Women's Justice

A Preliminary Assessment of Womenin the Criminal Justice System

JULY 2024

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ABOUT THE WOMEN'S JUSTICE COMMISSION ABOUT THE COUNCIL on criminal justice

The Women’s Justice Commission is a multi-year research, policy, and communications initiative that documents and raises awareness of the unique challenges facing women in the justice system and builds consensus for evidence-based reforms that enhance safety, health, and justice. The project spans the full scope of the adult justice system—from arrest and diversion through prosecution, incarceration, release, and community supervision—with a particular focus on trauma-informed and gender-responsive prevention and intervention strategies.

Chaired by former U.S. Attorney General Loretta Lynch, the Commission includes 15 other high-profile, ideologically diverse leaders representing law enforcement, courts, corrections, medicine, research, and advocacy. Oklahoma First Lady Sarah Stitt is Senior Adviser, and the Commission also consults with a team of experts with decades of experience in women’s

justice issues. This report is a preliminary assessment to inform the Commission's work, which will further examine the challenges facing justice-involved women and develop proposed solutions for policy and practice.

Press Release

The Council on Criminal Justice is an invitational membership organization and think tank. Independent and nonpartisan, the Council advances understanding of the criminal justice policy choices facing the nation and builds consensus for solutions that enhance safety and justice for all.

The Council does not take policy positions. As part of its array of activities, the Council conducts research and convenes task forces composed of Council members who produce reports with findings and policy recommendations on matters of concern. The findings and conclusions in this report were not subject to the approval of the Council's Board of Directors, its Board of Trustees, or funders. For more information about the Council, visit councilonj.org.

Key Takeaways

- The incarceration rate for women in U.S. prisons and jails has **trended upward** over the past several decades.
- While there are significantly more men than women incarcerated in the U.S., **women in the criminal justice system face distinct challenges** and have a unique set of needs that frequently go unaddressed.
- Women's pathways to criminal justice system involvement differ from those of men. Most system-involved women have experienced some form of **childhood abuse or trauma.** Many are at **high risk for experiencing violent victimization by an intimate partner**, and women in jails and prisons consistently report **higher rates of mental health and substance use disorders** than their male counterparts.
- **While racial disparity in imprisonment persists**, the gap between Black and White women shrunk considerably between 2000 and 2020, largely due to increased admissions for White women for drug offenses.
- Women are **four times more likely than men to self-report sexual victimization** by other incarcerated people in prisons and more than twice as likely in jails.

- **Lesbian, gay, and bisexual women are overrepresented** in the criminal justice system and are far more likely than their heterosexual counterparts to report sexual victimization during confinement.
- Women in prison are **disciplined at higher rates** than men, often for small infractions such as disrespect, disobedience, and being disruptive.
- More than half of women in prisons are parents to minor children, and estimates suggest that at least three out of four women in jails are mothers. Prior to their incarceration, mothers were more than twice as likely as fathers to be the **sole or primary caretaker of their children**.
- Women have **specific health-related needs** that prisons and jails struggle to address, ranging from the provision of menstruation supplies to pregnancy and menopausal care and the treatment of women's higher reported rates of mental health and substance use disorders.
- **Gender-responsive programs, services, and diversion strategies exist**, but more research is needed to establish their effectiveness.
- During the **reentry process**, women face distinct parenting, health, and financial challenges that affect their success after release.

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Read more about key trends related to women in the criminal justice system in a companion publication, Women's Justice: By the Numbers.

Introduction

The incarceration rate for women in U.S. prisons and jails increased dramatically from 1982

through 2007, growing 431%, and then flattened as the number of incarcerated men began to fall.[1] In 2020, the size of the total incarcerated population experienced an historic drop due to responses to the COVID-19 pandemic, but growth resumed in 2021. In 2021 and 2022, the increase of the female population in jails and federal prisons outpaced that of males. In 2022, there were about 181,000 incarcerated women in local jails and state and federal prisons across the U.S.[2]

Given the far greater size of the male incarcerated population, criminal justice processes and facilities in this country have been predominantly designed around the needs of men. This exacerbates a unique set of obstacles faced by women in the criminal justice system. Most have experienced poverty and trauma, and they are more likely than justice-involved men to be victims of intimate partner violence and sexual abuse, be diagnosed with mental health and substance use disorders, and to have experienced homelessness in the year prior to incarceration.[3] Many incarcerated women are also entangled in other systems—from child welfare to immigration and housing court—and these processes can compound and complicate their interactions with the criminal justice system. Because women are typically the primary caretakers of their children, their incarceration is more likely than men's incarceration to destabilize families and create ripple effects throughout communities. These factors also intersect with broader social inequities, often resulting in disproportionately negative impacts on women of color and those who identify as LGBTQ+.

This assessment is a review of existing research about the factors that drive women's justice system involvement and the unique needs they experience upon making contact with the system. It pays special attention to women's risk factors for criminal offending and their distinct challenges throughout all stages of the system, from arrest to sentencing, confinement, and reentry. Each section of the report describes additional considerations by demographic characteristics (e.g., race, ethnicity, and sexual orientation) where data are available, and identifies gaps in current knowledge.

