women, i.e. it was reserved for middle and upper-class white women who behaved the way a lady was expected to.⁸⁵ Some researchers, such as Kathryn Watterson, point to a group referred to as the “bad girls”- who have never experienced chivalry throughout the history of prison system. Among these women, we can find the poor, aggressive, drug addicted women, females selling sexual favors as well as unmarried and minority women, women on welfare, and women with nontraditional or disrespectable moral codes.⁸⁶ The chivalry theory also reflects the equality paradox - it is utopian for women to request special treatment and fight for equality at the same time.

Even though contemporary theorists lean towards explanation of female criminality as a combination of one or more theories mentioned above there are also other hidden factors including masculinization of women, feminization of poverty or inefficient response towards female criminality through methods that had been adapted for men. In addition to the four theories mentioned above, there are two other approaches which look at female criminality through the lens of discrimination. The

⁸⁴ Rita J. Simon and Heather Ahn-Redding, *The Crime Women Commit. The Punishment they Receive* (New York: Lexington Book, 2005), 18.

⁸⁵ *Ibid.*, 19.

⁸⁶ Kathryn Watterson, *Women in Prison- Inside the Concrete Womb* (Boston: Northeast University Press, 1998), 37.

*partial justice*⁸⁷ declares that throughout history female prisoners have been offered lower quality services and unequal treatment; whereas picturing women as *double deviants* implies that these women broke both gender roles and criminal law.⁸⁸

All of the theories mentioned above reflect sociological differences between women and men while reflecting the historical development of female position within the society. However, Rita Simon points out there are no exact data answering whether men and women within similar social position have similar offending behaviors.⁸⁹ So after 30 years of research on this topic, many authors agree that since the female population is changing so quickly on a social level and there are so many differences among racial/class levels, that indeed a deeper focus and more critical look on female criminality is needed as well as new theories reflecting the current state. Many of the previous theories, including Adler's, are no longer valid because they simply do not reflect the evolution of different current issues within the female social world.

2.5 Are Females Becoming More Violent?

While the statistics from the *Uniform Crime Reports* clearly show the increase in female incarceration rate, there is another claim which is difficult to prove by using statistics alone. This is the explanation that the female incarceration rate is increasing due to the increasingly violent behavior of women. Even with a lack of quantitative evidence this is a claim which is widespread and considered to be true by much of society. The problem with this assumption is a wrong interchangeability between increasing crime and increasing violence. While some, mostly media, report the increasing crime rate as a result of increasing female violent tendencies, others, especially criminologists, deny this argument by pointing out different causalities.

Without a doubt, media is the most important source of public information regarding female violence. As a result of media reporting, the public perception of women as increasingly violent and vicious has been swelling in since the 1970s. In the beginning, however, it was the *Uniform Crime Reports* statistic of 1971 which first reflected the rise in female crime rates. 1971 was the first time that there was a

⁸⁷ Rita J. Simon and Heather Ahn-Redding, *The Crime Women Commit. The Punishment they Receive* (New York: Lexington Book, 2005), 65.

⁸⁸ Barbara Owen, *In the Mix- Struggle and Survival in a Women's Prison* (New York: State University of New York Press, 1998), 4.

⁸⁹ Rita J. Simon and Heather Ahn-Redding, *The Crime Women Commit. The Punishment they Receive* (New York: Lexington Book, 2005), 21.

statistic which specifically focused on female criminality, as it recorded an enormous female arrest increase of 157% between 1960 and 1969.⁹⁰

The 1971 *Uniform Crime Report* statistics caught media's attention and many front-page headlines conveyed the news that women were committing more violent crimes, thus becoming more aggressive, cruel and man-like. Television broadcasted news clips showing armed women committing bank robbery and fighting a guerilla war in foreign countries. Further attention was also dedicated to Sara Jane Moore and Lynette Fromme, who were charged with an attempted assassination of President Gerald Ford.⁹¹ Without hesitation, media blamed liberation and growing emancipation of women for this change of behavior. Meanwhile, sociologists, criminologists, and other law enforcement personnel attributed the rise of crime among women to three broad causes: the changing attitudes of society, the women themselves, and increasing willingness of the police forces to arrest women.⁹² Similarly, feminist criminologists pointed to the crackdown on welfare fraud and an increased willingness of stores to prosecute shoplifters.⁹³

This unfounded myth of increasing female aggressiveness persisted. So when at the beginning of the 1990s the headlines reported that women were getting more violent as a reflection of yet another dramatic increase in numbers of incarcerated females, the public accepted it as a fact. It was, truly, the easiest explanation of a radical jump in the number of incarcerated females from 13,400 in 1980 to 51,000 in 1992.⁹⁴ This public perception of female violence cannot be proven by later statistics. For example, in the year 2000 women represented a smaller percentage of violent offenders (31,3 %) than they did in 1979 (49% from all the arrested females).⁹⁵ On the other hand the percentage of women incarcerated for drug offenses rose from 11% in 1987 to 33% in 2000.⁹⁶

⁹⁰ Kathryn Watterson, *Women in Prison- Inside the Concrete Womb* (Boston: Northeast University, 1998), 39.

⁹¹ Katherine Van Wormer, *Working with Females Offenders: A Gender Sensitive Approach* (New York: John & Sons, 2010), 41.

⁹² Kathryn Watterson, *Women in Prison- Inside the Concrete Womb* (Boston: Northeast University, 1998), 39.

⁹³ Katherine Van Wormer, *Working with Females Offenders: A Gender Sensitive Approach* (New York: John & Sons, 2010), 67.

⁹⁴ Kathryn Watterson, *Women in Prison- Inside the Concrete Womb* (Boston: Northeast University, 1998), 40.

⁹⁵ Rita J. Simon and Heather Ahn-Redding, *The Crime Women Commit. The Punishment they Receive* (New York: Lexington Book, 2005), 96.

⁹⁶ *Ibid.*, 97.

The statistics also revealed that women arrested for homicide were less likely to have had a previous criminal history and more likely to have committed the offense alone and to have killed as the result of domestic conflict.⁹⁷ By contrast, in 2008 there were 700 males and 1650 females killed by their intimate partners. This means that men are significantly more likely to kill their spouses or partner. This represents a significant decline from the 1970s when the number was over 1200 homicides committed by both genders. Since then the rate of homicides committed by females drastically declined. The most frequently cited explanation of this decline is that in the past most of these murders committed by women were done out of self-defense or anger over being beaten while, more recently, battered women have an alternative means of escape from a dangerous or otherwise intolerable situation.⁹⁸

Some researchers, such as Kathryn Watterson, oppose the theory of growing female violence suggesting that the reason for more women getting incarcerated lies in punitive laws and practices, as well as shifts in law enforcement policies, not because of significant change in their behavior.⁹⁹ Likewise, there is also much stricter enforcement of probation and parole violations (often for failed drug tests) together with the emphasis on mandatory sentencing laws throughout the country. Criminologist Meda Chesney-Lind, the leading feminist criminologist and currently one of the most important and well-known advocate of incarcerated female criticizing the current system of mass incarceration for minor offenses, similarly dismisses the claim of increasing violence by female offenders. She states by that the mandatory sentencing laws have reduced the amount of discretion available to judges. She also points out the fact that women are caught up in a societal mood of getting tough on crime and treating men and women equally.¹⁰⁰

These sanctions of less probation and parole and more sentencing time have to do with the perception of increased violence and as a result of increased drug use. By this we can recognize the media effect mentioned before as well as the pressure of society to live in a more secure world where criminals should be incarcerated. These

⁹⁷ Katherine Van Wormer, *Working with Females Offenders: A Gender Sensitive Approach* (New York: John& Sons, 2010), 75.

⁹⁸ *Ibid.*, 79. As an alternative are meant in the early 1970s opened and since then operated domestic partner shelters and other victim protection services.

⁹⁹ Kathryn Watterson, *Women in Prison- Inside the Concrete Womb* (Boston: Northeast University, 1998), 42.

¹⁰⁰ Katherine Van Wormer, *Working with Females Offenders: A Gender Sensitive Approach* (New York: John& Sons, 2010), 41.

perceptions have influenced prosecutors and judges, who after decades of imposing lighter sentences on women, are now treating females much more harshly, even though they might be the first time offenders, drug addicts, or defending themselves against their abusive partner. Likewise, judges as a result of mandatory sentencing laws are accepting fewer plea bargains and giving more prison sentences.

2.6 Types of Crimes Women Commit

As mentioned in previous section, one of the reasons why female incarceration rate is increasing are the war on drugs policies according to which females are incarcerated for a drug crimes that might be previously sentenced only by probation. This is closely connected to types of crimes that are typically committed by females as described below.

In 1975, most females were incarcerated for the following crimes: theft, forgery, embezzlement and prostitution. In 1995, the most common crimes were theft and drug offences.¹⁰¹ White women are more often incarcerated for robberies and thefts (27%) than Afro-American women (18%) and Latino-American women (17%). Afro-American women are the most incarcerated for drug offences (24%), followed by Latino-American women (23%) and white women (14%).¹⁰²

According to the statistics¹⁰³, females are committing far fewer violent crimes than men. As can be seen in Table 2.2, the four most common crimes committed by females are: Larceny/theft, assault, drug abuse and DUI.¹⁰⁴ As Katherine van Wormer puts it: “The typical female offender is not a corporate or computer criminal, a terrorist, a burglar, or a murderer. Instead, she is likely to engage in theft, fraud, drug offense, forgery, embezzlement, and prostitution.”¹⁰⁵

So, while men still dominate most property crimes, the women rate is growing especially due to the link with the feminization of poverty. This term refers to

¹⁰¹ Manning Marable, Ian Steinberg, and Keesha Middlemass eds., *Racializing Justice, Disenfranchising Lives: The Racism, Criminal Justice, and Law Leader* (New York: Palgrave Macmillan, 2007), 32.

¹⁰² Roslyn Maraskin, *Key Correctional Issues* (New Jersey: Prentice Hall, 2010), 56.

¹⁰³ “Ten- Year Arrest Trends- Table 33,” The FBI- Federal Bureau of Investigation., <http://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2011/crime-in-the-u.s.-2011/tables/table-33> (accessed October 8, 2012).

¹⁰⁴ Elizabeth P. Deschenes, Barbara Owen, and Jason Crow, “Recidivism Among Female Prisoners: Secondary Analysis of the 1994 BJS Recidivism Data Set” (report awarded with Federal Funds provided by the U.S. Department of Justice, Fresno, California, January, 2007), 11.

¹⁰⁵ Katherine Van Wormer, *Working with Females Offenders: A Gender Sensitive Approach* (New York: John& Sons, 2010), 45.

women's growing poverty rates, as more women (especially among African-American women) are lonely caregivers with their partner already incarcerated or single mothers trying to raise the children from one, often inadequate salary.¹⁰⁶

With respect to the most commonly committed crime of larceny (theft) the primary aim of such activity is the same both for males/females - to obtain cash or goods. However, compared to women, men are more likely to commit this crime with the use of gun or violence. A typical theft committed by female is usually shoplifting.¹⁰⁷ The gender influence in shoplifting is clearly visible through the types of goods taken. Women resort to shoplifting as more luxury items are unaffordable, or they are not willing to pay the price for jewelry and/or cosmetics despite the urgent need they feel. Here, one can easily infer the emphasis society puts on female's appearance. On one hand, women liberation asks for equality, on the other more than ever, female success is connected to her looks.

Many criminologists¹⁰⁸ argue that different non-violent crimes such as theft, larceny, shoplifting as well as prostitution and violence are often drug-related. According to a report by the U.S. Department of Justice, nearly 1 in 3 women reported for committing crime engage in criminal activity in order to obtain drugs. Another study reveals that approximately half of both male and female inmates in federal prisons reported using drugs a month prior their incarceration. In state prisons, it was nearly 60%.¹⁰⁹

Most authors dealing with the topic of female criminality and prisons conclude that *War on drugs* has become a war on women and it is the main attributor to increasing number of incarcerated females. Since the mid-1990s technologies such as urinalysis and other were introduced to send paroled women back to prison which makes their sentence even longer and thus contributes to overcrowding of prisons. J. Belknap concludes that "women and girls who use drugs also face harsher societal disapproval than drug-using men and boys."¹¹⁰ Also a study of State prisoners found out that 40% of females were under the influence of drugs in time of their arrest,

¹⁰⁶ Joanne Belknap, *The Invisible Woman: Gender, Crime, and Justice* (California: Wadsworth, 2007), 115.

