

## **WOMEN BEHIND BARS**

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*“One thing I learned growing up in my household is that women are more likely to be the primary provider for the child; so, when a mother goes to prison, that takes on a whole new meaning, different from fathers in prison. The visits alone could be a terrible experience. You get searched by adults you do not know inside a creepy building, and you have to talk to your mother through a glass on a phone.”*

– Posting online by Pat Jones (pseudonym)

### **Introduction**

The number of female prisoners continues to grow and as it does the concerns over the safety, dignity, and issues related specifically to women in prison become more crucial. There are more than 200,000 women in jails and prisons across the U.S. This is an increase of 100% since 2001. Official statistics from the Bureau of Justice indicate that in 2001 there were 94, 336 female inmates incarcerated at State and Federal prisons. In the US, most states allow male custodians to work in women's prisons even though this constitutes a violation of international standards.

In the state of New Hampshire there are four corrections facilities for women:

- 1) The New Hampshire State Prison for Women located in Goffstown on Mast Road.
- 2) Lakes Region Facility which is co correctional and located in Laconia on Right Path Way.
- 3) Calumet House on Lowell St. in Manchester.
- 4) North End Half Way House on North St. in Concord.

In addition female prisoners can be found in the ten County Jails.

Evidence suggests that female prisoners are discriminated against in US jails. They do not have facilities that are equal to men's prisons and programming for women is lacking. There are few opportunities for women to learn skills or occupations that will help them when they are released. Male prisoners are allowed to work and earn some monies while in prison. There are very few earning programs for women. Gyms, educational programs, even dental and mental health services are rare for female inmates.

In New Hampshire women are able to have work release out in the community; however according to the NH Commission on the Status of Women, there is only one van to transport the women and it is used for all New Hampshire State Prison/Women purposes. Women prisoners are eligible for early release if they complete a substance abuse program, however there is NO program provided by NHSP/W. NHSP/W does provide some job training, however the equipment, computers, software etc. is ancient and not up to the new technologies required in the modern office environment.

According to Amnesty international (2001) there are many issues of concern regarding women who are incarcerated. Chief among the concerns facing women are 1) custodial sexual misconduct, 2) shackling of women during pregnancy and childbirth, and 3) parenting concerns.

Let's take a brief look at each of these issues

## 1. Custodial Sexual Misconduct

International standards of human rights demand that prisoners should be protected from sexual abuse and exploitation, especially at the hands of their guards and custodial staff. Amnesty International has indicated that the nature and extent of female sexual abuse by male staff in prisons and other correctional facilities should be the focus of special investigation since it causes so much harm. Laws should be enacted to prevent such egregious abuse of power within our jails and prisons.

There are far fewer female prisoners than male prisoners in the United States, yet they are over-represented in the number of reported cases of custodial sexual abuse. Male prisoners are far more likely to suffer sexual abuse at the hands of another inmate than of a custodial staff member. In 1999, there were 14 states that did not even have any laws prohibiting custodial sexual misconduct. Today Vermont is the only state without some legislation to protect women behind bars however there are serious limitations to how these laws are enforced.

In a report entitled "Not Part of my Sentence: Violations of the Human Rights of Women in Custody" (1999) and another report entitled "Abuse of Women in Custody: Sexual Misconduct and Shackling of Pregnant Women" (2001), written by Amnesty International, the realities of the abuses that women encounter while incarcerated are discussed. These abuses affect women regardless of the reasons for their imprisonment or of their sentences. Women are subjected to sexually explicit and degrading language, fondling of their breasts and genitals during searches, being watched and ogled by male staff while they are naked, sexual assaults and rape (Kubiak & Balton, 2005).

Sociologists talk about the "Matrix of Domination" as a tool to examine prejudice, discrimination and exploitation. The Matrix includes race, social class, ethnicity, gender identity and age. Each of these and other status distinctions (e.g.: disabilities) may impact a woman's chances of custodial sexual abuse in prison and her opportunities to get justice. Prejudices of a woman's identity may also put her at greater risk of retaliation by correctional staff. Lesbian and transgendered women may have more significant problems with sexual misconduct at the hands of staff and other inmates. Amnesty International reported on cases where correctional staff initiated, instigated and overlooked sexual abuse of gay women. The ACLU and the organization, "Stop Prison Rape" have also noted this as a serious problem. (2005)

All these indicate that custodial sexual misconduct is far reaching. In fact the actual frequency of custodial sexual misconduct is probably much higher than the official statistics. Research on sexual abuse and assault generally finds that there is a very high rate of non-reporting. Victims are often afraid or embarrassed and so they do not report the offenses. Many women who are incarcerated were victims of childhood abuse and incest making them easy targets.

A US Department of Justice study found that females who are incarcerated had a higher rate of victimization by rape and sexual assault than females in the general population. A third of incarcerated women who were surveyed in state prisons and a quarter of those in local jails said they had been raped before incarceration (Browne et al 1999).