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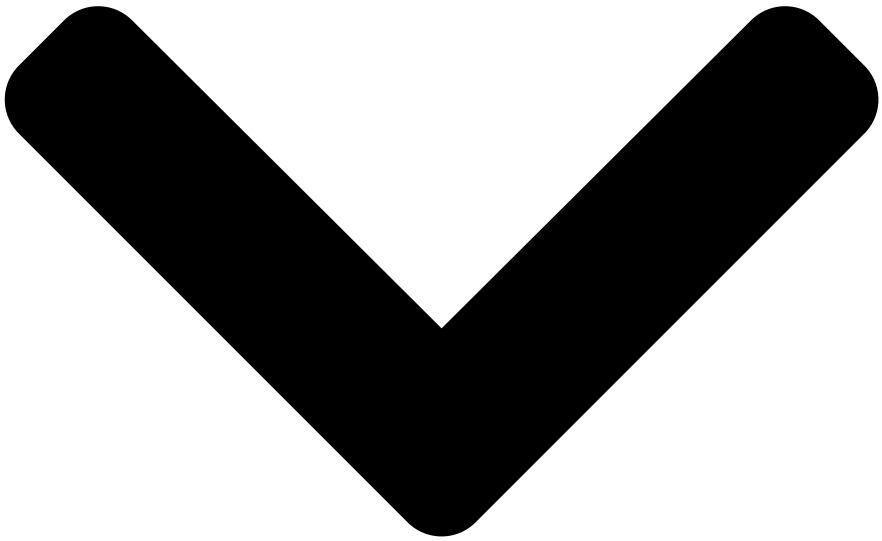
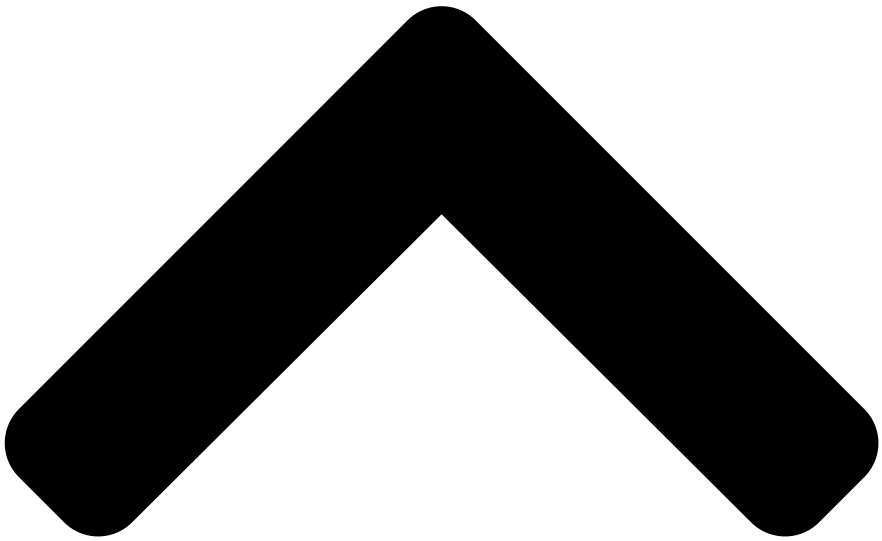
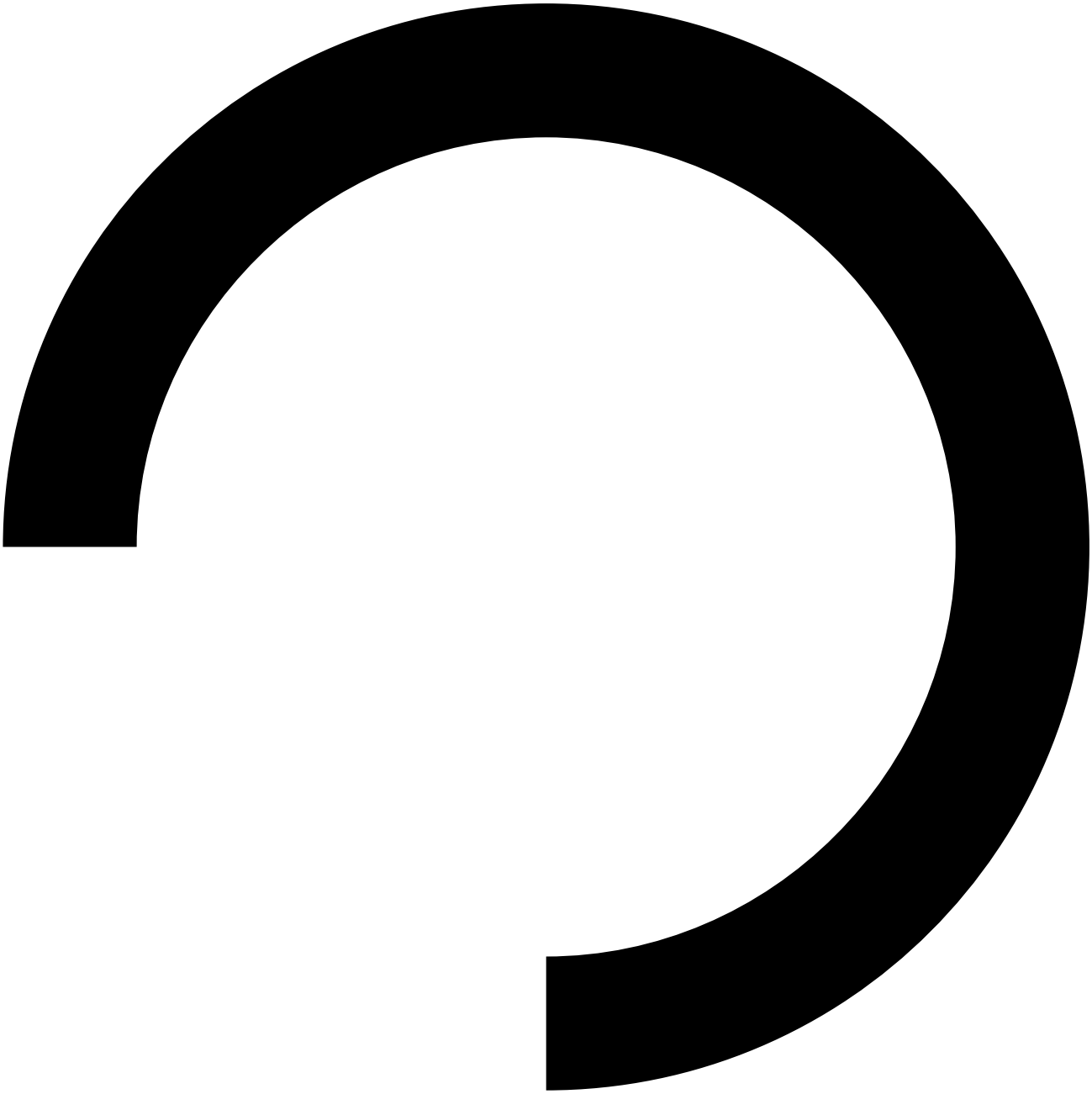






Women's Risk Factors

Research conducted over the past two decades has explored women’s risk factors and identified common pathways that bring women into the criminal justice system. Taken

together, the research suggests that many women and girls engage in crime due to factors that are uncommon for men (including sex work and retaliation against abusive family members or partners), factors that are more prevalent among women than men (such as child sexual abuse and other forms of sexual victimization), or factors that occur during women's intimate relationships (including emotional, physical, and financial coercion).[4] Although the relationships correlated with their offending are typically with men, women may also experience financial coercion or coercion to engage in substance use or criminal behavior from family members and other close connections. While men also experience childhood abuse and other forms of interpersonal victimization,[5] these risk factors function differently in the lives of women and increase their risk for mental health challenges, substance use disorders, and intimate partner violence, all of which can contribute to their involvement in the criminal justice system.

Women often engage in crime differently than men, committing offenses in different proportions and for different reasons than their male counterparts. Women face distinct parenting, health, and economic challenges that affect their experience of incarceration and influence their success during reentry after release.[6] Women also differ from men in how they use drugs and alcohol to cope with experiences of violence and trauma, and in the prevalence and scope of the mental health symptoms they experience.[7]

Child Abuse and Adversity

Childhood abuse plays a significant role in women's pathways to prison. More than 90% of women with criminal justice system involvement have experienced some form of childhood trauma, such as physical or sexual violence, bullying, gang attacks, dating violence, or witnessing extreme violence, including murder.[8] Available evidence is mixed on whether incarcerated men experience childhood physical abuse at rates similar to or greater than rates for incarcerated women, but women consistently report higher rates of childhood sexual abuse.[9] Although national data do not exist, in samples of incarcerated women, between half and three-quarters report experiences of sexual violence.[10] In addition, while incarcerated men indicate that their experiences of violent victimization by peers and caretakers decrease throughout adolescence and into adulthood, many women suggest that their abuse increases as they enter intimate partner relationships later in life.[11]

90%

of women with criminal justice system involvement have experienced some form of childhood trauma.

Studies of people with no history of incarceration show that exposure to multiple forms of childhood abuse and adversity are strongly associated with a range of negative adult outcomes, from chronic disease to overdose fatality.[12] These associations are amplified among justice-involved women. Justice-involved women report higher numbers of Adverse Childhood Experiences (ACEs), which include childhood abuse and neglect, family instability factors, and witnessing violence in the home,[13] compared to justice-involved men and women in the community. Increased ACEs are associated with higher rates of arrest, especially for women with mental health conditions.[14] For example, in a study of 500 women in California prisons and roughly 4,700 women enrolled in a Health Maintenance Organization in the community, 84% of the incarcerated women reported a history of ACEs compared to 69% of women in the community.[15] The incarcerated women were 1.7 times more likely than women in the community to have experienced four or more ACEs (32% compared to 19%).

Childhood abuse and adversity are also strongly associated with women's use of violence in their relationships.[16] In a study of roughly 1,100 women incarcerated in California, each additional type of childhood abuse a woman had experienced was associated with a 17% increase in her use of threats and intimidation and a 13% increase in her perpetration of severe physical violence (physically restraining, kicking, punching, or stabbing) in her intimate relationships.[17]

Intimate Partner Violence

Women in the criminal justice system are at high risk for experiencing violent victimization by an intimate partner, and their romantic relationships often function as a key pathway into crime and substance use.[18] More than 70% of women incarcerated in prisons and jails report prior experiences of intimate partner violence victimization, ranging from threats and intimidation to physical or sexual assault.[19] For example, in a study of 115 women in jail, 77% had experienced intimate partner violence; 93% of women who reported intimate partner violence reported physical abuse, 32% reported partner rape, and 63% reported that the incident involved use of a weapon.[20] Research suggests that these estimates may be an undercount, given that prolonged experiences of violence across multiple relationships (from parents and caregivers to intimate partners) may result in some women not recognizing behaviors such as threats and other fear tactics, hitting, kicking, or coercive sex as intimate

partner violence.[21]

More than

70%

of women incarcerated in prisons and jails report experiences of intimate partner violence victimization.