¹⁰⁷ Joycelyn M. Pollock, *Women, Prison, & Crime* (California: Wadsworth, 2002), 56.

¹⁰⁸ See Joycelyn M. Pollock or Rita J. Simon.

¹⁰⁹ Joycelyn M. Pollock, *Women, Prison, & Crime* (California: Wadsworth, 2002), 57.

¹¹⁰ Joanne Belknap, *The Invisible Woman: Gender, Crime, and Justice* (California: Wadsworth, 2007), 117.

compared to only 32% of men.¹¹¹ An important study revealed the reasons and motivation both for men and women to start using drugs. While girls and women are more likely to be introduced to drugs by their boyfriends or partners, men tend to be introduced to them by their male friends. Moreover, continuing using drugs is a way of “doing masculinity” for men, however girls/women seek the way how to “act out” from their stereotypical gender roles in the society.¹¹²

It is possible that a significant percentage of assaults might be connected to the fact that woman committing them is under the influence of drugs. However, on the other hand, in around 65% of cases females responded that their motivation to be aggressive was in response to aggression from their “victims”. One-fifth of the assaults were planned and 14% were drug-related.¹¹³

In conclusion there are significant differences in degree and type of criminality of females and males. Most notable it is in the percentage of violent crimes females committed as compared to men. However, a different picture emerges for women as we speak about property and drug crimes. Women are more likely to commit petite crimes such as thefts or shoplifting. Likewise even for drug offenses, women are more often convicted for low-level offenses such as possession. One of the reasons why are women convicted of possession rather than of distribution is the simple fact that it is much tougher for women than men to break into drug market. However, for drugs such as marijuana, women have more access and possibility to distribute them.¹¹⁴ This again, may be an even more fitting example of the feminization of poverty than property crimes. While it is important to point out that not all women who sell drugs are drug users, for many poor women, drug-selling is one of the few options to make some extra, or indeed, any money. This is however also an evidence, that the law enforcement and the prison system are non-systematical, because instead of helping them out through social services, they got arrested and incarcerated. And once they get released the whole process will start again. How it looks- like inside the prison is described in Chapter 3.

¹¹¹ Carol Zlotnick, “Treatment of Incarcerated Women with substance Abuse and Posttraumatic Stress Disorder” (report awarded with Federal Funds provided by the U.S. Department of Justice, Rhode Island, July 3, 2002).

¹¹² R.D. Evans, C.J. Forsyth, and D.K. Gauthier, “Gendered Pathways into and Experiences within Crack Cultures outside the Inner City,” *Deviant Behavior* 23 (2002): 483-510.

¹¹³ Joanne Belknap, *The Invisible Woman: Gender, Crime, and Justice* (California: Wadsworth, 2007), 126.

¹¹⁴ *Ibid.*, 119.

3. Inside the Prison: The Female- Related Issues

“The effects of incarceration are in many but not all respects similar to males and females. Each suffers the trauma of being separated from family and friends. When either males or females become imprisoned they experience a loss of identity as well as a devaluation of their status. Regardless of the inmate’s sex, prison life coerces conformity to an environment alien to the individual where one’s every moment is dictated each and every minute. However, as evidenced... female may suffer more.”¹¹⁵

While Chapter 2 was aimed at describing who are female offenders, what is typical for them, and what kind of crimes they commit, this chapter tries to link how their previous lives have imprinted into the problems they have while imprisoned.

Current method of prison management is to unify prisons from the inside –out. Prisons are built according to the same design, and run by the same standards and rules regardless of the different needs prisoners might have. The needs differ for various reasons, such as gender, age, and health condition. Because prisons tend to mirror each other, they also offer the same types of programs. Unfortunately, because of the similarities that come with prison unification, the programs offered do not address the different physical and psychological needs of men and women. In light of this, several problems specifically connected to female incarceration have emerged. This chapter focuses on the most notorious and well-known problems that occur in the U.S. prison system, many of which stem from how the prisons are designed and the classification of female prisoners.

Most women’s prisons in the country are designed as medium or maximum security prisons. Since the female inmate population is much smaller, there is an absence of custody-graded institutions¹¹⁶, so in the end one female prison must accommodate a whole range of security grades. Most women, regardless of the risk they present are simply accommodated in medium or maximum-security institutions despite the fact that only few of them really belong there.

Female offenders are classified according to two criteria: administrative classification (determination of risk of violence, escape etc.) and treatment

¹¹⁵ Susan F. Sharp ed., *The Incarcerated Woman- Rehabilitative Programming in Women’s Prisons* (New Jersey: Prentice Hall, 2003), XIV.

¹¹⁶ “Custody is determined using the Custody Assessment and Reclassification System (CARS) that groups inmates according to the level of risk they represent to the public, the staff, other inmates and the facility itself. As the inmate serves his sentence, he or she will be reevaluated whenever something happens that could change the inmate’s custody. These events could be positive or negative. Examples of this would be earning gain time that reduces time remaining to serve and would tend toward lower custodies, or an inmate receives a disciplinary report for a rule violation that would tend towards higher custodies.” <http://www.dc.state.fl.us/oth/inmates/custody.html> (accessed September 9, 2012).

classification (medical, educational, rehabilitative). However, as Pollock law professor at Texas State University, points out, there are several problems with this classification as it was developed for males. Consequently, this system over- classifies female crimes so that they receive higher custody than necessary. Here, is it important to take into consideration the fact that many violent crimes committed by females were motivated by previous long-term physical and/or psychological abuse and battering.¹¹⁷ Furthermore, because there are fewer facilities for females, women are more likely to be sent further from their home communities, which alienate them from their families.

As a result of the classification issues listed above, there are gender- specific problems that arise. What follows is a description of these problems, beginning with deprivation, followed by problems regarding ties between mother and children and description of both positive and negative relationships that are built between both inmates and inmates and their guards.

Many authors¹¹⁸ emphasize the fact that prison is not physically but deeply emotionally difficult for women. The lack of family ties, contact with children and the stress that results from unknown are among the most difficult. The main difference between male and female inmates' experience is the lack of positive emotions, severance from family ties, lack of sex and companionship, but especially and most importantly the fear for own children who stayed outside, often very far away. Females also have issues with the loss of privacy, especially in the bathroom, but also in the rooms that are often overcrowded or worse in dormitory style halls. As a result, some form of deprivation might arise.

3.1 Deprivation

Prison deprivation arises from the inaccessibility of most of the features and privileges that are common outside the prison. Once in prison, females mostly adapt to prison deprivation in one of two ways: either they try to remain aloof from the prison culture, or they fully participate in the prison culture- also known as the "mix". If female inmates try to stay aloof from the prison culture, i.e. they stay alone and try to avoid conflicts, the result is they do not get punished on the other hand it mostly results in their deeper psychological problems. By participating in the "mix" they

¹¹⁷ Joycelyn M. Pollock, *Women, Prison, & Crime* (California: Wadsworth, 2002), 71.

¹¹⁸ Joycelyn M. Pollock, Katherine van Wormer etc.

become part of the prison subculture which includes elements of leadership, homosexual and pseudo-family relationship and rule-breaking. This often helps the inmates to stay in better psychological condition however they risk punishment in form of solitary confinement or prolonging sentence due to preferring the rules of the “mix” so that they can maintain their position within the prison hierarchy, instead of the prison rules.

Another often displayed reason for deprivation is the fear of future. Even once released females might have great problems acquiring a job due to their felony record not to mention the fact that there is an increasing number of states that pose restrictions on persons convicted of felony drug charges from receiving various form of financial aid (e.g. food stamps, public housing or loans to go back to school).¹¹⁹ All these resources would under normal circumstances help them to get back on their feet, however without them and additionally in a current harsh economic situation with a criminal record it is almost impossible to find a job.

As a result, women are more prone to expression of despair through self-injury, mutilation or even suicide. Suicide risk increases with depression, another very frequent phenomenon that will be elaborated on later, low self-esteem and social isolation. Low self-esteem often results from females deriving their status and value from male’s satisfaction or just from male presence, no matter how violent or brutal he might be. Despair is also a typical result of family separation.

3.2 Family Ties: Mothers and Children

While the child of an incarcerated father usually stays with mother, who in most cases waits for her partner to be released again, it does not work the other way around. Once a mother is incarcerated, children seldom stay with their fathers. Indeed, female offenders are three times more likely to be single parent prior their arrest.¹²⁰ According to the Bureau of Justice Statistics (BJS), about 90% of the children of male prisoners live with their mothers, but only 22% children of imprisoned females live with their fathers.¹²¹ Furthermore, children of white mothers tend to stay more often

¹¹⁹ Katherine Van Wormer, *Working with Females Offenders: A Gender Sensitive Approach* (New York: John& Sons, 2010), 83.

¹²⁰ Susan F. Sharp ed., *The Incarcerated Woman- Rehabilitative Programming in Women’s Prisons* (New Jersey: Prentice Hall, 2002), 153.

¹²¹ Susan F. Sharp, “Study of Incarcerated Women and their Children” (paper presented at Oklahoma Commission on Children and Youth, Oklahoma, January 22, 2010).

with others or end up in foster care while children of African-American or Hispanic mothers are typically absorbed with the broad family.¹²² Children who do not live with the other parent live primarily with maternal grandparents or other relatives, but there are still many children who end up in foster care. BJS reported the trend in placement of these children as follows: 50.9% of children will stay with grandparents, 18.7% of children will stay with other relatives, 22% with children's other parent and 8.4% will be placed into the foster care.¹²³

The sole reason that mother has been incarcerated is not sufficient enough in most states to deprive her of her parental rights. However many mothers are soon or later deprived of their parental rights. Most women are not able to defend themselves in court because they lack the needed level of knowledge regarding legal acts and procedures. Furthermore, the social workers in prison have very little time to deal with all the necessary paperwork to help incarcerated mothers maintain the relationship with their children. For example, most States have adopted *The Adoption and Safe Family Act*¹²⁴ (ASFA) which requires that state agencies complete a petition for termination of parental rights if a child has been in foster care for the 15 of the recent 22 months, or mother has not had have contact with her child for six months.¹²⁵ There are also few States, such as Colorado and Florida, that cite imprisonment alone as a reason for terminating parental rights and few others classify imprisonment as an "abandonment" which justifies the termination of parental rights.¹²⁶ Some states' criterion for retrieving lost parental rights is to determine whether the return of parental custody is in the best interest of the child and whether the parent is able to financially support it. However, if the woman does not participate in a vocational program that provides enough money to support herself and her children, it can be difficult to prove she deserves and is able to retrieve her parental rights.

¹²² Susan F. Sharp ed., *The Incarcerated Woman- Rehabilitative Programming in Women's Prisons* (New Jersey: Prentice Hall, 2002), 152.

¹²³ C.J. Mumola, "Bureau of Justice Statistics bulletin: Incarcerated women and their children," (Washington, DC: U.S. Department of Justice, 2000), 8.

¹²⁴ *The Adoption and Safe Family Act* was signed by President Bill Clinton in 1997. It was considered the biggest change to the U.S. adoption and foster care system with regards to the fact that child's safety and healthy needs were considered more important than reuniting the children with their birth parents without regards to prior abusiveness.

¹²⁵ "Grounds for Involuntary Termination of Parental Rights," U.S. Department of Health and Human Services, http://www.childwelfare.gov/systemwide/laws_policies/statutes/groundtermin.pdf (accessed October 28, 2012).

¹²⁶ Joycelyn M. Pollock, *Women, Prison, & Crime* (California: Wadsworth, 2002), 163.

If children are put into the foster care, then there is another complicating factor - the distance. As mentioned previously, there are only few prisons for women in each state and foster families might live so far away that some mothers are only able to see their children once in three or six months, and some of them may never see their children while incarcerated.