Other reasons for the failure of female inmates to complain or report on custodial sexual misconduct include:

- 1) The difficulty of proving an allegation, particularly when the only evidence is the prisoner's account.
- 2) The possibility that making a complaint will place a prisoner in protective segregation while the complaint is investigated, which many find punitive.
- 3) The fear of retaliation.
- 4) A code of silence among inmates.
- 5) And a Lack of trust in staff.

In addition in a prison setting where the power differential is so great it is likely that many victims will not report custodial sexual abuse. Many of the women who are sexually abused in prisons have a history of being victimized and sexually abused which makes them more vulnerable. Even when cases are reported, only a few ever result in disciplinary action against the accused staff and even less ever end in a conviction.

In another report written by the United Nations similar conclusions were drawn. This report found a wide range of abusive sexual practices by male staff against female prisoners. The report stated concerns over the treatment of detainees as well as prisoners including sexual assault by law enforcement officers as well as by prison personnel (UN High Commissioner for Human Rights, 2000).

In 2004 the Department of Justice Bureau of Justice Statistics discovered that allegations of custodial sexual misconduct were made in 41% of all local jails and private prisons and in every State prison, except one, in the country (BJS, 2004).

## **2. Shackling of Pregnant Women**

There are few laws to prevent women from being restrained or shackled during pregnancy and childbirth. By restraining movement through shackles pregnant women and their fetuses are not protected from serious harm. If you are unable to move during contractions then you increase the serious risk of falling and immobility also prevents the woman from alleviating some pain. A serious problem with the use of restraints is that it will slow down reaction time if an emergency does arise. Any delay in performing emergency procedures during delivery could cause permanent damage to the fetus. If a woman is shackled during the post-partum period then walking and other mobility that is necessary for recovery is hindered. Restraints may inhibit breastfeeding. The use of stun technology also poses a serious risk to the health of the baby. Restraints should never be used on pregnant women unless there is a serious threat of escape or of the person causing harm to oneself and others. Chains should never be used. The use of restraints during the third trimester and during delivery for the State of New Hampshire is unknown since Amnesty International never received a response from state correctional officials. It is also unknown if the State of New Hampshire uses shackles while transporting pregnant female prisoners. Alabama, Arizona, Arkansas, Delaware Maine and Ohio have been cited by Amnesty International as states that do use restraints and shackles on pregnant prisoners.

Finally, we come to the third area of focus for today.

### 3. Parenting Issues

Women have long played the lead role in parenting. Since women have traditionally been the primary care takers it becomes even more problematic when mothers are incarcerated. The real need to help mothers maintain family ties and obtain parenting skills is crucial. This seems to be an international problem. Wales has no prisons for women, so they get sent to prisons in England and the increased distance (plus the lack of any Welsh speaking) means that it is even more difficult to preserve family relationships (Player, 2009). The State of New Hampshire does have parenting programs that are specific for women and the Department of Corrections does sponsor parenting programs for women in their facilities. Also DOC in New Hampshire has special visitation rights for women with children, however there is no state Mother and Child Residency program for inmate mothers and their infants. In Ohio, Nebraska, New York and Washington prisons women who give birth can keep their infants with them. Children do not have to be placed in foster care or with other relatives. “Motherhood” may be proven to be a deterrent to future crime and an aid in rehabilitation. Problems that women face with parenting include fighting to keep custody, without adequate legal advice and even losing custody of their children without ever being told about the proceedings. . In New Hampshire 85% of the female prison population have children. In most cases these female prisoners are single Moms who are the only support for the child. Women in the New Hampshire State Prison for Women have no state funded parenting program even though these women are responsible for multiple children. The men’s facility has a structured formal visitation program for children and spouses; the women’s facility does not.

Racial disparities exist within the female prison population. Children or Black and Hispanic women are far more likely to have their mothers incarcerated. According to the Real Cost of Prison Project (2003) the rapid growth in the number of minority women imprisoned is explained by radicalized patriarchy, globalizing neoliberalism, the prison industrial complex and a funnel of injustice.

What can be done about these serious problems faced by incarcerated women?

Amnesty International has made several recommendations including:

- 1) Female officers should be the only custodial staff in women’s prisons. Professional male staff should always be accompanied by a female officer when working with female prisoners.
- 2) Any sexual misconduct (harassment, explicit language, gestures, threats of assault, etc.) should be clearly defined and clearly prohibited.
- 3) The code of silence among staff needs to be broken. Staff must be mandated to report if they have knowledge of inmate abuses.
- 4) There should be an 800 number where an inmate can make a report of sexual abuse to an outside authority.
- 5) Appropriate care and justice should be given to the victims of custodial sexual abuse.
- 6) If the misconduct on the part of a staff member is a crime then it should be immediately investigated and action taken. External investigation should be used when needed.
- 7) All complaints must be investigated.
- 8) Those making complaints must be protected from retaliation. This protection should not include being placed in isolation. Strict confidence is needed in reporting cases.
- 9) No prisoner should lose “privileges” for reporting abuse.
- 10) Staff should receive training and be aware that sexual misconduct will not be tolerated and offenders will be punished.
- 11) Laws and policy are needed in every state to prohibit the use of chains and shackles on pregnant inmates without real need.

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