Research indicates that law enforcement officers, judges, and other stakeholders who interact with justice-involved women and have authority over the outcomes of their cases rarely understand the impact of violence and abuse on women's criminal behavior. For example, some women report being coerced or threatened into engaging in or covering up criminal activity, while others say they claimed a larger role in a crime during their arrest and sentencing to protect an abusive intimate partner or to keep the partner from receiving a harsher prison term.[22] For many, such tactics were deployed in an attempt to prevent future abuse. Other women may resort to violence in self-defense. These behaviors are typically not well understood by system stakeholders, resulting in stigmatization, especially for women with mental health or substance use disorders.[23]

Criminal justice system proceedings seldom address intimate partner violence as a pathway into the system or explore how these experiences contribute to women's use of violence in self-defense or to protect their children or other loved ones.[24] One analysis based on more than 600 survey responses of women in prisons found that at least 30% of those serving time for murder or manslaughter—including many serving life sentences—were protecting themselves or a loved one during the crime that led to their conviction (see "Women Serving Life Sentences" below).[25]

Research suggests that for many justice system-involved women, troubling interpersonal relationships often precede a range of negative outcomes, including re-victimization, criminal behavior, engaging in sex work, and homelessness.[26] The transformation of "victims" into "offenders" can be attributed to several factors, including the coercive actions of abusers and a lack of understanding about the dynamics of interpersonal violence from system stakeholders.[27] For many women experiencing intimate partner violence, these forces exacerbate or result in poverty and housing instability, both of which increase risk for

substance use and crimes related to survival for both women and their children. For example, in 2016, the most recent year for which data were available, 1 in 5 women in state and federal prisons reported that they were homeless at some point in the year prior to their arrest compared to 13% of men.[28]

Traumatic Brain Injury

Traumatic Brain Injury (TBI) is defined as an injury to the brain, such as blunt object impact or other kinds of trauma from pressure or injury, that alters brain function.[29] The effects of TBI on brain function vary widely depending on the severity of the injury, and symptoms may include changes in consciousness and behavior, headache, fatigue, insomnia, dizziness, and seizures, as well as motor, sensory, and cognitive deficits. TBI often results in psychiatric changes, such as mood disorders and reduced anger regulation.[30] Individuals also may experience increased irritability and difficulties with emotional control. These changes can strain relationships and affect daily functioning. Interpersonal violence causes roughly a quarter of all TBIs, many of which have mild symptoms.[31]

While much is known about TBI and its impacts, existing research is heavily focused on men.[32] In community and military samples, men have higher rates of TBI than women;[33] in samples of incarcerated people, however, women have slightly higher rates of TBI than men.[34] For example, a meta-analysis of 33 studies published in 2010 identified four that explored TBI among incarcerated women.[35] Comparative gender analysis suggested that women had a higher overall prevalence of history of TBI than men (70% of incarcerated women compared to 64% of men). Additionally, a study of about 400 people in jails, detention centers, or on probation—a third of whom were female—found that women were twice as likely as men to have sustained multiple TBIs and six times as likely to have sustained multiple violence-related TBIs.[36]

Research on TBIs caused by intimate partner violence has increased dramatically over the past decade.[37] Estimates suggest that the number of TBIs due to intimate partner violence sustained by women is 11 to 12 times higher than the number of TBIs experienced by military personnel and athletes combined.[38] Estimates of the prevalence of TBI among women who experience intimate partner violence vary widely (from 50% to 92%) due to challenges in measurement and sampling.[39] Most research focuses on women who seek treatment at emergency departments or enter emergency shelters, which may under- or overcount the problem's scope.[40]

TBIs related to intimate partner violence can be caused by aggressive shaking, strangulation, a blow to the head (with a fist or heavy object), and being pushed or thrown to the floor.[41] In a study of 900 Black women aged 18 to 55 in Maryland and the U.S. Virgin Islands, half of the 540 women who self-reported intimate partner violence had sustained a TBI.[42] More than a third (36%) had experienced strangulation and half had sustained significant injuries to their face, including 4% of women who had their jaw broken or dislocated. Findings from a narrative review of existing research conducted in 2017 indicated that TBI and intimate partner violence often function as risk factors for each other, perpetuating a dangerous cycle. Without treatment, those who sustain a TBI from abuse can experience cognitive dysfunction, memory loss, and mood irregularities, which increase their risk for repeated abuse and additional head injuries.[43]

Mental Health and Substance Use Disorders

In samples of incarcerated people, women consistently report higher rates of mental health disorders than men, regardless of whether this is measured as a generic condition or a specific diagnostic category. For example, in 2011-2012, the most recent year for which national data were available, 66% of women in prison and 68% of women in jail were diagnosed with a mental health disorder, compared to 35% of men in prison and 41% of men in jail.[44] Women were also more likely to meet the threshold for serious psychological distress (20% of women in prison and 32% of women in jail, compared to 14% of men in prison and 26% of men in jail),[45] and women in prison report much higher rates of post-traumatic stress disorder (PTSD; 21% of women versus 6% of men) than their male counterparts.[46]

66%

of women in prison diagnosed with a mental health disorder

68%

of women in jail diagnosed with a mental health disorder

35%

of men in prison diagnosed with a mental health disorder

41%

of men in jail diagnosed with a mental health disorder

Justice-involved women are also more likely than men to be diagnosed with a substance use disorder and to have been intoxicated at the time of their offense. For example, 69% to 72% of women meet criteria for a substance use disorder, compared to 57% of men.[47] Nearly half (46% to 49%) of women in prison were using drugs at the time of their offense, compared to 36% to 41% of men,[48] and women were much more likely to have used methamphetamines in the month before incarceration (15% to 17%) than men (10%).[49]

69%–72%

of justice-involved women meet the criteria for a substanceuse disorder

57%

of justice-involved men meet the criteria for a substance use disorder

While the prevalence of co-occurring mental health and substance use disorders hovers around 3% in the general population, the prevalence among people incarcerated in jails is estimated to be as high as 10% for men and 22% for women.[50] Experiences of childhood abuse and intimate partner violence increase risk for substance misuse and substance use disorders, as many women suggest that they use substances, in some measure, to manage the aftereffects of trauma and the symptoms of untreated mental health conditions.[51]

Few studies explore mental health and substance use disorders among special populations of justice-involved women, including female veterans.[52] Meta-analyses and other research syntheses conducted on veterans in correctional settings note that samples are majority or exclusively male. In one comparative study of roughly 31,000 incarcerated veterans,

however, female veterans were 89% more likely to be diagnosed with a mood disorder than male veterans, although incarcerated female and male veterans had equivalent rates of PTSD that was directly tied to combat exposure.[53]

Failure-to-Protect Laws

Although many women make contact with the criminal justice system for their direct engagement in criminal offending, others are prosecuted for witnessing the abuse of their children and "failing to protect" them, despite not being the perpetrator of that abuse. Forty-seven states have failure-to-protect laws that impose criminal penalties on those who fail to report child abuse.[54]

While such laws are commonplace across the U.S., the potential consequences imposed by these laws vary.[55] In some states, children identified as victims in such cases can be removed from the home and brought into the child welfare system, while in others, the non-offending parent—more often, a woman—can be criminally charged.[56] Seven states—Oklahoma, Missouri, Nebraska, Nevada, South Carolina, West Virginia, and Texas—allow life sentences or sentences of 99 years for the parent who did not commit the offense, but either witnessed it or was suspected to have known about it.[57] A recent examination of roughly 320 failure-to-protect cases prosecuted in Oklahoma found that 90% of the cases with a female defendant resulted in her imprisonment, although the average length of the prison sentence imposed was not specified.[58] National data on the number of people who are convicted and incarcerated due to failure-to-protect laws were not identified.

While intended to protect children from abuse, failure-to-protect laws disproportionately impact women who also are experiencing abuse in the home.[59] Under these laws, any person who knows about or suspects that a child is being abused and fails to report this abuse can be prosecuted, regardless of whether or not they are victims of abuse themselves and do not report due to coercion, fear of retaliation, or other factors stemming from their experience of intimate partner violence or domestic abuse.[60] In many states, failure-to-protect charges can also be introduced for allowing children to witness one parent abusing the other.[61] Findings from many research studies indicate a strong relationship between child maltreatment and intimate partner violence, with co-occurrence estimated in 30% to 60% of cases.[62] In a meta-analysis of 38 studies representing about 100,000 families, families who reported intimate partner violence were nearly four times more likely to have child abuse or neglect reported at a later stage.[63]