Yet another problem is the separation of siblings. Around 20% of female inmates have more than three children, and the likelihood that they will be separated through mother's incarceration period is high.¹²⁷ Children are often moved several times while their mothers are incarcerated, which disrupts their sense of stability and cause a deep psychological harm that may impact their future behavior.

On the other hand, custody by own grandparents or other relatives can be problematic as well, especially because many women are coming from emotionally unstable family environments, often involving psychological and/or physical abuse. Still, in fear that they might lose their parental rights, incarcerated mothers will entrust their children to relatives rather than to foster care.

As many psychologists and researchers point out, the maternal role is one of very few positive features open to female offenders, one that can help them to overcome their depression or possible self-injury intentions. However, almost half of the women in state prisons reported they have never received a visit from their children.¹²⁸ There are many reasons, among them distance predominates. Half of all female inmates are housed more than 250 miles away from their home, simply because there are fewer female prisons to house them. Moreover, as many female inmates are coming from low-income backgrounds, the distance makes it impossible for their families to visit them. Furthermore, with privatization of prisons, inmates might be transferred even to different states which constitute an insurmountable problem.

There are three basic types of how to maintain contact between incarcerated mothers and their children: through mail, phone calls or personal visits. Several reasons exist why it is crucial to maintain these relationships. First, it has been proven that maintaining contact significantly helps to reduce recidivism by improving the

¹²⁷ Susan F. Sharp ed., *The Incarcerated Woman- Rehabilitative Programming in Women's Prisons* (New Jersey: Prentice Hall, 2002), 153.

¹²⁸ *Ibid.*, 155.

chances of successful family reunification.¹²⁹ Furthermore, the contact has a positive impact on the inmate, who then tends to be less problematic in prison simply because of the fact there is somebody outside the prison who waits for them. Barbara Owen, expert in the areas of girls, women and crime, women-centered policy and women's prison culture, stated, "Children are critical axis around which many women organize prison culture."¹³⁰

Children also suffer from the incarceration of their mothers, facing anger, rage, fear and helplessness. Children of incarcerated mothers are clear candidates for developing emotional and later on also legal problems. Visitation also has a positive effect on children, by alleviating the fears connected with the unknown situation of their parents' incarceration.

An intricate issue is presented by females who are already pregnant when entering prison, or get pregnant while imprisoned. Roughly 10% of female prison population is pregnant at any given time.¹³¹ In most states, these females will not receive adequate health care treatment and often give birth in dismal conditions. Because there is typically only one facility in every state that provides prenatal health care and it is often the maximum security facility, pregnant women have no choice in their placement though they might be normally classified for medium or minimum custody.¹³²

There have been several lawsuits filed by females who were shackled while giving birth which threatened the health of both mother and newborn. In most cases, after the birth, mothers were not able to take the child with them back to prison, which makes it impossible to establish a bond between mother and child. Interestingly though, historically the situation was totally different, as early reformatories promoted the bonding between mother and newborn by allowing the baby to stay with mother. Only eleven states and the Federal Bureau of Prisons provide some type of programs for mothers and their infants. Currently, seven states allow mothers to keep their infants with them in prison and four states incorporate nurseries into the facilities.¹³³

¹²⁹ Susan F. Sharp ed., *The Incarcerated Woman- Rehabilitative Programming in Women's Prisons* (New Jersey: Prentice Hall, 2002), 157.

¹³⁰ Barbara Owen, *In the Mix- Struggle and Survival in a Women's Prison* (New York: State University of New York Press, 1998), 121.

¹³¹ Joycelyn M. Pollock, *Women, Prison, & Crime* (California: Wadsworth, 2002), 108.

¹³² Susan F. Sharp ed., *The Incarcerated Woman- Rehabilitative Programming in Women's Prisons* (New Jersey: Prentice Hall, 2002), 65.

¹³³ *Ibid.*, 160.

And while incarcerated females are deprived of the bonding with their own children, they create new pseudo-families relationships.

3.3 Prison Pseudo-families

As a result of incarceration, many women are not able to fulfill their emotional needs towards children or relatives. As a replacement, they tend to develop their own networks for familial ties with fellow inmates. These pseudo-families are built around the need of emotional ties and support, often creating an extended fellowship consisting of parents, grandparents, children, cousin, nephews and nieces where everybody has a certain set-up role, responsibilities and duties as well as granted reward in form of emotions and family support. This is a phenomenon unique to female prisons, as opposed to male prisons where the prison society is typically organized around power.

Typically pseudo-families offer mutual support and support in unknown and often bewildering environment, and provide a mutual aid network in an atmosphere of deprivation. While inmates live in a world of deprivation, there is also the effect of boredom, pettiness and gossips which can be transformed by pseudo-families and their nurturing tendencies, such as care and respect for elderly as well as mothering for the very young first offenders or offenders with some sort of handicap. As some studies underline, even prison authorities are in favor of these ties as they have a social control aspect by keeping the “family members” out of trouble.¹³⁴

Another possible advantage of pseudo-family ties is the physically intimate closeness they can supply to inmates. As many facilities ban touching with family, even with children, while they come to visit, many female substitute it with touching and hugging with prison family members without taking on sexual connotations. Van Wormer, a professor of social work at the University of Northern Iowa who specializes in female offenders explains it thus “In same-sex institutions, where sexual tensions often are played out as homophobia, a clarification of one’s relationship in terms of sister-to-sister and mother-to-daughter ties can serve to legitimize the bonding between unrelated women.”¹³⁵

¹³⁴ Katherine Van Wormer, *Working with Females Offenders: A Gender Sensitive Approach* (New York: John & Sons, 2010), 64.

¹³⁵ *Ibid.*, 65.

Except for the physically intimate closeness, pseudo- families can supply, there is also the factor of female inmates' sexual needs. This will be discussed in the next section.

3.4 Sexual Misconducts, Rapes and Other Intimate Relationships within the Prison

As previously stated, imprisoned women are in great need of emotional support, touching, and even sexual relationships. While female prisoners often address these needs through pseudo- families which are considered acceptable and even desirable their sexual needs are also addressed by homosexual relationships. This is common even if the women were strictly heterosexual before entering the prison.

It has been proven, that homosexual interactions among male prisoners are brought on by strong desire to preserve their sense of manhood through sexual conquest of the weak. Often the weak one is young, and a newcomer within the prison system. In this case, homosexual relationships are understood as showing off someone's power and dominance.¹³⁶ This type of homosexual rape, however, is almost absent from female prisons. Instead, females tend to create pseudo-families to gain certain status and support or acquire all-masculine behavior which will secure it. Estimated numbers of females engaging in homosexual relationships are unreliable, since it is difficult for prison staff or observers to reliably differentiate between pseudo-family relationships and homosexual relationships. Furthermore, there is a certain understanding that such behavior is consensual and socially accepted as long as it doesn't interfere with the prison daily routine. Likewise, these relationships make the prisoners more satisfied and thus less rebellious.

Another dimension of sexual misconduct in female prisons presents itself in sexual relationships with prison guards. It is essential to mention that men have always been part of female prisons; however with females guards challenging the equal protection in order to work in prisons for men¹³⁷, there are now far more men working in female correctional facilities. The numbers of male prison guards working

¹³⁶ Katherine Van Wormer, *Working with Females Offenders: A Gender Sensitive Approach* (New York: John& Sons, 2010), 67.

¹³⁷ In the major case concerning female officer working in male prison *Dothard v. Rawlison* (1977) was decide in favor of the state Alabama that tried to stop Diane Rowlison to work in state male prison. However, this was not considered a precedent and since then many females have entered male prisons in order to move on with their careers as there is sometimes only one female prison in the area or even in the whole state.

in female prisons increased after the passage of 1964 *Civil Rights Act* and the 1972 *Equal Employment Opportunity Act* which secured the opportunity for both females and males to work in prisons housing the opposite sex. There is also a trend of “interchanging” prison staff, no matter whether male or female, by sending them back and forth between facilities for men and women. This is often the case, due to staffing shortages or when individuals wish to advance their career as a prison guard.

The sexual relationships between guards and prisoners may be either free-willed or forced. It is no secret that many female inmates come from very poor, low-class backgrounds, are undereducated and have a history of abuse, while still believing in the traditional male-female roles. Obedience and a desire to satisfy male’s needs is an unbreakable part of their lives. They perceive their female value through accomplishment of male satisfaction. Additionally their value as a sexual being is reflected through whether or not they are desired by men. Therefore since female inmates are deprived of many necessities of life and at the mercy of correctional officers, they are the prime targets for sexual abuse.

The fact that female inmates have been the subject of physical and sexual abuse has been well-known for decades.¹³⁸ However, with a growing female prison population, and as a result of long list of court cases challenging abusive prison conditions and sexual exploitation from male prison guards, Congress unanimously passed the Prison Rape Elimination Act (PREA) in 2003. PREA established a zero tolerance of sexual abuse and exploitation in prisons, and increased data and information about abusive conditions and sexual exploitation in prisons to develop national standards for dealing with it. As a result, as of 2009 at least 30 male officers had been convicted of sexual assaults against female prisoners.

PREA legislation also charged the Bureau of Justice Statistics to generate annual statistics that reveal the reasons and conditions which make prison rape more possible. As a result of these statistics, four main conditions that support the possibility of a prison rape were revealed. The first one suggests that female inmate has a history of prior sexual abuse. The second is the fact that female is part of LGBTI community (lesbian, bisexual, trans- gender, inter-sex or gender non-conforming). Furthermore she has a college degree and finally is white or multiracial. These women

¹³⁸ Rita J. Simon and Heather Ahn-Redding, *The Crime Women Commit. The Punishment they Receive* (New York: Lexington Book, 2005), 108.

have much higher chance of being raped while imprisoned.¹³⁹ Both guards and inmates are in a situation where you spend every day in certain group, and can therefore quickly recognize the symptoms of one's vulnerability.

Apart from abuse, one third of all previous female prisoners reported being sexually harassed by guards, especially during the strip search which forces prisoners to get naked while searching the body for illegal substances, materials etc. Other forms of harassment occur when guards stare at showering prisoners or deliberately brush against their private parts.¹⁴⁰ The BJS report undertaken in 2009 observes that 2.1% of female prisoners, and 1.5% of female jail inmates reported a sexual activity with staff.¹⁴¹ Among inmates reporting staff-inmate victimization 5% of female prisoners and 4% of female jail prisoners reported being victimized within the first 24 hours they spend in the correctional facility.¹⁴²

As described above, there is wide range of problems incarcerated females need to cope with. In some cases, they can respond by creating a substitution as in the case of deprivation of missing mother- children ties by creating a prison pseudo- family. However, in some cases, for example in case of staff sexual misconducts, it is very hard to defend itself. Subsequently, there is another area that is probably the most discussed and that is health care provision within the prison. This will be discussed in Chapter 4.

¹³⁹ David Kaiser and Lovisa Stannow, "Prisons Rape: Obama's Program to Stop it," <http://www.nybooks.com/articles/archives/2012/oct/11/prison-rape-obamas-program-stop-it/?pagination=false&printpage=true> (accessed October 26, 2012).

¹⁴⁰ Ibid.

¹⁴¹ G.J. Mazza ed., "Report on Sexual Victimization in Prisons and Jails." *Review Panel on Prison Rape, U.S. Department of Justice* (April 2012): 11.

¹⁴² Ibid., 12.

4. Inside the Prison Health Care System

“Ostensibly, the needs of male and female prisoners appear to be the same. They are not. Although some inmate interests are similar, others are separate, and distinct. In many institutions, criteria developed for males were automatically applied to females, with no consideration or modification for gender differences. Research demonstrates that females typically experience more medical and health problems before incarceration than male inmates and continue to do so in prison.”¹⁴³

In general, women are in greater need of health care than men simply due to the differences in male and female bodily functions. There is a growing body of literature that shows women are greater consumers of health care- they seek it more often than men both outside and inside the prison system.¹⁴⁴ Female prisoners in growing numbers continue to sue and demand access to certain programs, benefits and health care that takes into account issues connected solely to women’s health that men can not experience. The Fourteenth Amendment, in particular its equal protection and due process clauses, is used as a legal basis for demanding and challenging disparate treatment.

As the prison system has to accommodate all types of prisoners and to provide at least basic health care, several questions arise: Does the prison offer services and care women really need? Does it respond to their demands? What is better- equality or gender- responsive treatment?

This chapter deals with females’ demands regarding provision of health care within the prison system, with a special emphasis on mental health care. It describes the current provision of health care to inmates together with the way how prisons try to cut the price of these services. Likewise, the way how HIV/AIDS and HCV patients, pregnant females and mentally ill patients are treated is described.

4.1 Health Care and the Prison

Until recently, medical problems of prisoners were not a popular topic of research. However, with the steady increase of inmate population at all levels (federal, state and local), prisons have experienced a huge increase and demand for medical services. There are three primary reasons for this. The first is the fact that the prison population is growing old and the older the prisoner gets, the more medical treatment,

¹⁴³ Susan F. Sharp ed., *The Incarcerated Woman- Rehabilitative Programming in Women’s Prisons*. (New Jersey: Prentice Hall, 2003), XIII.

¹⁴⁴ See Katherine Van Wormer, Susan F. Sharp.

medication and attention is needed. The second reason is connected to mental illness and substance abuse problems. Finally, the reason why the topic of medical care provision is drawing attention from both academics and prison professionals is related to the fact that health care standards were originally designated for a male prison population and do not take into consideration the differences between male and female needs.

The differences in needs between male and female prisoners are varied. Unlike their male counterparts, females' complicated reproductive system introduce different types of health problems. In addition, majority of female inmates are mothers and many are pregnant at the moment of entering prison and will therefore give birth during incarceration.

Subsequently, while male prisons operate with many full-time physicians and trained health care staff, many female prisons do not. Female inmates are thus often forced to travel outside the prison to obtain the medical services while at the same time they have disproportionately more medical problems than men.

Severe drug and/or alcohol use is also prevalent and withdrawal from both of them after arrest is a major concern. Women inmates are "ten times more likely to abuse drugs, five to seven times more likely to abuse alcohol and 27 times more likely to use cocaine"¹⁴⁵ than general female population. Women prisoners also report extensive histories of childhood and adult violence, including both physical and sexual abuse. In spite of high rates of health and social problems, few women receive help while they are incarcerated.¹⁴⁶ Approximately 80% of women in U.S. prisons have serious problem with alcohol or drugs prior to their incarceration and substance abuse is in many cases related directly or indirectly with the crime.¹⁴⁷

One major litigation act between female prisoners and the prison system was *Estelle v. Gamble* (1976). In this case, the Supreme Court ruled that it is a violation of the 8th Amendment prohibiting the cruel and unusual punishment if the medical care is deliberately withheld and when it causes pointless suffering and needles pain. According to this provision, prisoners are the only group of citizens in the United

¹⁴⁵ Carol Zlotnick, "Treatment of Incarcerated Women with substance Abuse and Posttraumatic Stress Disorder" (report awarded with Federal Funds provided by the U.S. Department of Justice, Rhode Island, July 3, 2002), 3.

¹⁴⁶ R. Greifinger ed., *Public Health Behind Bars: From Prisons to Communities* (New York: Springier, 2007), 35.

¹⁴⁷ Katherine Van Wormer, *Working with Females Offenders: A Gender Sensitive Approach* (New York: John& Sons, 2010), 120.

States with a constitutional right for medical care if their conditions meet the court's test of "deliberate indifference".¹⁴⁸ However, since the *Prison Litigation Act* was passed by Congress in 1996, it is much more complicated to get access to the courts. This act "limits prisoner's access to the courts and also limits judicial monitoring of prison conditions after winning a case".¹⁴⁹ Therefore it is much more difficult for prisoners to sue a prison system for not delivering medical services adequate enough to prevent cruel and unusual punishment.

Despite the vulnerability of both male and female prisoners there are no set of national standards regulating medical services for incarcerated people. It is most common that each prison sets up their own procedures and standards, whether the prison is administered by the Bureau of Prison on a federal level, by the Department of Corrections on a state level, or together with the Bureau of Immigration and Custom Enforcement which administers detention centers and all local jails. That said even though most institutions establish their own procedures, there are no national accreditation standards established as a guideline. The leading organization in medical accreditation is the National Commission on Correctional Health Care (NCCHC)¹⁵⁰, which is charged with setting up and demanding implementation of certain unifying rules. It reported that by 2011 the Commission had accredited nearly 500 prisons and jails, which account for nearly 400,000 people. However, though that seems like a large number, it is actually less than 20% of the total population of people in prison."¹⁵¹ Furthermore, this accreditation doesn't guarantee that needed and appropriate medical services will be really readily accessible to all prisoners. For example HIV and HCV (hepatitis C) diseases are treated differently in each prison system. Pennsylvania tests all its prisoners for HCV, New York and California only

¹⁴⁸ Deliberate indifference is conscious or reckless disregard of the consequences of one's acts or omissions. Rachel Roth, "Reproductive Laws for the 21st Century Papers: She doesn't deserve to be Treated Like This, Prisons as a Sites of reproductive Injustice," <http://www.centerwomenpolicy.org/news/newsletter/documents/RothCWPSUpdated13July2012FINA L.pdf> (accessed November 9, 2012).

¹⁴⁹ Ibid.

¹⁵⁰ NCCHC was established in the early 1970s and is dedicated to improving the standard of care in the field of correctional health care in the United States.

¹⁵¹ Rachel Roth, "Reproductive Laws for the 21st Century Papers: She doesn't deserve to be Treated Like This, Prisons as a Sites of reproductive Injustice," <http://www.centerwomenpolicy.org/news/newsletter/documents/RothCWPSUpdated13July2012FINA L.pdf> (accessed November 9, 2012).

upon the prisoner's request. New Jersey only started testing for HCV after visible symptoms emerged.¹⁵²

In most prisons, annual medical screenings are not standard. Therefore, many medical procedures and treatments are provided only upon the request from the prisoner. This could be satisfactory- if the prison would actually react to the prisoner's requests. However, it has been proven that prisoners are uninformed about self-health screening, many of them lack basic hygiene knowledge, and many are undereducated. Therefore prisoners simply can not thoroughly describe their problems and symptoms. Female prisoners in particular are thus unable to articulate their ailments and as a consequence are often denied medical care because they are considered insignificant or assumed to be lies. So often, simply the level of education and persistence of the woman determines whether or not she will receive an examination by medical staff.

Yet another obstacle in searching for medical care is cost. Because there are fewer working programs and earning potential for female prisoners, they have only a very small or non-existent income. The average wage ranges between 20¢ and 40¢ an hour. Compare to this, each visit of the medical staff might cost up to 3\$. Additionally, while incarcerated they can not qualify for Medicaid. This makes medical care unaffordable for many female prisoners who already need to buy basic items like tooth-brushes and toothpaste in an expensive prison commissary, not to mention the fact that women generally need more cosmetics they also additionally need to obtain.¹⁵³

4.2 HIV and HCV Diseases

HIV/AIDS and Hepatitis C (HCV) are considered two of the most life-threatening illnesses for prisoners, and their increase within the overall prison population mirrors the trends in society.¹⁵⁴ Furthermore, as mentioned previously, inmates generally have a history of complicated or non-existent access to medical services prior to being incarcerated. The current prison population is nine to ten times more likely to be infected with hepatitis C and eight to nine times more likely to have

¹⁵² Silja J.A. Talvi, *Women behind Bars: The Crisis of Women in the U.S. Prison System* (California: Seal Press, 2007), 97.

¹⁵³ Victoria Law, *Resistance Behind Bars: The Struggle of Incarcerated Women* (California: PM Press, 2009), 32.

¹⁵⁴ Silja J.A. Talvi, *Women behind Bars: The Crisis of Women in the U.S. Prison System* (California: Seal Press, 2007), 102.

HIV than general population.¹⁵⁵ In 2008, around 2.4% of all female inmates were identified as HIV positive as compared to only 1.6% of male prisoners.¹⁵⁶ The higher rate is due to previous high-risk life experiences including exchanging sex for drugs, prostitution and/or rape. Moreover, among all female prisoners, African-American women are most likely to be infected with HIV, mirroring a trend in general population in which African- American women represent the fastest growing group of all Americans being tested positively for HIV.¹⁵⁷

Hepatitis C comprises a much higher percentage of infected female prisoners, with the numbers oscillating from 20% to 50% of incarcerated women.¹⁵⁸ Unfortunately, unlike the medication for HIV, which is often subsidized, medication for hepatitis C is very expensive. There are currently only two approved antiviral drugs for treating HCV: Interferon and Ribavirin.¹⁵⁹ and it is estimated that the cost runs between \$10,000 to \$23,000 per person and year. Due to this exorbitant price, female prisoners often do not receive sufficient medication, if at all. Sadly, the prison system is somewhat of an incubator for these diseases, especially due to the reprehensible lack of detailed information about the diseases themselves and how they are transmitted. Another contributing factor is the fact that many prisoners, despite their requests, have never been tested.

It is rather ironic that prison could potentially be the best environment for HCV treatment simply because prisoners are not able to participate in the high-risk behaviors that marked their lives before incarceration. However, since there is often no treatment, the inmates are eventually released as highly risky infection disseminators, because each year around 1.4 million male and female inmates with HCV are released back to the society.

4.3 Pregnancy and Prenatal Care

Similarly, as most prison facilities do not offer adequate treatment of diseases, most facilities for female inmates are also not properly equipped for housing pregnant

¹⁵⁵ Silja J.A. Talvi, *Women behind Bars: The Crisis of Women in the U.S. Prison System* (California: Seal Press, 2007), 96.

¹⁵⁶ Katherine Van Wormer, *Working with Females Offenders: A Gender Sensitive Approach* (New York: John& Sons, 2010), 111.

¹⁵⁷ Silja J.A. Talvi, *Women behind Bars: The Crisis of Women in the U.S. Prison System* (California: Seal Press, 2007), 96.

¹⁵⁸ *Ibid.*, 101.

¹⁵⁹ *Ibid.*, 128.

inmates. There are two significant areas of concern related to this inadequacy. First, given the lack of diversity in female prison facilities, pregnant women are often sentenced to spend their time in a maximum security facility with dangerous inmates. Additionally, these facilities have very tough rules that are not suitable for pregnant inmates, e.g. 23 hours lock-down etc. Secondly, most prisons don't provide special nutritional programs, for pregnant women not to mention vitamins or special diet. Together with the lack of exercise and pre-natal counseling services, pregnant prisoners run the risk of premature labor or serious possibility of endangering both the fetus and the mother.

Another controversial issue related to in-prison birth also includes shackling. It has become a common practice to shackle the mother-to-be while transporting her to the hospital, when they go into labor and even in hospital while giving birth. Even though at least two dozen litigations have taken place during the last two decades against this procedure denouncing it as inhuman and unconstitutional, there are still female inmates who testify that they have undergone this practice while in labor.

As a result of a litigation act in 1998, the U.S. District Court ruled that the District of Columbia Department of Corrections had to “develop and implement a protocol concerning restraints used on pregnant women which provides that a pregnant inmate shall be transported in the least restrictive way possible with legitimate security concerns.”¹⁶⁰ However, until 2008 there were only three states that limited the use of restraints on women in labor (Illinois, California and Wisconsin).¹⁶¹ As of 2012, 13 other states have passed laws that prohibit these inhumane practices that include handcuffs, shackles, irons or belly chains.

When the time comes for the baby to be born, most mothers-to-be are transported to a separate medical facility outside the prison. The transportation and security precautions related to it significantly increase the risk of injury, as well as medical and mental health complications both for the mother and the baby. Only couple hours after giving birth, mothers are transported back to prison again without further interest in the needs that arise during the difficult postpartum period. Though most correctional systems for women could offer prenatal and postpartum treatment they are not offered automatically but only after prisoner's own request. Moreover,

¹⁶⁰ Katherine Van Wormer, *Working with Females Offenders: A Gender Sensitive Approach* (New York: John & Sons, 2010), 65.