Note: *Failure-to-Protect laws, which are enforced in the criminal justice system, can also interact with civil cases managed by family courts. For example, failure to protect may be added to charges of parental alienation, defined as allegations by one parent that the other parent has manipulated or caused fear in a child that causes the child to reject or distance from the parent making the allegations.[64] Parental alienation has been deemed a "pseudo-concept" by the United Nations, but it is still introduced in family court by parents (most often, fathers) as a response to allegations of intimate partner violence.[65] An analysis of 2,000 court opinions found that one in four women who alleged they were being abused or that their child or children were abused by the father lost their custody case, often due to charges of parental alienation, and custody was granted to the father.[66] Roughly 19% of family court cases where allegations of child abuse were substantiated resulted in the father being awarded custody. Courts were nearly four times as likely to disbelieve the mother's claim of child abuse when the allegedly abusive father made a cross-claim of parental alienation. Some women who are undergoing abuse by their partner, or whose children are being abused by that partner, may choose not to report for fear of losing custody, which would prevent them from intervening or distracting the abuser away from the children.*

Sex Work

The criminalization of sex work disproportionately impacts young women and transgender people. Young women are the primary targets of sex trafficking, and even when men are involved as clients or traffickers, women and transgender people are often the main focus for arrests.[67] In 2019, the most recent year for which data were available, females comprised 63% of the roughly 20,000 arrests made for prostitution.[68] A focus on sex work, however, underestimates the prevalence of women exchanging sex for money or drugs. Recent studies of women in prisons and jails suggest that roughly half (45% to 54%) of incarcerated women have engaged in sex exchange.[69]

Note: *The interaction of sex trafficking and sex work is complex, and a clear understanding of the scope of sex trafficking is limited by a lack of comprehensive national and international data.[70] Data on how many victims of sex trafficking become involved with the criminal justice system were not identified.*

Two primary perspectives are used to explain women's engagement in sex work. The *oppression paradigm* highlights how childhood abuse, family instability, poverty,

homelessness, and drug use push some women into sex work; the *empowerment paradigm* suggests that some women choose sex work to meet immediate economic needs in the context of limited employment opportunities.[71] Research indicates that these perspectives have substantial overlap. For example, a study of more than 200 sex workers found that both immediate circumstances and negative experiences from early life were related to current sex work.[72]

Juvenile Justice System Involvement

While the focus of the Commission is on women entering the adult criminal justice system, an understanding of trends among girls involved in the juvenile justice system is essential. There are no official data on number or rates of girls involved in the juvenile justice system who later move into or have further contact with the adult criminal justice system. But data from the 2016 Survey of Prison Inmates show that nearly half (45%) of incarcerated women self-reported that they were arrested at least once before age 18.[73] Scholars suggest that many of the risk factors underlying women's involvement with the system also overlap with girls' involvement in the juvenile justice system; these include experiences of abuse and domestic violence, housing and economic instability, and struggles with mental and physical health.[74]

Juvenile Arrests and Sentencing

The overall juvenile arrest rate has trended sharply downward since the mid-1990s.[75] For boys, the arrest rate rose from 1980 to its peak in 1996 at 5,704 per 100,000 male youth residents, before beginning a general downward trend.[76] From 1996 to 2019, the arrest rate dropped 78%; from 2019 to 2020, the rate fell 37% due to responses to the COVID-19 pandemic. In 2020, the most recent year for which data were available, the boys arrest rate was 809, reflecting a drop of 86% from the peak. The arrest rate for girls peaked in 1997 at 1,802 per 100,000 female youth residents. From there, the rate decreased slowly until 2012 before falling more rapidly. From 1997 to 2019, the girls arrest rate dropped 68%. From 2019 to 2020, girls' arrest rates dropped 41% due to responses to the COVID-19 pandemic, reflecting an 81% drop from peak to 2020. Girls' share of all juvenile arrests has grown steadily and incrementally over time. Girls accounted for 15% of all juvenile arrests in 1980 and 23% in 2020.

Juvenile Arrest Rates by Sex, 1980-2020

The types of offenses for which girls were arrested has also changed over time. For example, the proportion of girls arrested for violent crimes nearly doubled from 1980 to 2020, rising from 10% to 19% of total arrests.[77] Similarly, girls' share of arrests for property crimes increased from 18% in 1980 to a peak of 38% in 2010 before decreasing to 29% in 2020. The share of girls' drug offense arrests has had more variability than their arrests for violent and property crimes. In the early 1980s, girls accounted for about 15% of all arrests for drug offenses. This share fell to a low of 11% in the mid-1990s before slowly rising again. In 2020, girls made up a quarter of all drug offense arrests.

In 2022, there were roughly 366,000 juvenile arrests for serious violent and property crimes[78] reported to the Federal Bureau of Investigation (FBI) through the National Incident-Based Reporting System (NIBRS) that included information about the race and ethnicity of the person arrested.[79] Just under a third (32%) of these arrests—about 115,000—were of juvenile girls. Nearly half (45%) of the girls who were arrested were White, 34% were Black, 17% were Hispanic, 3% were American Indian/Alaska Native, 1% were Asian, and less than one percent were Native Hawaiian or other Pacific Islander. Information was not provided on how many girls identified as multiracial or for whom race and ethnicity were unknown.

The raw number of arrests within a race or ethnic group may obscure important information about racial disproportionality, as larger numbers of arrests are expected among larger race and ethnic groups (and vice versa). Arrest rates cannot be extracted from available NIBRS data. Juvenile arrest rate data were identified for 2020 for all juvenile arrests, although these data were not broken down by sex. Black (2,481 per 100,000) and American Indian/Alaska Native (1,815 per 100,000) youth had significantly higher rates than their White peers (1,080 per 100,000).[80]

While the number of girls who are prosecuted as adults is small compared to boys (194 girls compared to 2,537 boys in 2020),[81] research suggests that Black girls are more than twice as likely as White girls to be charged as adults and be transferred to the adult criminal justice system.[82]

Girls in Residential Custody

The number of girls in residential custody fell from about 14,500 in 1999 to roughly 3,500 in

2021, a drop of 75%.[83] The number of boys fell 76% over the same time period, from roughly 93,000 to 21,000. Girls consistently accounted for about 14% of all youth in custody.

In 2021, 44% of the roughly 3,550 girls in residential custody were convicted of violent crimes, 18% with property crimes, 6% with drug offenses, and 9% with public order offenses.[84] About 16% were being held for a technical violation of their supervision and 8% were being held for status offenses. Girls made up 13% of all youth held for violent offenses, 14% of youth held for property crimes, and 22% of youth held for drug offenses. Girls accounted for 37% of all youth being held for status offenses, including 57% of those who were running away, 30% of those who were truant, and 39% held for "incorrigibility."

Black and Native American girls are much more likely to be in residential custody than Asian, Hispanic, and White girls. While the overall placement rate in 2020 was 35 per 100,000 girls aged 10 to 17, Native American girls (112 per 100,000) were four times as likely and Black girls (77 per 100,000) were more than three times as likely to be in custody as their White peers (24 per 100,000).[85] The rate of residential placements for Hispanic girls (27 per 100,000) was roughly equivalent to the rate for White girls; the rate for Asian girls (4 per 100,000) was 83% lower.[86]

Girls in Residential Custody by Race, 2020

Girls who identify as lesbian, gay, or bisexual are also disproportionately represented in juvenile residential custody (40%) compared to youth in the general public (7% to 9%).[87] Risk for making contact with the juvenile justice system is amplified among LGBTQ+ youth due to their increased risk for bullying and abuse from peers or family members, family rejection, and homelessness.[88]

In a sample of juvenile justice system-involved youth, 45% of girls reported five or more ACEs, nearly twice the rate reported by boys (27%). Nearly a third (31%) of girls reported sexual abuse, compared to 7% of boys.[89] Compared to boys, girls account for a higher proportion of youth incarcerated for low-level offenses. In 2019, 34% of all youth held for status offenses (e.g., truancy and curfew violations) were girls. More than half of youth in residential placements for running away were girls. Early abuse has been identified as a key driver of girls' school-based discipline and subsequent juvenile justice system involvement.[90]

Although much is known about how girls interact with the juvenile justice system, effective prevention and intervention measures to interrupt their engagement with the adult criminal

justice system remain elusive. In addition, little is known about how increasing social media use and pandemic-related school and social interruptions have affected youths' interactions with the criminal justice system. More research is needed to explore how these factors affect girls' mental and physical health, relationships with family and peers, and school success—and to identify how these factors relate to substance misuse, intimate partner violence, criminal behavior, arrest, and incarceration. Enhancing understanding of girls' trajectories can support the development and testing of targeted programs to address girls' evolving risks and needs and prevent their contact with the criminal justice system as adults.

Non-Citizens in the Criminal Justice System

In 2016, 7% of all people in state and federal prisons were non-citizens—3% of women and 7% of men.[91] Non-citizens often face language barriers when engaging with law enforcement and other criminal justice system stakeholders. Research suggests that undocumented women and other female non-citizens seldom seek help from law enforcement when they are victims of intimate partner violence or other domestic abuse, citing lack of knowledge about community resources and fears of deportation.[92] As a result, they may be further victimized and exploited, heightening their risk for experiencing serious injury or death, developing mental health and substance use disorders, living in poverty, or engaging in criminal behavior.

Front End: Arrest Through Sentencing

Contact with Law Enforcement

In 2020, more than 20% of all women in the U.S. had encounters with the police.[93] This proportion has held consistent in recent years; 23% of women had contact with police in 2018, and 20% had contact in 2015.[94] Overall, encounters with police are evenly split between women and men. But unlike men, whose interactions with the police are often initiated by law enforcement, women's encounters are significantly more likely than men's to be self-initiated.

Although the reasons behind women's calls for service from police are unclear due to data limitations, some proportion stems from situations of abuse or violence within intimate relationships. Policies on how law enforcement officers handle these calls vary across states,

and in some cases, inadvertently exacerbate the risks faced by victims—primarily women—in abusive relationships.[95] For example, some states have implemented mandatory arrest policies for domestic violence incidents, while others grant officers discretion or mandate the arrest of all parties involved, including the alleged victim.[96] The mandatory arrest of alleged abusers—intended to ensure accountability and deter further violence—may trigger retaliatory violence against victims, placing them in even greater jeopardy.[97] The fear of arrest may dissuade victims from seeking police intervention in the future, thereby perpetuating cycles of abuse and endangerment.

A 2021 community survey of roughly 1,500 victims and survivors of domestic violence (93% female, 4% male, 3% transgender, non-binary, or other) found that 82% had called law enforcement for assistance. Of those who contacted the police, 20% reported feeling safer after calling, 39% felt less safe, and 40% reported that calling had not made a difference in how they perceived their own safety.[98] Most of these respondents (71%) would have preferred to report their domestic violence incident through avenues other than law enforcement. More than half of the victims and survivors who had contacted the police (55%) reported negative interactions with law enforcement, including feeling discrimination for having experienced domestic violence; 25% of respondents were threatened with arrest, and 12% were arrested. Most (92%) of the people who did not call the police reported that they had been concerned about how law enforcement would react to them.

In some instances, people may also be physically or sexually abused by law enforcement officers, although official statistics are not publicly available, little research empirically examines these experiences, and what is known focuses on women without providing context about abuse that men or transgender people experience.[99] In a study of roughly 900 women in four major cities in the eastern U.S., roughly 40 women (4%), half of whom were Black, reported having experienced physical assault from a police officer.[100] About 30 women (3%), roughly a quarter of whom were Black, experienced sexual violence from an officer. Additionally, in a study of about 550 cases where police officers were arrested for engaging in sexual crimes, more than half involved sexual misconduct while the officer was on duty.[101]

Arrests and Convictions

The arrest rate for men increased from 1980 to its peak in 1989 at 11,426 per 100,000 adult male residents. It then began a general downward trend.[102] From 1989 to 2019, the arrest rate dropped 52%; from 2019 to 2020, the rate fell 23% due to responses to the COVID-19 pandemic. In 2020, the most recent year for which data were available, men's arrest rate was

4,244 per 100,000, reflecting a drop of 63% from the peak. Over the same time period, the arrest rate for women gradually increased. From 1980 to its peak in 2009, it rose 74% (from 1,386 per 100,000 adult female residents to 2,404 per 100,000). Beginning in 2010, women's arrest rate gradually declined, falling 17% from 2009 to 2019. From 2019 to 2020, women's arrest rates dropped 26% due to responses to the COVID-19 pandemic, reflecting a 40% drop from peak to 2020. Women's share of all adult arrests has grown steadily and incrementally over time. Women accounted for 13% of all adult arrests in 1980 and 21% in 2020.

Adult Arrest Rates by Sex, 1980-2020

There has also been a shift in the types of offenses for which women were arrested. For example, from 1980 to 2020, the proportion of women arrested for violent crimes more than doubled, reaching 21% by 2020.[103]

Women's disproportionate experiences of childhood abuse and adversity, intimate partner violence, and higher reported rates of mental health and substance use disorders may contribute to their offending behavior. For example, fewer women than men are convicted of violent crimes but a higher proportion of women are convicted of property crimes and drug offenses. In 2022, the most recent year for which data were available, far fewer women were convicted of violent crimes (46%) than men (64%).[104] More women, however, were convicted of property crimes (19% of women compared to 13% of men) and more than twice as many women were convicted of drug offenses (25% of women compared to 12% of men).[105]

Women's Share of Arrests by Offense Type, 1980-2020

In 2022, there were about five million adult arrests reported to the FBI through NIBRS that included information about the race and ethnicity of the person who was arrested.[106] Just over a quarter (27%) of these arrests–about 1.3 million–were of adult women. Most of the women who were arrested (60%) were White, 24% were Black, 11% were Hispanic, 3% were American Indian/Alaska Native, 1% were Asian, and less than one percent were Native Hawaiian or other Pacific Islander. Information was not provided on how many women identified as multiracial or for whom race and ethnicity were unknown.

As noted in the discussion of girls' arrests, the raw number of arrests within a race or ethnic group may obscure important information about racial disproportionality, as larger numbers

of arrests are expected among larger race and ethnic groups (and vice versa). Arrest rates cannot be extracted from available NIBRS data. Arrest rate data from 1980 to 2020 were identified for all females (juvenile and adult); these data were not broken down by race.

Pre-Trial Detention and Bail

In 1982, there were roughly 13,700 females in jail.[107] Over the next several decades this number increased, peaking in 2018 at more than 115,000 women, an increase of 635%. During the COVID-19 pandemic, the number dropped, decreasing by 37% from 2019 to 2020. The number then rose 33% from 2020 to 2022. In 2022, there were about 93,000 women in jail on a given day and the average stay for women was 19 days, compared to 36 days for men.[108]

Almost two-thirds (60%) of women in local jails are held pre-trial, meaning they have not been convicted of a crime and are in jail pending their trial.[109] A small number of people are held pre-trial without the ability to await their trial in the community due to the nature or severity of their offense; the overwhelming majority, however, are offered the opportunity to pay cash bail (or have a third party post bond on their behalf) in order to secure their release prior to trial.[110] Bail is intended to increase the likelihood that a defendant will appear at trial. Early research indicated that Black females were 85% more likely than White females to be held on bail; significant differences were not identified between Hispanic and White females.[111] More recent research that breaks down outcomes by sex and race was not available.[112]

The relationship between sex and the ability to pay bail—therefore avoiding pretrial detention—is complex, as men are more likely to commit serious crimes that result in higher bonds, but also more likely to be able to pay. A 2006 study found that women were likely to be offered significantly lower bail amounts than men, on average, by about $3,600. However, these results were not significant after controlling for the seriousness of the crime and criminal history.[113]

Justice-involved women have, on average, lower incomes than system-involved men, which increases their likelihood of remaining in jail pre-trial. For example, in 2015, median annual income for men held in jail was about $11,000 for women and $15,600 for men.[114] Women in jail who were unable to post bail also reported annual incomes roughly half those of non-incarcerated women of the same age.[115] While income disparity was higher for men in jail who were unable to post bail compared to their non-incarcerated peers (roughly 60% lower),

men had higher incomes overall and across all races than women.

Deflection and Diversion

Deflection and diversion are two strategies used as "off-ramps" to help individuals avoid further criminal justice system involvement. Typically, these programs target people who have little to no criminal history and have been charged with nonviolent crimes.[116] Deflection programs that occur prior to arrest are led by police, while diversion programs implemented after arrest but before incarceration are managed by prosecutors or judges.[117] Diversion programs may shift people away from incarceration before they are formally charged (pre-charge), after they are formally charged but before they enter a plea (pre-plea), or after they have entered a guilty plea (post-plea).[118] These programs are designed to address underlying needs and behaviors of participants that were key factors in their criminal offense, often connecting people with community-based treatment and services (e.g., mental health and substance use disorder treatment, employment services, and case management).

Several states and judicial districts have implemented programs for women. These often target women with nonviolent offenses and substance use disorders to address the root causes of their involvement in the justice system and pursue pathways to financial security, rehabilitation, and community stability.[119] While gender-responsive diversion programs do exist, however, the majority of deflection and diversion efforts use generalized approaches regardless of sex or have tailored their programming to address the needs and behaviors of justice-involved men.