¹⁶¹ National Advocates for Pregnant Women: “Does your state?“, <http://advocatesforpregnantwomen.org/YourState%3F.pdf> (accessed November 9, 2012).

80% of new mothers have to leave their child in hospital. The baby is later collected by family or foster care staff. Leaving the newborn behind and thus denying the most natural bond with the mother is currently considered one of the most controversial issues in the prison system.

Some prisoners testified they were forced to consider abortion or were directly instructed to take an unknown medicine that resulted in an abortion.¹⁶² On the other hand, there were former female prisoners who testified they were refused an abortion because the prison did not want to spend financial and time resources of the staff to travel outside the prison to obtain it. In another case, the prison simply was not willing to pay for it.¹⁶³ About one quarter of states have no rules or procedures regarding the abortion of incarcerated women. Others do not release their policies so that the public can have an access to it. Often the policies are ambiguous and require interpretation and therefore provide possibility of discretion on the part of prison personnel.¹⁶⁴

Interestingly, on the other hand, for a certain number of female prisoners who enter prison while already pregnant, prison might paradoxically be the safest and most suitable environment for them. From one perspective, women who were homeless prior their arrest, never or only rarely experienced medical examinations or had problems obtaining nutritious food as well as females addicted to drugs certainly benefit from incarceration during their pregnancy. Prison can also be perceived as a safe haven for those female inmates who have experienced restrictive environment regarding abusive partner or family member- for these women, prison in fact, creates safer, less stressful environment. As Van Wormer dryly observes “prenatal care in prison might not set the highest standard, but it often is significantly better than the care impoverished or substance-abusing women may receive on the streets, and other previously overlooked health problems may also be treated in prison.”¹⁶⁵

¹⁶² Susan F. Sharp ed., *The Incarcerated Woman- Rehabilitative Programming in Women's Prisons* (New Jersey: Prentice Hall, 2003).

¹⁶³ Joycelyn M. Pollock, *Women, Prison, & Crime* (California: Wadsworth, 2002), 160.

¹⁶⁴ Rachel Roth, “Reproductive Laws for the 21st Century Papers: She doesn't Deserve to be Treated Like This, Prisons as a Sites of Reproductive Injustice” <http://www.centerwomenpolicy.org/news/newsletter/documents/RothCWPSUpdated13July2012FINA L.pdf> (accessed November 9, 2012).

¹⁶⁵ Katherine Van Wormer, *Working with Females Offenders: A Gender Sensitive Approach* (New York: John & Sons, 2010), 66.

4.4 Utilizing Health Cost within the Prison

Both academics and professionals analyzing prison environment underscore that the cost of health care provided in the prison will steadily rise (as evident from Table 1.3, it currently comprises around 10% of the correctional budget) and consume even larger portion of the overall budget, because prisoners who are entering the prison are generally older with longer experience of unhealthy lifestyle including different kind of abuse.¹⁶⁶

As number of women incarcerated for drug offenses increases, so does the number of substance abusers and/or HIV positive prisoners. Economically speaking, prison costs (especially the cost of health care) exploded thanks to punitive crime control policies which resulted in increasing incarceration of male and females who are more unhealthy than the rest of the population. Furthermore, it has been statistically proven that women in the general population (not to mention incarcerated women) suffer more from nonfatal chronic diseases (varicose veins, constipation, and anemia) as well as infective diseases, headaches, respiratory system conditions etc.¹⁶⁷

Van Wormer describes three approaches how the prisons are trying to better utilize their health care cost. However, as will be explained later, it is obvious that all of them are discriminatory towards female prisons and prisoners. The first way how to lower the health care cost is through co-payment that suggests females should participate and pay partial or full cost for some of the examination. This arrangement is aimed at lowering unjustified medical requests and thus lowering the overall cost. Why is it discriminatory? While lowering the number of medical check-ups and examination may not do any harm to male prisoners, females tend to suffer disproportionately more from different kinds of diseases and together with their needed gynecological check-ups, this is considered as posing a risk towards female prisoner's health condition. The cost will discourage females to demand different examination even in a case of serious illness, because they simply can not afford it. Female prisoners often tend to be located in facilities far away from any relatives who can provide any additional financial resources. This is also discriminatory comparing to male prisons which generally tend to be closer to inhabited areas, so that relatives and their financial resources that flow more easily.

¹⁶⁶ Katherine Van Wormer, *Working with Females Offenders: A Gender Sensitive Approach* (New York: John & Sons, 2010), 50.

¹⁶⁷ *Ibid.*, 54.

Privatization is one of the recent ways how states successfully pass the burden of correctional cost to private companies that run private prison business. Yet, there is no secret that female prisons are more expensive to operate while not generating such capital as the male facilities do simply because there are limited employment opportunities for female prisoners. So, private companies react more hesitantly when deciding whether or not to run a female prison. However, when they decide to do so, they systematically lower the health care cost to an absolute minimum, because their aim is to generate financial gain by operating a private business.

With the current technological shift towards consulting online, prisons tend to consult their inmate's health problem through email, skype or other online means that end the necessity to pay the physician to be physically available in the facility. Health consultation and advising is thus available only upon request and in addition online. Van Wormer warns about three factors why the "telemedicine" is more likely to be implemented in female prisons than in male. It is the fact that female prisons tend to be located in more remote areas than male do, it is therefore cheaper not to pay a physician to be accessible personally but only virtually. Additionally women's prisons tend to lack a proper medical facility comparing to men's prisons, so there is the claim that doctor has no choice to be present, because after all, he/she does not have suitable conditions for treatment anyway.

And finally, there is the fact that females require more medical services that can be obtained only outside the prison complex (a typical example is the childbirth) than men do.¹⁶⁸ So with respect to all the facts mentioned above, female prisons tend to contract a physician only to provide online consultation which can never substitute satisfactory "live" examination.

Though these provisions are unsatisfactory for the prisoner's health, the prison system defends itself by highlighting the fact that prisoners in general, and female prisoners particularly, utilize medical services at higher rate than the population outside the prison walls. They also point out that visiting a physician represents a welcomed break from everyday routine so that prisoners will pretend they have a problem just to be examined. Furthermore, the argument is made that the health care is either free or generally available, which is very different from the inmate's health care situation when non-institutionalized..

¹⁶⁸ Katherine Van Wormer, *Working with Females Offenders: A Gender Sensitive Approach* (New York: John & Sons, 2010), 54.

Some authors, such as Susan F. Sharp, conclude that while during last two decades, medical services in prison facilities have improved, they still can not keep up the pace with the growing number of inmates and their specific demands that result from their previous poor life conditions. However, the three solutions lowering the costs of medical services described above, are not in any way systematical as the main proposition how to lower the cost must be to stop incarcerating people too ill to serve their sentence, to sentence people to maximum sentences for dealing or possession of small amount of drugs and to incarcerate mentally ill people.

4.5 Mental Health Problems within the Prison

There are two main distinctions between mental problems that occur in the prison. The main difference lies in their background, in the reason why they have developed in first place. There are women who prior to the incarceration have developed certain mental illnesses. On the other hand there are women who came to the prison without a history of mental problems and they have developed it ever since.

Another study¹⁶⁹ suggest that as many as 80% of incarcerated women meet the criteria for at least one lifetime psychiatric disorder. Surveys among incarcerated females also show strong link between childhood abuse and adult mental illness, especially depression, posttraumatic disorder, eating disorder or panic.¹⁷⁰ As a response, the term “correctional facilities as a social safety net” emerged, particularly addressing those mentally ill or homeless without proper care for whom the prison might sadly constitute a positive change in their lives.

A report from the U.S. Bureau of Justice Statistics states that more than half of all prisoners have a mental health problem. Among the illnesses the male and female prisoner are most often diagnosed with are mania (43% of state prisoners; 54% of jail prisoners), major depression (23% of state prisoners; 30% jail of prisoners), and psychotic disorders (15% of state prisoners; 24% of jail prisoners).¹⁷¹ The report noted that women prisoners had higher rates of mental illness than men (73% women vs. 55% men in state prisons; 75% women vs. 63% men in jails).¹⁷² Additionally,

¹⁶⁹ R. L. Gido and L. Dalley, *Women's Mental Health Issues: Across the Criminal Justice System* (New Jersey: Pearson Prentice Hall, 2009), 72.

¹⁷⁰ *Ibid.*, 73.

¹⁷¹ Jacquelyn H. Flaskerud (ed.), “Incarceration and the new Asylums: Consequences for the Mental Health of Female Prisoners,” *Mental Health Nursing* 29 (2008): 2.

¹⁷² R. L. Gido and L. Dalley, *Women's Mental Health Issues: Across the Criminal Justice System* (New Jersey: Pearson Prentice Hall, 2009), 78.

three quarter of female inmates in the state prisons who had a mental health problem meet the criteria for substance dependence or abuse compared to 55% of men.¹⁷³

Mentally ill females are more likely to serve sentences for property and public-order crimes (46% of females vs. 41% of men) than person-related crimes (37% of females vs. 48% of men). They are also more likely than men to commit drug-defined crimes (15% female vs. 9% men) and are also more likely to violate probation and/or parole (27% of female vs. 16% of men). This higher rate of violating probation or parole suggest, that female ex-offenders have more difficulties in finding opportunities to remove themselves from their criminal lifestyles/ networks.¹⁷⁴

The National Commission on Correctional Health Care (NCCHC)¹⁷⁵ produced a study according to which women offenders were more likely to have histories of dual diagnosis (e.g. mental illness and substance abuse or history of previous abuses).¹⁷⁶ Addicted women are more likely to develop one of the following co-occurring disorders: depression, post-traumatic stress disorder and other anxiety disorders.

NCCHC also created nine mental health categories along with the symptoms that are used for mental illness classification in prison:

1. Somatization: reflects distress from perception of bodily dysfunction, examples: headaches, dizziness, pain in chest, feeling weak;
2. Obsessive compulsion: reflects thoughts, impulses and actions that are experienced as unremitting and irresistible, examples: repeat or persistent unpleasant thoughts, repeated action such as washing, touching or counting;
3. Interpersonal sensitivity: reflects feeling of inadequacy and inferiority, particularly in comparison to other people, examples: self-deprecation and self-doubt marked by discomfort during interpersonal interactions;
4. Depression: reflects withdrawal of interest in life, lack of motivation and loss of vital energy, thoughts of suicide are common;
5. Anxiety: reflects feeling of nervousness, tension and trembling marked by panic attacks and feeling of terror, apprehension and dread;

¹⁷³ Katherine Van Wormer, *Working with Females Offenders: A Gender Sensitive Approach* (New York: John& Sons, 2010), 72.

¹⁷⁴ M. Bosworth, *The U.S. Federal Prison system* (California: SAGE Publication, 2002), 24.

¹⁷⁵ The National Commission on Correctional Health Care was established to monitor and improve the quality of health care in jails, prisons and juvenile confinement facilities.

¹⁷⁶ M. Delgado and D. Humm-Delgado, *Health and Health Care in the Nation's Prisons: Issues, Challenges and Policies* (New York: Rowman & Littlefield Publishers, 2009), 39.

6. Hostility: reflects thoughts and feelings or actions that are characteristic of the negative state of anger, examples: aggression, irritability, rage and resentment;
7. Phobic anxiety: reflects a persistent fear response that is irrational and disproportionate to the situation that leads to avoidance or escape behaviour, examples: feeling afraid in open spaces, feeling that others will take advantage if you let them;
8. Paranoid ideation: reflects characteristics of hostility, suspiciousness, fear of loss of autonomy, delusion;
9. Psychoticism: reflects a withdrawn, isolated and schizoid lifestyle as well as experiencing hallucination, examples: hearing voices, idea that someone else can control their thoughts.¹⁷⁷ Among all of these above, anxiety and depression are the most common.¹⁷⁸

Apart from the overall rates of disorders, women present a wide range of unique service challenges for correctional administrators and those who are in charge of their needs. The first challenge relates to the role of trauma in the lives of female prisoners. As already mentioned, women experience physical abuse, sexual abuse or childhood abuse, more often than men.¹⁷⁹ The second challenge related to psychological stressors is associated with separation from children. Women with minor children typically experience guilt and anxiety over the separation which significantly complicates their adjustment to the prison environment and increase risk of developing a depression or other mental illness while incarcerated. The third challenge is related to the complicating role of co-occurring substance use disorders among incarcerated women with mental illness. Prison system tries to cope with symptoms however does not deal with cause, trigger and consequences mental illness creates.