Sentencing and Courts

Men and women have different arrest rates and are charged and convicted of crimes in different proportions, which makes exploring gender disparities in plea deals challenging.[120] Although research conducted in the 1980s and 1990s found no associations between gender and the use of plea bargaining, more recent analyses indicate that women may be more likely to receive a plea deal or other more lenient treatment than men. For example, among cases adjudicated in Wisconsin from 2000 to 2006, female defendants were 20% more likely than men to have their most serious criminal charges reduced or dismissed, particularly in cases involving misdemeanor or low-level felony convictions.[121] Likewise, female defendants with no prior convictions had their charges reduced more often than similarly situated males.

For cases involving more serious felonies and when both female and male defendants had previous convictions, no gender disparities were identified.

Research in the 1980s on sentencing disparities between men and women suggested that women tended to receive more lenient sentencing outcomes, even after controlling for legal, extralegal, and contextual factors, including criminal history.[122] But evidence from research conducted in the past decade indicates that these differences have diminished over time. Specifically, findings suggest that women are less likely than their male counterparts to be sentenced to prison, but equally likely to be sentenced to jail or probation, holding criminological factors like crime type and criminal history constant.[123]

Recent analyses on the impact of race on women's sentencing are mixed, with some data suggesting that White women were less likely to be sentenced to prison and more likely to receive shorter sentences when they were sentenced than their Black and Hispanic counterparts,[124] and other data indicating that White women were more likely to be incarcerated than Black and Hispanic women and to receive longer sentences than Hispanic women.[125]

It is also unclear whether sentencing disparities between men and women are indicative of judicial discretion or reflect differences in women's involvement with crime.[126] In many cases, mitigating factors—such as a woman's role in the offense—are undervalued while aggravating factors—such as the quantity of drugs involved—are overvalued in women's sentencing determinations.[127] This disparity can result in women receiving harsher sentencing outcomes than warranted by the circumstances.[128]

When leniency is extended to women in the form of suspended or community-based sentences, many justice-involved women, like their male counterparts, lack the stable housing, employment, and strong social supports in the community necessary for success.[129] This shortfall in resources and support undermines the effectiveness of alternatives to incarceration, and often results in women engaging in a cycle of incarceration, release, and reincarceration.

Some women face additional complications because of their entanglement with civil courts, especially child dependency and family courts.[130] Although data on the scope of this problem were not identified, such overlapping demands add complexity to all cases, and lack of communication and shared documentation between courts likely limits the identification of key contextual factors and potential resources for women and their children.

Problem-Solving, Treatment, and Specialty Courts

Problem-solving, treatment, and specialty courts refer to courts designed to provide an alternative to typical adjudication through the court system; such courts often divert participants away from incarceration and connecting them to community-based treatment and services. Treatment courts have been implemented for both adults and juveniles and target specific types of charges (Drug Court, DWI/DUI Court, Opioid Court, Domestic Violence Court), issues (Mental Health Court, Family Court, Reentry Court), or populations (Veterans Treatment Court).[131] Other specialty courts include Community Courts that work within neighborhoods or tribal governments.[132] As of 2022, there were more than 4,000 treatment courts in the U.S., nearly half of which were Drug Courts.[133]

A third of adults and 30% of juveniles who participated in treatment courts nationally in 2019 were female, totaling nearly 30,000 active female participants that year.[134] Successful program completion rates were similar for women (59%) and men (62%). Data on participation by race was not broken down by sex. The share of adult female participants was highest in Family Courts (75%), Mental Health Courts (37%), and Drug Courts (34%) and lowest in DWI/DUI Courts (25%) and Veterans Treatment Courts (7%). A meta-analysis of 142 treatment courts found that females were overrepresented as participants of treatment courts (by 9%) compared to the general probation population.[135] The analysis found no meaningful differences in successful completion rates by sex. While not broken down by sex, the review also suggested that Black participants had lower completion rates than Hispanic/Latino and White participants. Completion rates for White participants were about 55%, compared to 49% for Hispanic/Latino participants, and 38% for Black participants.

Qualitative interviews with women who completed a Drug Court program suggest that while there was a general sense of gratitude among the women for avoiding prison, cultural and gender-responsiveness could be improved.[136] Women described the court as highly invasive and described feeling intensely surveilled, noting how legal control over their lives superseded their other relationships. Women also discussed feelings of shame and marginalization as female participants, describing how they felt perceived as bad mothers and women due to their substance use.

One evaluation of a Drug Court designed specifically for women found significantly reduced recidivism for high-risk women compared to matched probation cases, although this finding was not replicated for low- to moderate-risk women.[137] Among the population of high-risk participants who successfully completed the program, recidivism was reduced by 45% compared to those on traditional probation. However, outcomes were not compared to

traditional Drug Courts (which service both men and women) to determine the importance of the gender-specific design.

Probation

At the end of 2022, the most recent year for which data were available, roughly 720,000 women were on probation, making up the majority (74%) of women under correctional control.[138]

Correctional Control by Sex, 2022

Probation

Probation refers to a court-ordered period of community supervision, often used instead of incarceration; some people may serve probation sentences after their release from jail or prison. People typically remain under probation supervision for one to three years; some jurisdictions may allow up to five years. The conditions of probation vary. Common requirements are to abstain from drugs and alcohol and submit for regular drug testing, obtain employment, complete community service hours, attend court dates and regular meetings with a probation officer, and refrain from criminal activity. Failing to meet the terms of probation often results in incarceration.

Parole

Parole is a release mechanism available to people in state prisons in 34 states. Granted by a board often appointed by a governor or legislature, parole enables an individual to reenter the community prior to the end of the maximum judicial sentence. Individuals who are granted parole serve out the rest of their sentence in the community under the supervision of a parole officer. Common parole requirements are to remain in a certain geographic area, avoid people and places related to the criminal conviction, abstain from drugs and alcohol and submit for regular drug and alcohol testing, secure and maintain employment, attend regular meetings with a parole officer, and refrain from engaging in criminal activity. Failure to meet the terms of parole results in a return to prison for the remainder of the maximum judicial sentence; conviction for new criminal activity during parole results in a new prison sentence. More information on parole can be found in the Release section of this report.

In 2016, a third of women in state prisons were on probation immediately prior to their arrests, underscoring how an alternative to incarceration often serves as a pathway to prison.[139] The costs and logistics associated with probation, which often require people to meet regularly with probation officers, attend court, engage in mental health or substance use disorder treatment, and secure out-of-home employment, often disproportionately burden women. Justice-involved women are more likely to be the primary caretakers of children or other adults and have lower rates of employment compared to system-involved men. In an analysis of data from 2015 to 2019, women on probation were twice as likely as men to be diagnosed with a mental health disorder—31% compared to 16%.[140]

31%

of women on probation were diagnosed with a mentalhealth disorder.

16%

of men on probation were diagnosed with a mentalhealth disorder.

Women's higher rates of caretaking, lower employment prospects, and high rates of mental health disorder reduce their financial security and may result in their engagement in non-criminal behavior that conflicts with terms of supervision.[141] For example, failure to pay the fees associated with probation may result in a technical violation and subsequent incarceration. Caring for children and other family members can also lead to scheduling commitments that conflict with probation-related appointments or other supervision requirements. Leaving an unsafe home or location, or experiencing homelessness, may be grounds for revocation. A study of a graduated sanctions model for probation (which involves short, incremental periods of incarceration for noncompliance) implemented in Kansas in 2013 analyzed outcomes by gender through 2018.[142] Results indicate that the roughly 11,000 women on probation in Kansas had less serious offenses and less extensive criminal histories than the 34,000 men; after a technical violation, women were less likely to be sentenced to incarceration than men (36% of women compared to 43% of men). However, after the passage of the graduated sanction model, women were more likely to be sentenced to incarceration for a technical violation than they had been before, a finding not replicated for men.

Supervising officers also face challenges when working with women on probation. In a survey of more than 200 probation officers (51% female), respondents indicated that women on probation had different needs than men and required different supervision strategies.[143] Officers reported that the women on their caseloads were more likely than the men to have multiple, complex problems; seven out of ten officers said their female supervisees were "more emotional" than males, placing greater demands on the officers' time, energy, and skills. For these reasons, many of the probation officers surveyed–especially female probation officers–believed that supervising women was more difficult than supervising men.