4.6 Incarceration of Mentally Ill

The term “criminalization of mentally ill” first appeared in 1972 as a response to the trend to incarcerate those who suffer from severe and persistent mental illness

¹⁷⁷ M. Delgado and D. Humm-Delgado, *Health and Health Care in the Nation's Prisons: Issues, Challenges and Policies* (New York: Rowman & Littlefield Publishers, 2009), 41.

¹⁷⁸ *Ibid.*, 41.

¹⁷⁹ *Ibid.*, 42.

instead of providing them with an adequate care and treatment within a suitable facility that deals with mentally ill people.¹⁸⁰

Several developments may account for the rise of mentally ill women in the criminal justice system. Especially due to the lack of facilities for mentally ill, which have been closing down since 1960, prisons are becoming place for an alarmingly high number of mentally ill. The movement toward deinstitutionalizing the nation's state mental patients resulted in lowering the number of beds for mentally ill patients by 90%.¹⁸¹ The assumption, envisioned by President J. F. Kennedy, was that these patients would be released into community-based mental health systems. However this assumption proved wrong.

After Reagan administration's cuts in towards social welfare and mental healthcare in the beginning of 1980s, the criminal justice system absorbed these men and women at various levels throughout the system, without the adequate resources to deal with them. Subsequently, the mandatory sentencing policies for drug offenders, developed in the 1980s, substantially reduced judges' discretion in sentencing and "three strikes laws" resulted in longer terms of incarceration. Silja J.A. Talvi states that "the nail to the coffin for truly affordable mental healthcare finally came in the 1990s, when Congress closed one remaining loophole in the Medicaid system that provided reimbursement for inpatient psychiatric care."¹⁸² Since substance abuse and mental illness often develop together, mentally challenged inmates were sent directly to prison instead of an adequate mental health facility. All these changes resulted in the presence of more individuals with major mental illnesses in the community, their inability to adapt and furthermore their contact with crime. Consequently, increased numbers of individuals with mental illness are involved with the criminal justice system.¹⁸³

Currently, the United States has more persons with mental illness in prisons and jails than in all of the state mental hospitals nationwide.¹⁸⁴ It is argued that today's jails are cheap mental hospitals for the poor. Since prison is neither a suitable place

¹⁸⁰ R. Greifinger, ed., *Public Health Behind Bars: From Prisons to Communities* (New York: Springer, 2007), 150.

¹⁸¹ *Ibid.*, 152.

¹⁸² Silja J.A. Talvi, *Women behind Bars: The Crisis of Women in the U.S. Prison System* (California: Seal Press, 2007), 145.

¹⁸³ R. Greifinger, ed., *Public Health Behind Bars: From Prisons to Communities* (New York: Springer, 2007), 87.

¹⁸⁴ M. Delgado and D. Humm-Delgado, *Health and Health Care in the Nation's Prisons: Issues, Challenges and Policies* (New York: Rowman & Littlefield Publishers, 2009), 221.

for mentally ill inmates, nor a hospital to provide them with a complex treatment, some of the inmates have never received any medication. Others have obtained medication but do not receive treatment. Mentally ill prisoners are more likely to be victims of physical and/or sexual abuse. They are called “bugs” and those one with medication are called “ding biscuits”.¹⁸⁵

Once incarcerated, they are often put into a solitary confinement, which means they are under constant surveillance twenty-two to twenty-three hours a day, with an hour for personal hygiene and possibly an hour for exercising in a wired empty yard. From this practice, term SHU (solitary housing units) syndrome evolved. Many human rights activist fight against the SHU because that is mostly the place where mentally ill prisoners get worse by being all alone in an almost empty, cold, white room, locked twenty two to twenty-three hours a day.

4.7 The Prison’s Approach towards the Female Mental Health Care

As Katherine van Wormer aptly wrote, “Protecting the public from crime and maintaining discipline within prison walls are the major goals of prison, not healing the sick.”¹⁸⁶ When non-profit organizations and women’s prison advocates seek female-friendly and responsive healthcare in prison “they are often told that women cannot be treated differently from men.”¹⁸⁷ This practise and approach can be seen in everything from lack of sanitary napkins and toilet paper (men and women are provide with the same amount) to the same treatment of the mental health issues without taking into concern that vast majority of female offenders have a history of sexual, mental and/or physical abuse, neglecting etc.

The failure to provide adequate medical care to meet the special needs of female offenders was documented in 1999 in *Women in Prison: Issues and Challenges Confronting U.S. Correctional Systems* published by U.S. General Accounting Office. This report found fatal problems in dealing with female offenders in the areas of treatment for substance abuse, mental health problem and HIV.¹⁸⁸

¹⁸⁵ Silja J.A. Talvi, *Women behind Bars: The Crisis of Women in the U.S. Prison System* (California: Seal Press, 2007), 135.

¹⁸⁶ Katherine Van Wormer, *Working with Females Offenders: A Gender Sensitive Approach* (New York: John& Sons, 2010), 72.

¹⁸⁷ *Ibid.*, 109.

¹⁸⁸ Katherine Van Wormer, *Working with Females Offenders: A Gender Sensitive Approach* (New York: John& Sons, 2010), 49.

Prisons were not meant to be the best place for mentally ill offenders, however once they are there, the prison should be responsible for their rehabilitation. At the very least, there should be adequate treatment provided so that the inmate can eventually be released. However, if inmates are not treated properly, the possibility of recidivism or harming themselves or somebody else, is rising. Subsequently it has been proven that mental health illness and substance abuse often go hand in hand and parallel treatment is not present. For example it has been proven that one in three inmates with HIV also suffer from anxiety disorder.¹⁸⁹ Some therapists are afraid that by challenging both substance abuse and mental problems, they will open a Pandora's box which will make the problems worse. On the other hand, there is certainly not a better place to face these challenges than the prison.

Women who experience mental illness in jails and prisons face a number of adverse consequences including an "impaired ability to cope with the extraordinary stresses of the environment, inability to follow rules, increased infractions and disciplinary problems, harsh punishment leading to prolonged isolation and longer sentences, as well as self-mutilation, suicide attempts, and violence."¹⁹⁰ Mentally ill inmates are 1.4 times more likely to be injured while imprisoned and three times more likely to be sexually assaulted.¹⁹¹ They are also highly vulnerable and at risk of abuse from both inmates and guards.

In the end, at some point, most of the female inmates will be released. However, with very little or no treatment in prison, they will return to their communities with persistent diagnostic and treatment needs for mental health problems which will pose serious barriers to their successful reintegration into the community. Additionally, mental health problems are likely to greatly impact the mother's relationship with their children and their ability to parent. This is again connected to the intergenerational cycle of incarceration. As stated previously children who experienced traumatic childhood events such as abuse, neglect, parental addiction or mental illness, in addition to parental incarceration are more likely to be imprisoned.

¹⁸⁹ M. Delgado and D. Humm-Delgado, *Health and Health Care in the Nation's Prisons: Issues, Challenges and Policies* (New York: Rowman & Littlefield Publishers, 2009), 222.

¹⁹⁰ Jacquelyn H. Flaskerud (ed.), "Incarceration and the new Asylums: Consequences for the Mental Health of Female Prisoners," *Mental Health Nursing* 29 (2008): 2.

¹⁹¹ M. Delgado and D. Humm-Delgado, *Health and Health Care in the Nation's Prisons: Issues, Challenges and Policies* (Rowman & Littlefield Publishers: New York, 2009), 222.

4.8 Gender-Specific Treatment

The call for a gender sensitive treatment is rooted in three different arguments: women are unique biologically, there are different cultural expectations towards women, and different crime pathways exist for women. Integral to the gender sensitive program is to recognize what is the connection between one's marginalized status (due to gender, poverty, lack of education, sexual abuse or race) and the crime.

It is estimated that female inmates are treated for mental illness at a higher rate when compared to males (25% of females receive treatment compared to 10% of men).¹⁹² This however creates question, whether women tend to suffer more form mental illnesses or if the prison health care and its employees tend to give them more treatment as a respond to widely believed fact that women are more emotional and thus unstable. This is also connected to the aforementioned mentioned problem of inmates receiving medication but no treatment or counselling which could help alleviate some of their problems.

So what is the result? The Centre for Substance Abuse Treatment operating within the US Public Health Service (an agency of the US Department of Health and Human Services) recognized the need for gender- responsive treatment for women that takes into account physical, psychological, emotional, spiritual and socio-political issues. A gender-specific program would take into consideration that men's and women's mental problems and issues differ in terms of reasons, progress, results, approach and treatment. Among the most important parts in gender sensitive treatment the following were highlighted: the process of addiction, especially gender specific issues related to addiction; gender discrimination and harassment; parenting, child care and custody; grief related to the loss of access to alcohol or other substances, children, family members and/or partners; low self-esteem; eating disorders.¹⁹³ This indicates a very important part of gender sensitive program- a need to assess all domains of woman's life in order to obtain an accurate picture of her life. Another important part of gender sensitive treatment is based on understanding the role of socialization in women's life. It acknowledges the social and political structures that support inequality, which subsequently leads to low self-esteem, lower pay and higher rates of violence against women.

¹⁹² M. Delgado and D. Humm-Delgado, *Health and Health Care in the Nation's Prisons: Issues, Challenges and Policies* (Rowman & Littlefield Publishers: New York, 2009), 222.

¹⁹³ *Ibid.*, 224.

However before gender-specific treatment can be utilized, it is necessary for prison-based programs to recognize that the public health and correctional systems share fundamental goals. The mutual goals consist of safer community to which offenders are released and this can be achieved through three steps: “front-end” prevention-oriented community services, effective prison-based care (more than preferably gender-sensitive treatment) and “back-end” strategies that ensure effective post-release services.¹⁹⁴

Subsequently, the National Institute of Correction published a monograph entitled “Gender- responsive strategies” which aims to take into consideration “that gender makes a difference.”¹⁹⁵ The report concentrates on individual wounds that women are taking with them to the prison (e.g.; mental health problems, substance abuse, lack of vocational skills). At the same time, the monograph does not agree with the quick healing process within the prison since women are separated from the outside world. As a result the process of both mental and physical healing might appear to be accomplished, but once released this fails in a long term. The primary reason for this is that in prison nobody challenges the processes which created the wounds in first place, a process that is central to healing and recovery. The goal of this approach is, “to marshal the women’s strengths and cooperation in a process through which she is empowered to accept and manage effectively the constellation of needs, challenges, and risks that characterize her life and define, who she is and who she wants to be in the future.”¹⁹⁶

Gender sensitive treatment towards mentally ill offenders would create a safer environment for all inmates. However, the first step needed is to finally realize that prison system is not a place for mentally ill people and that it cannot replace the facilities created especially for those suffering by mental illness. Medication is needed, though not without counselling, check-ups by a health personal and further psychological or psychiatric supervision. The gender sensitive treatment program is the last one in a long row of improvements in response to the current situation in prison. No matter how deeply it is needed, steps towards major change must be taken

¹⁹⁴ B.M. Veysey, J. Christian, and D.J. Martinez, *How Offenders Transform their Lives* (Oregon: Willan Publishing, 2009), 34.

¹⁹⁵ M. Delgado and D. Humm-Delgado, *Health and Health Care in the Nation’s Prisons: Issues, Challenges and Policies* (Rowman & Littlefield Publishers: New York, 2009), 226.

¹⁹⁶ *Ibid.*, 228.

and real treatment composing of both medication and supervision must be introduced before it can be further specialized.

At the beginning of this chapter I questioned the ability of prisons to offer suitable services to women as well as whether or not the prison is able to respond to their demands. Clear evidence was presented that prison health care and mental health care primarily focused on managing crisis and symptoms. However, the goal of health care services should be to facilitate recovery and build skills needed to improve independence and enhance quality of life. Today, prisons are packed with ill and mentally ill prisoners, prisoners with history of abuse or prisoners too old to serve their sentence. All these groups have special demands the prison is unable to reflect.

In the beginning of this chapter there was a question whether equality or gender-specific treatment is more desirable for female prisoners. As this thesis is composed in favour of gender-specific approach it is also an answer to the previous question. Subsequently, next chapter is dedicated to the description of this phenomenon.

5. Gender inside the Prison: Opponents, Proponents, Improvements and Propositions

...Legal challenges by women employing equal protection argument may be problematic because if the courts applied parity, women might lose some of the special advantages they had...¹⁹⁷

Women's prisons have witnessed some important acts of litigation against discriminatory conditions based on the gender. In *Park v. Thomson* (1972) the Supreme Court ruled that the "transfer (to a far-away prison) made conditions of confinement more onerous for female prisoners"¹⁹⁸ and consequently violated the Eight and Fourteenth Amendments. Later on however, the Court denied the equal protection argument against the procedure in which female prisoners from District of Columbia were incarcerated much far away than male prisoners in *Pitts v. Meese* in 1987. In *Canterino & U.S. v. Wilson* (1982), one of the most important cases on this topic, female inmates challenged the so-called "behaviour modification program"¹⁹⁹ that was mandatory for them but nonexistent for male prisoners. According to this program female prisoners were simply punished and deprived of different privileges for lesser offences than male and according a system that was not established in male prisons. The Court held that the system unconstitutionally discriminated women on basis of their gender and also violated the equal protection of the Fourteenth Amendment. In this particular case, the Court also ruled that state of Kentucky was obliged to improve the women's law library and legal programs so as to make them equal to programs and books offered in men's prison.

What is so significant about these litigation acts? First, though all of them took place more than 25 years ago, they challenged the same conditions and problems female prisoners are still experiencing as evident from previous chapters. Women are still discriminated against, have fewer possibilities, and have worse access to services-whether it is a medical care, vocational programs and others. And second, in these litigation acts women mostly sought equality and parity, the same opportunities. There is no doubt they need it. As explained in previous chapters, however, there are

¹⁹⁷ Joycelyn M. Pollock, *Women, Prison, & Crime* (California: Wadsworth, 2002), 168.

¹⁹⁸ *Ibid.*, 161.

¹⁹⁹ Behavior modification program was first introduced by Edward Thorndike in 1911. It is based upon a premise of re-learning acquired behavior. This program is used to change behavior by reduce negative aspects of behavior by using positive and negative reinforcement.

however what is really important for women is the *gender-specific difference within equality*. American prisons were built on the idea that confinement would systematically change the incarcerated person and that prisons would ultimately release a better person than was taken in. As we have seen in the previous chapters, this cannot be successfully achieved by using the same approach to women as to incarcerated men. However this is difficult to successfully defend since there are some areas where male and female prisoners must be treated equally, for example by offering the same amount of vocational training (however not the same kind), prison accessibility by family or lawyer. On the other hand, there are areas where gender-specific treatment is more appropriate and desirable, for example in provided medical services.

In some cases, it is rather difficult to draw the line and decide that one particular area of services is better in a gender-specific mode and another area is the one where in which equality should be guaranteed for all inmates. There should be the same opportunity to work and get educated for both genders. But there is no doubt that it is insufficient to maintain parity in provision of medical services as well as with vocational programs which cannot be the same for men and women. Maintaining parity in medical services means that women do not receive desired services. At the same time, there are certain vocational programs female offenders will never be interested in²⁰⁰ and – even though they get trained – will never use them. Such trainings thus represent a wasted financial resource.

There are several areas where calls for parity are questionable, e.g. should women be guarded by female guards exclusively to protect their privacy? When it comes to male prisoners, guard's gender factor is unimportant i.e. both male and female guards are available and nobody questions if it is appropriate. Or should sentenced mothers be placed into community (i.e. they can stay in half-way houses or at home but under a special surveillance of probation officer) rather than into the prison so that they can be closer to their children? Should they enjoy greater access to their children and isn't it then discriminatory towards male prisoners? It is hard to find the right answers to these questions, because they are always dependant from the prisoner's gender and position. Every prisoner would do everything to improve his or her conditions and privileges.

²⁰⁰ For example in Topeka Correctional Facility, Kansas certified trainings such as car maintenance, plumber or electrician were offered to female inmates.

Susan F. Sharp visited prisons in Oklahoma, the state that has the highest incarceration rate of females (134 incarcerates female per 100,000 females living in Oklahoma).²⁰¹ In interviews, female prisoners talked about the services they felt they needed the most. Those mentioned the most frequently were more effective drug treatment and counselling. Once released, women wished for assistance in finding job, secure housing etc.²⁰²

How much assistance should be provided to those who violated the laws? Should law abiding citizens be responsible for those who violated the law and spent taxpayer dollars on programs for those who committed crimes instead of improving medical or social services for those who contribute to taxes? American public is divided in the opinions regarding the prisons and their conditions. Below are shortly summarized two opposite views of how American public perceive the current situation. However, it needs to be stated that there is no representative academic research regarding this topic, so the majority of related opinions are summarized from newspapers, blogs and internet discussions. Though this part cannot be supported by academic sources, it is necessary to mention it, since politicians' decision about which area deserves more tax dollars is closely linked to public opinion. After these opinions few examples of gender-specific treatment that are already in use are described.

5.1 Opponents to Special Treatment of Incarcerated

Part of the American public not only disagrees with the gender-oriented approach, but in general oppose to the entire idea of “rights” and “privileges” for prisoners. It is evident that part of the American society disagrees with the conditions prisoners have while incarcerated. There are two main points of disagreement. First of all, parts of American public believe (and are critical about) that the prisoners are provided with too much comfort: three meals a day, shower, TV and above all medical care. These are standards which many people in the United States cannot afford.²⁰³

²⁰¹ Susan F. Sharp, “Study of Incarcerated Women and their Children” (paper presented at Oklahoma Commission on Children and Youth, Oklahoma, January 22, 2010), 9.

²⁰² Ibid., 15.

²⁰³ <http://www.statesman.com/news/news/opinion/texans-deserve-relief-from-prison-health-care-cost/nSTKc/> (accessed December 12, 2012).

Most opponents of the current prison conditions also believe that prison should rehabilitate, instead of only incarcerate and then throw away the key. There is a common opinion that prisons are not meant to be pleasant places and are supposed to deter those who may consider breaking the law.

Second point is connected to financial resources. People are angry and disillusioned that their money that should be used for health care or school system is used to finance prisons and their “luxury” conditions. Some argue that there would be fewer prisoners if the law insisted that time spent in prison were spent working and paying for stay in prison. They also point out the paradox that spending on incarcerated people in states like Oregon or Ohio is seven times higher than their spending on education.²⁰⁴ This is considered a waste of money.

Taking into consideration the arguments presented above, gender-oriented treatment is considered even a bigger luxury since it means using more public sources that could be otherwise spent on education, social programs or services for elderly or disabled.

5.2 Proponents to Special Treatment of Incarcerated

Prison as an institution is a very depressing place without access to family, relatives, or friends, so even extra programs and privileges cannot diminish how terrible it is being incarcerated. This opinion, part of the American public who express their understanding towards the fact that most prisoners are in prison for non-violent crimes and still, they need to spend there many years if not decades. Also, all the supposed advantages (vocational training, health care etc.) are overshadowed by overcrowding, sexual misconducts, inappropriate diet and the fact that family and friendship ties are torn apart.²⁰⁵

There is also a call for rehabilitation instead of incarceration, supported by the argument that keeping people in prison is expensive and does not guarantee any improvement in prisoner’s behavior.

And after all because of the incarceration prisoners were deprived of any means how to provide for themselves, so morally, the society is obliged to care for these people and leave them without health care to die would be considered torture. They

²⁰⁴ <http://www.creators.com/opinion/diane-diamond/do-prisoners-deserve-free-medical-treatment.html> (accessed November 1, 2012).

²⁰⁵ <http://www.debate.org/opinions/do-prisoners-have-too-many-comforts-such-as-cable-and-internet-while-incarcerated> (accessed December 10, 2012).

are still human beings who made mistakes and who can go successfully through the rehabilitation. However, the rehabilitation cannot be provided through inadequate conditions but through education, solving the initial problems and conditions that brought them to the prisons including mental health problems.

Health care is supposed to be granted for prisoners, because only because they lost their liberty it does not mean they should be treated without humanity and dignity. As a result, proponents of special treatment also agrees with academic works that recommend special programs including gender- oriented programs for women such as the ones mentioned below.

5.3 Standards for Gender- Specific Programs

As this thesis is written in favour of gender-specific programs, below are described propositions of programs that should be implemented in order to challenge the increasing female incarceration and increasing recidivism rates. With no doubt they are all gender- responsive, but after all, we were able to see that the “if it is equality they want, if it is equality they will get” principle that many police officers, judges and correctional officers follow when they incarcerate or sentence female offenders, is not working.

Just as in *Canterino & U.S. v. Wilson* when the District Court decided that libraries in women prisons as well as legal programs must have the same standard, so must supervision and programming provide parity however, it must be female-centred. The programs afforded must take into consideration the problems incarcerated women face at most: they are undereducated, often with no valuable working-skills and they will most probably have substantial problems to obtain a job especially with the X on their back (slang for criminal record) not to mention housing, taking care of their children and often being able to escape the abusive environment they came from.

On the other hand, programs and their supervision must be humane, taking into consideration often physical and sexual abuse most of the women experienced. The same must be true for agency policies, programs and practices, not to mention guards and service providers who should receive an adequate training highlighting the very complicated situation most female offenders come from so that they would be able to supervise them most effectively. Because if something is true for many female offenders, they have the feeling that escaping from one terrible environment with

abusive partner, selling sex for drugs, having nobody who would treat them like human beings, they often come to prison where guards exchange sex for little favours, nobody treat them like humans who need medical and psychological consultation and examination and on top of that they lost what was on the biggest importance in their life- their children. There is also a recommendation to apply monitoring and periodic evaluation of prison guards and staff, stop the ignorance of possible sexual misconduct and strictly punish all such behaviour.

It is hard to make it once released, especially with so many women having deep self-esteem problems. If they do not feel worthwhile as human beings, no prison program will ever help them. Gender- specific programs should aim at thing like low self- esteem, gender discrimination and harassment, interpersonal violence, sexuality, life- plan development and others.²⁰⁶

5.4 Reality of Gender- Specific Programs: Programs for Mothers

It has been shown that the majority of females are non-violent, non-serious offenders. Despite this fact, they are still placed into the maximum-security facilities even though there is only a slight minority of dangerous women who require placement in these facilities. There have been programs which focus on motivating women by allowing children of certain age to stay with them. Within some of these programs, alternative campus-like housing is built in which some types of female offenders and mothers with dependent children can stay, or at least spend weekends. This is possible to a certain extent at the MCI Framingham²⁰⁷ in Massachusetts. The program has brought a positive outcome- more cooperative and responsive prisoners whose need of medical (especially psychological) counselling dropped deeply below average.²⁰⁸

Another often cited example is Bedford Hills prison²⁰⁹ in New York State which allows incarcerated mothers to be close to their babies up to 18 months of their age and support them through in the facility established nursery. In fact, prison

²⁰⁶ Joycelyn M. Pollock, *Women, Prison, & Crime* (California: Wadsworth, 2002), 118.

²⁰⁷ MCI-Framingham is a medium security correctional facility for female offenders, located twenty-two miles west of Boston. It is the Massachusetts Department of Correction's only committing institution for female offenders.

²⁰⁸ Christina Rathbone, *A World Apart: Women, Prison and Life behind Bars* (New York: Random House, 2005). 212.