Stigma and Stereotypes

Gender-based stigma and stereotypes significantly affect women's experiences within the criminal justice system at every point of contact.[144] Many of these biases can lead to differential treatment and outcomes for women. For example, women may be perceived as less culpable or threatening due to societal perceptions of femininity, leading to more lenient sentencing in certain cases.[145] However, the intersection of race and gender may complicate these dynamics, with non-White women often experiencing less favorable treatment.[146]

Sentencing disparities for women have been attributed to multiple factors, from the prioritization of a defendant's blameworthiness to public safety issues and the pragmatic consequences of sentencing.[147] For example, a female defendant convicted of a non-violent drug offense may receive a more lenient sentence than a male defendant if she is perceived as less blameworthy and less of a threat to public safety. Additionally, judges may act as protectors, especially toward women, which can result in both lenient or punitive sentencing outcomes.[148] To avoid disrupting the family unit, for example, a judge may opt for a lenient sentence, like probation or a community-based program, for a woman with young children. Alternatively, a judge concerned that a woman is a risk to herself or her children due to substance use or domestic violence may impose a harsher sentence as a form of intervention or family protection. Gender-based leniency tends to be extended to women charged with non-violent crimes who conform to traditional gender roles; that may explain racial disparities in sentencing, as women of color who deviate from these norms may face harsher sentences than their White counterparts.[149]

Corrections

This section describes the distinct needs and experiences of women during their

incarceration in jails and prisons. Women report higher rates of abuse and assault during custody, and targeted programs tailored to their needs are seldom available. These factors can exacerbate preexisting mental health symptoms and chronic health conditions and create new challenges for women as they adjust to confinement.

The number of women held in prisons and jails increased 617% from 1982 to its peak in 2018, before falling slightly in 2019 and dropping more significantly in 2020 due to responses to the COVID-19 pandemic. In 2021 and 2022, the number of incarcerated women began climbing again. In 1982, there were roughly 31,500 incarcerated women. The majority of these women were being held in state prison (51%), 44% were in local jails, and 5% were in federal prison.[150] In 2022, the most recent year for which data were available, there were about 181,000 incarcerated women. More than half (51%) were held in local jails, and of those, roughly 60% were being held pre-trial.[151] The remainder of those incarcerated were held in state prisons (43%) and federal prisons (6%).

Incarcerated Women, 1982-2022

To address the dramatic increase of women in confinement, several assessments have been developed to better understand their needs and guide policy and practice to create better outcomes. The Women's Correctional Safety Scales toolkit measures women's perceptions of safety in prisons and jails and explores their likelihood of reporting abuse given those perceptions.[152] This information can help correctional facilities address safety concerns and ensure that when violence or abuse occurs, these behaviors are reported and responded to quickly and appropriately. Another tool, the Gender Informed Practices Assessment, was designed to help prison administrators understand what gender-responsive principles are, whether and how facility policy and practice adhere to these principles, and how to move toward the development and implementation of gender-responsive policy and practice.[153]

In 2010, the United Nations General Assembly adopted the United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (or the "Bangkok Rules"), to fill a gap in international standards and address gender-specific needs in confinement settings.[154] The 70 rules set a global model for policymakers and corrections agencies to shift women to non-custodial setting when possible and improve practices related to security procedures and searches of women's bodies, visitation from children and families, and gender-specific healthcare. Implementation of the Bangkok Rules–in the U.S. and internationally–has been limited.[155]

Racial Disparities

From 1990 to 2000, the population of incarcerated women more than doubled.[156] By 2000, Black women were six times more likely to be incarcerated than White women, and three times more likely than Hispanic women (data on women who identified with other racial groups were not collected).[157] From 2000 to 2020, imprisonment disparity between Black and White women fell 71%, decreasing from 6.3-to-1 to 1.8-to-1.[158] This reduction in disparity was larger than that observed among men; for men, Black-White imprisonment rate disparity decreased 36% during the time period, from 8.3-to-1 to 5.3-to-1.[159] Since 2010, imprisonment disparity between Hispanic and White women has been at or below parity (1-to-1), dropping 63% from 1.6 in 2000 to 0.6 in 2020, meaning that White women were more likely to be imprisoned than Hispanic women.[160]

Female Imprisonment Rate Disparity, 2000-2020

Changes in admissions over time have driven these reductions in disparity. For example, from 2000 to 2020, admissions dropped 47% for Black females, increased 15% for Hispanic females, and rose 200% for White females.[161] Women who identify as American Indian or Alaska Native, however, remain significantly over-represented in the prison population. In 2022, American Indian and Alaska Native women were incarcerated at a rate 4.3 times higher than White women.[162]

An analysis of trends in women's offenses suggests that increasing numbers of White women in state prisons for drug crimes has fueled the decreasing disparity.[163] From 2000 to 2020, imprisonment rate disparity for drug offenses between Black and White women fell steadily, reaching parity in 2016. In 2020, the ratio had dropped to 0.6, meaning that White women were more likely to be imprisoned for drug offenses than Black women. From 2000 to 2019, the Black female drug offense imprisonment rate decreased by 86%, while the White female rate increased by 68%.

To read more about trends in racial disparities among the incarcerated women's population, read CCJ's report, Racial and Ethnic Disparities in Female Imprisonment in the U.S.

Comprehensive, national trend data on race and ethnicity for women incarcerated in local

jails are not available, although a review of localized studies suggests disproportionate representation relative to the resident population.[164] For example, in Cook County, IL (Chicago)—in which the largest racial demographic among residents is White—81% of female jail admissions in 2011 were Black or Hispanic. Similar overrepresentation of women of color in jails was identified in Miami-Dade County, across New Jersey, and in Baltimore.[165]

Risk and Needs Assessment

Risk and Needs Assessments are tools used to determine an individual's risk for engaging in criminal behavior and identify any programs or services needed to promote reentry success. During early contact with the justice system, risk and needs assessment tools function as navigational aids, guiding decisions regarding pretrial detention or sentencing severity.[166] During confinement, risk and needs assessments may be used to determine custody levels and prioritize prison-based programs and services.

The vast majority of risk and needs assessments were developed using the principles of the Risk-Need-Responsivity (RNR) model.[167] This model, developed in the 1990s, emphasizes the identification of a person's risk level and specific criminogenic needs, as well as the appropriate responsive interventions. Recent research, however, has critiqued the RNR model's applicability to justice-involved women.[168] Although women's distinct pathways into the criminal justice system and unique needs during arrest and confinement have been well documented, the conventional RNR model does not accommodate these distinctions.[169] Therefore, the relationship between level of risk and recidivism is weaker for females than males, which in turn suggests that the criminogenic needs of women may differ from men and imply different prison-based programming strategies to reduce risk.[170] The application of RNR may result in women's over-classification to higher security levels, resulting in their exclusion from educational and vocational programming and some types of pretrial release and reentry programs.[171]

To address this gap, alternative assessment models have been developed and tailored to address women's gender-specific risks and socioeconomic needs. Notable examples include the Women's Risk Needs Assessment, a full assessment of both gender-neutral and gender-responsive factors,[172] and the Gender Informed Needs Assessment,[173] which was designed for use pre-trial and incorporates considerations such as childcare responsibilities and trauma exposure into the evaluative framework. Despite the availability of these alternative models, however, the integration of gender-responsive assessments into mainstream criminal justice practices has been limited.[174] A 2021 evaluation indicated that roughly a third (37%) of states

used gender-responsive risk and needs assessments, despite evidence suggesting that existing tools may not be universally applicable or effective.[175]

Sexual Assault in Prisons and Jails

In 2003, the Prison Rape Elimination Act (PREA) was signed into law, intended to eradicate rape and sexual abuse in all federal, state, and local correctional facilities.[176] PREA provides funding for data collection, the development of recommendations to ensure safety for all incarcerated people, and to ensure that local or annual budgets do not impede sexual assault prevention measures. Still, sexual abuse and sexual assault occur in prisons and jails[177]—sometimes perpetrated by other incarcerated people and sometimes by correctional staff—and this abuse disproportionately affects women.