²⁰⁹ Bedford Hills is the largest women's prison in New York States and the only New York State Department of Correctional Services women's maximum security prison.

nurseries have a long history in women's prisons, however today Bedford Hill prison is one of only a few in the United States that remains.²¹⁰ Their nursery program draw a lot of attention both from media and public and it is often cited as a very progressive even by opponents of gender- specific treatment. One New York's newspaper cited the fact that keeping the baby with its mother in prison cost only \$11,000 versus \$18,000 in foster care.²¹¹ The bond with older children is maintained through playroom to which children are encouraged to come and visit their mothers.²¹²

Also The Nebraska Correctional Centre for Women²¹³ allow children to stay up to five days a month with their mother which has, according to the wardens, a very harmonizing effects on prisoners.²¹⁴

For those mothers who were already released there is a possibility of a halfway house. For example California contracts with private providers for about half dozen halfway houses for female offenders with small children up to 12 years. Women who meet the requirements- no history of violence, child abuse or neglect, be the primary caregiver before imprisonment and have a good prison records- can be paroles early and spend rest of their sentence in the halfway house together with the children.²¹⁵

5.5 Reasons for Applying Gender- Specific Programs for Mothers

There are two factors that need to be taken into consideration when discussing the use of gender- responsive programs for mothers. First, women are the primary caregivers of their children, often without partner. When we take the mother away we very negatively influence the future generation, not to mention that there are currently more than 2 million children whose mothers are either in the prison or spent there a portion of their childhood and more than 5 million children whose mother is either on parole or probation.²¹⁶ Children are then punished twice: by mother's incarceration and then by her dysfunctional lifestyle upon her release if she will not be able to find appropriate job, housing etc.

²¹⁰ Joycelyn M. Pollock, *Women, Prison, & Crime* (California: Wadsworth, 2002), 114.

²¹¹ *Ibid.*, 115.

²¹² Katherine Van Wormer, *Working with Females Offenders: A Gender Sensitive Approach* (New York: John& Sons, 2010), 77.

²¹³ The Nebraska Correctional Center for Women houses maximum, medium and minimum custody inmates and it is the only secure correctional facility for adult women in the Nebraska Department of Correctional Services.

²¹⁴ Katherine Van Wormer, *Working with Females Offenders: A Gender Sensitive Approach* (New York: John& Sons, 2010), 78.

²¹⁵ Joycelyn M. Pollock, *Women, Prison, & Crime* (California: Wadsworth, 2002), 115.

²¹⁶ *Ibid.*, 116.

And second, most incarcerated females reported having mental problems such as depression, anxiety or hostility because of the constant fear for the underage children who they left outside. It would more than desirable not to punish women with prison for non-violent crimes and allow them to stay outside in their community, to be controlled by their probation officer, undergo drug treatment if necessary and be allowed to stay with their children.

It is always hard to ask both for equality and different conditions at once. But I also believe that in previous chapters I was able to describe the social reality of incarcerated females and to point out the problems they need to deal with. Most of these females have a difficult family background; they often experienced psychological, physical and sexual abuse. They are undereducated, with low self-esteem, almost no valid working experience and with dependable children. I do not think that asking both for equality and different treatment is manageable however I believe that at least the programs for mothers with the aim to provide the best for children should become standards in the women's prisons. I also believe that question of cost is negligible comparing to the fact that less children will grow up in foster homes and more of them will know how a true home looks like. But, likewise I also believe in active supervision and strong rules of parole and probation officers who will actively monitor the situation.

Conclusion

The American prison system has reached an extreme proportion with regard to the number of incarcerated people that it has to accommodate. Though the numbers of incarcerated females are still relatively small compared to the male prison population, they cannot be ignored or considered negligible. This work tried to point out several facts. First, by choosing this topic I tried to underscore the fact how under-researched this topic is. Second, the work points out that incarcerated women have their problems and needs and that they do not constitute minor unimportant group somewhere on the edge, but that their incarceration influences also millions of families and particularly children. Third, research proves that the increase in female prisoner population has been caused by different pattern in sentencing practices, such as exchange of parole, probation or plea bargains for longer sentence time rather than by change in their criminal behaviour. Females tend to commit crimes that are mostly connected to drugs as opposed to male's tendencies to commit more violent crimes. Moreover, due to the "War on drugs" policies (longer sentences and incarceration for a possession of even a very small amount of drugs) that impact mostly small dealers and users, many of them women, the increased number of incarcerated females can be seen as a result of strict anti-drug legislation (described in Chapter 2) and change in the approach towards female criminals, not due to increased violent tendencies. And finally, I also try to point out that there is a possibility called gender-specific treatment. The advocates of gender-specific treatment believe that such treating female prisons with regard to their gender-based needs may lead to a decrease of incarceration rates.

The fact that the United States incarcerates more than one fourth of world prison population, is well-known, however, the problem of rising incarceration rate has not so far been effectively addressed by government or law-enforcement officials. As we can see from history of the American prison system both in Chapter 1 and Chapter 2, through almost two and half centuries of development of the corrective system, several approaches towards convicts were implemented. However, females have never been (except for a short period at the beginning of the 20th century) considered important enough to be "awarded" the same status and interest as their male counterparts. Both the prison system as well as the manner of sentencing criminals was designed primarily for male criminals. Despite increase in female prison population, the system treats female inmates just like the males though they

commit different crimes and have different needs. The trend to treat women as men and to run women's prison like any other in the system can be partly attributed to the effort to achieve equal opportunity at U.S. court. Equality for women (not only) in prison often means having male standards forced upon women and loss of few special programs that were designed with women's needs in mind.

As visible from Chapter 2, the number of incarcerated females has skyrocketed since the 1970s. Although the numbers for women prisoners quickly jumped from over 5,000 female inmates in the 1970s to over 50,000 in the 1980s, 100,000 in 1999 to current more than 200,000 imprisoned females, compared to almost 1, 7 million incarcerated males, one can say that their numbers are, comparatively speaking, still low. Since there have always been more male prisoners, the problem of growing female incarceration rate has been considered a minor issue of the prison system. Since most of the attention is oriented towards male prisoners, the problems facing female prison population are hardly noticed or discussed

Among the main problems female inmates face is deprivation which emerges from fear for their children and violence in prison which often results in sexual misconduct between an inmate and an officer. The most important and the most serious issue for female inmates is however the lack of appropriate health care. As described in Chapter 4, the differences between male and female needs regarding health care, not only in prison but generally speaking, are significant. Females are in overall need of more frequent health checkups and due to the fact that many imprisoned women are mothers or pregnant, there is also connected gynaecological treatment. However, this aspect of appropriate health care is deeply underestimated in the prison system, as shown in previous chapters.

This finally brings us to the questions asked in the Introduction: Has the U.S. prison system reflected the increasing numbers of incarcerated females? Does it reflect differences between males and females and does it provide care according to their needs? The outcomes of this work are clear. The prison system has never been able to reflect the increasing female population. Evidence provided in Chapter 1 and 2 clearly points out that through the history there have always been incarcerated females. However, they have never been considered important enough as a group so that they would merit customized and responsive treatment. After serving their time in the same facilities as men, the prison system only copied what already existed,

installed guards and built separate facilities for females. Not even after their numbers skyrocketed have the needs of incarcerated females been addressed.

Currently, there is at least one female prison in every U.S. state, however most of them are maximum-security prisons. This is discriminatory towards many female criminals who are incarcerated for minor offences. As a result, man has statistically three times higher chance to spend his prison sentence in appropriate prison security level than woman.²¹⁷

It was also described that females are sentenced not because they commit more crimes or behave more violently, but because the patterns and policies towards them have changed. While in the 1970s many crimes committed by women resulted mostly in probation, today, even minor crimes are punished by prison time. A typical female prisoner who is arrested for drugs or theft often spent her time in maximum security facility. Because most of them are mothers, often single mothers, the system is sentencing two generations at once and necessarily generates conditions for these women's children to become problematic and increases their chance of becoming delinquents.

The answer to the second question (Does the U.S. prison system reflect the differences between male and female inmates and does it provide adequate care according to their needs) is also negative. Prison system neither provides care according to females' needs, nor is it able to reflect the differences between males and females. This thesis used the example of health care provision where is clearly evident that females need different type of health care and that their needs are not addressed.

It is evident from Chapter 5 that the author of this thesis favors gender-specific treatment. So far, incarceration does not address the problems that brought the females to prison in first place. The author believes that if the prison system would take into consideration the facts about female prisoners, many of them described in this work, and adapt to provide gender-specific treatment, there would be less incarcerated females and less recidivism among females.

As with every more or less radical idea, there is need for time and will to implement it. However, it is more than visible that the incarceration rate is steadily increasing and the prison system is evidently not able to deal with it, because at this point its only ability is to separate inmates from the society, it does not assist in

²¹⁷ Joycelyn M. Pollock, *Women, Prison, & Crime* (California: Wadsworth, 2002), 87.

solving their problems, such as lack of education and thus work qualification, addiction, gruesome social situation, dependent children or abusive partner. Obviously, prison can hardly act as a panacea to all social ills. They are not designed as repair shops for human flaws, they serve as punishment for violating commonly accepted rules. However, changing the prison system in order to reflect some of the specifics of female prisoners could in fact benefit the society as a whole – by decreasing the female incarceration as well as by limiting the impact of imprisonment on the female’s children. By assisting women to address some of the causes of their criminal activity through gender-specific treatment, these women can be aided to step out of the vicious circle of multiplying problems. However, by no means I want to claim that gender-specific approach is a miracle solution to all the problems of incarcerated females. There are many obstacles, among them particularly lack of financial resource, unwillingness to implement new approaches as well as shortage of educated and informed staff. But in the current situation, reflecting some specifically female convicts’ issues could be the first right step by which the system would finally pay attention to a group which is smaller in their numbers but not in their needs.

Resumé

Diplomová práce je popisem dnešní reality amerického vězeňského systému se zaměřením na postavení ženy v něm. Práce se skládá z pěti kapitol, které postupně vykreslují téma od obecných informací ohledně amerického vězeňství, historii vězeňství až po detailní rozbor postavení ženy v tomto systému včetně jejích problémů a potřeb. Kromě popsání současné situace se práce zaměřuje na zodpovězení dvou základních otázek: je americký vězeňský systém schopen adekvátně reagovat na rapidní nárůst uvězněných žen? A je schopen reagovat na jejich problémy a potřeby?

První kapitola se věnuje popisu historie amerického vězeňského systému, různých přístupů k vězňům v průběhu historie. Je zde také vysvětleno fungování tohoto systému, jeho jednotlivých složek včetně jejich financování. Důležitou součástí je rozbor počtu vězňů. V návaznosti na zjištěné počty vězňů je druhá kapitola věnována čistě počtu a statistikám uvězněných žen. Zároveň je zde popsán vývoj ženského vězeňství i profil žen, které páchají zločin. Tato kapitola se zároveň snaží zjistit, jestli se ženy stávají více násilnými i popsat teorie, jakými se k této problematice staví akademici. Třetí kapitola rozvíjí zjištěné poznatky a popisuje základní problémy, kterým musí uvězněné ženy ve vězení čelit, ať už jde o ztrátu vlastních dětí nebo sexuální obtěžování. Čtvrtá kapitola se věnuje systematicky jednomu z největších problémů uvězněných žen- poskytované zdravotní péči a zkoumá adekvátní přístup k ženským potřebám. Poslední, pátá kapitola se zaměřuje na jedno z možných navržených řešení- gendrově sensitivní zacházení s vězeňkyněmi. Popisuje jeho přínosy i to, jak se k celému problému služeb ve vězení staví americká veřejnost.

Diplomová práce dochází v obou položených otázkách k negativním závěrům. Vězeňský systém nikdy nebyl nastaven pro ženy a byť se to snažil napravit stavbou ženských věznic a zavedením určitých programů, i takřka 30 let od počátku prudkého navyšování ženských vězňů se tomuto faktu není schopen postavit a na situaci reagovat. Zároveň práce hodnotí negativně programy a péči, které věznice nabízejí, protože jsou opět odvozeny od mužských standardů a neodpovídají potřebám žen.

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