Reported Sexual Victimization in State and Federal Prisons by Sex, 2011-2012

In 2011 and 2012, women were four times more likely than men[178] to self-report sexual victimization by other incarcerated people during incarceration in prisons—6.9% compared to 1.7%—and more than twice as likely in jails—3.6% compared to 1.4%.[179] A three-year analysis ending in 2018 of state and federal prisons and representative jail samples identified nearly 5,400 victims of sexual violence perpetrated by staff (46%) or other incarcerated people (54%).[180] Nearly 30% of the victims of substantiated incidents of sexual misconduct perpetrated by staff were female; 25% of victims of substantiated sexual victimization by other incarcerated people were female.[181] These figures represent significant disproportionality, given that women comprise just 10% of the total incarcerated population.[182]

A study using data from roughly 800 women who experienced sexual misconduct from male staff in Michigan did not find significant differences by race when comparing the type of victimization, reporting behaviors, and retaliation by staff.[183] However, prison staff were more likely to investigate abuse reported by White women; 66% of the White women included in the study had at least one of their reports investigated, compared to 42% of Black women. Additionally, reports by Black women were almost twice as likely to be found "unsubstantiated" by prison staff than reports from White women (60% vs. 31%).

A senate subcommittee report published in 2022 found that correctional employees had sexually abused incarcerated women in at least two-thirds of federal facilities—19 out of 29—within the previous 10 years.[184] The report noted that the Federal Bureau of Prisons (BOP) had not successfully implemented PREA mandates, a shortcoming that perpetuated abuse and culminated in a backlog of hundreds of sexual abuse-related internal affairs cases. In at least four federal facilities, staff were found to have sexually abused numerous incarcerated women over months or years.

FCI Dublin

In one federal women's facility, California's FCI Dublin, eight employees—including the warden and chaplain—were charged with sexual abuse of multiple women in custody, and at least 15 additional staff members were under investigation as of 2022.[185] The report concluded that the BOP failed to systemically analyze complaint data to address problematic employees and institutions.[186] In April 2024, BOP officials announced the closure of FCI Dublin in response to the pattern of abuse and misconduct. But the closure was widely criticized—including by the judge overseeing the case—as "ill-conceived," in part because roughly 600 women were quickly transferred to other federal women's facilities across the nation, moving them farther from their families.[187]

Physical Assault in Prisons and Jails

While women experience disproportionate risk for sexual abuse and assault during confinement compared to men, they have a similar risk for experiencing physical abuse and assault. Although national data about physical victimization that occurs in state or federal prisons were not identified, a 2009 study examining physical violence in one state prison system found that 21% of incarcerated women and men had experienced physical violence from another incarcerated person during the previous six months.[188] Incarcerated women were less likely than men to experience physical violence from staff (8% compared to 25%). Data on the prevalence of physical assault for women in jails were not identified.

LGBTQ+ People

Data on LGBTQ+ people involved in the justice system are scarce, largely because most correctional systems have only recently begun to track sexual orientation and gender

identity. Existing data are limited by variation in how these identities are defined and measured across location and likely exclude some LGBTQ+ people who may not self-identify due to fear of discrimination or retaliation in custodial settings. Data do suggest, however, that lesbian and bisexual women are significantly overrepresented in the female incarcerated population. An analysis of data drawn from the National Inmate Survey, conducted in 2011 and 2012, found that one third of women in prison and a quarter (26%) of women in jail identified as lesbian, gay, or bisexual.[189] These figures were much higher than those reported among men; 6% of men in prisons and 3% in jails identified as gay or bisexual. Of the women who identified as lesbian or bisexual, 39% were White, 24% were Black, 20% were Hispanic, and 17% identified with another racial identity.

Women who identify as LGBTQ+ often have unique experiences prior to confinement and take different pathways to prison than their heterosexual counterparts. As noted above, girls who identify lesbian, gay, or bisexual are more than four times as likely to be involved in the juvenile justice system than heterosexual girls,[190] due to higher rates of bullying and abuse from peers or family members, family rejection, and homelessness.[191]

Adult women who identify as LGBTQ+ face similar stigmatization in their families, schools, and workplaces. This increases risk for abuse and the development of mental health and substance use disorders, all of which increase their risk for criminal justice system involvement.[192] For example, from 2017 to 2020, the rate of violent victimization was twice as high for lesbian and gay people, and more than eight times as high for bisexual females compared to their heterosexual counterparts.[193] In 2019, lesbian and bisexual women were four times more likely to be arrested than heterosexual women.[194]

The culture of prison environments and biases from staff and other incarcerated people can lead to stigmatization, rejection, and trauma for women who identify as LGBTQ+.[195] Prison-based programs often do not address the distinctive needs of lesbian, gay, and bisexual women. Even gender-responsive programs typically target heterosexual women and their intimate relationships with men; a focus on male-perpetuated violence may not resonate with lesbian, gay, and bisexual women, resulting in their alienation from programming.[196]

Women who do not identify as heterosexual are also two to three times more likely to report sexual victimization during confinement. Data from the 2011-2012 National Inmate Survey indicate that 9% of non-heterosexual women reported sexual victimization from other incarcerated women and 3% reported sexual victimization from staff.[197] In comparison, 4% of heterosexual women reported sexual victimization from other incarcerated women and 1% of heterosexual women reported sexual victimization from staff during the same time period.

Transgender people have distinct interactions with and mistrust in law enforcement, different pathways to criminal justice involvement, and differing needs during confinement than their cisgender counterparts. In 2016, roughly 4,000 (0.3%) people in state prisons self-identified as transgender.[198] In 2024, 2,000 transgender people were estimated to be in federal prisons (approximately 1,400 transgender women, and 700 transgender men).[199]

More than half of transgender people (58%) report some kind of mistreatment from interactions with law enforcement, and 57% say they would feel uncomfortable asking the police for help.[200] In 2011, 16% of transgender people reported being imprisoned at some point in their lives, compared to 3% of the general public.[201] Rates were highest among Black (47%) and Native American transgender respondents (30%), and higher for male-to-female transgender people (21%) than for female-to-male transgender people (10%).

Though policies vary by state, most states incarcerate transgender people in facilities based on their sex assigned at birth. There are some exceptions. In California, for example, transgender, non-binary, and intersex people can request to be housed based on their gender identity, a policy that took effect in 2021.[202] In Colorado, housing units for transgender people are planned for 2024–one within a men's prison and the other within a women's.[203] Some other state prison systems and county jails permit for housing by gender identity on a case-by-case basis.

Transgender incarcerated people face unique challenges during confinement, and they are more likely to spend time in restrictive housing, often cited by correctional staff as a way to protect them from abuse. Almost half (42%) of transgender people who have been incarcerated reported being held in solitary confinement.[204] More than a third of transgender people who had experienced incarceration reported harassment from other incarcerated people (35%) and correctional staff (37%).[205] Approximately 16% reported physical assault and 15% reported sexual assault from other incarcerated people or correctional staff. Rates were highest for Black transgender women; 38% reported being sexually assaulted by other incarcerated people or staff.

Transgender incarcerated people often do not receive comprehensive, targeted healthcare while incarcerated.[206] In 2015, more than a third (37%) of transgender incarcerated people were denied the hormone therapy they had been taking prior to incarceration.[207] In recent years, many transgender women, backed by advocacy groups, have sued their state departments of corrections for not providing transgender-responsive healthcare.[208]

Disciplinary Infractions

Incarcerated women's behavior is often interpreted by staff through a negative gendered lens, in which they are seen as "needy," "overly emotional," or "defiant."[209] Despite the fact that women's prisons have lower levels of violence than men's prisons, women are disciplined at higher rates than incarcerated men; citations are often issued for small infractions tied to these gender-based perceptions, such as disrespect, disobedience, and being disruptive. An analysis of 15 state correctional systems found that women were two to three times more likely to be disciplined for small infractions than men.[210] For example, in Iowa, women were nearly three times more likely than men to receive violations for being "disruptive." In Vermont, women were more than three times as likely to be disciplined for making "derogatory comments" about other incarcerated women or prison staff than men.

Women were 40% more likely to receive "defiance infractions"—defined as minor violations for disrespect or disobedience, or even for one's appearance or hygiene—compared to men.

Another study, which analyzed records of approximately 23,000 men and women released between 2010 and 2013 from prisons in a large western state, found that women were 40% more likely to receive "defiance infractions"—defined as minor violations for disrespect or disobedience, or even for one's appearance or hygiene—compared to men.[211] In Illinois in 2018, rates of disciplinary tickets were 155% higher for women than for men.[212]

Minor disciplinary infractions can result in substantial consequences, including restricted movement throughout the facility, the withdrawal of privileges like visitation or commissary purchases, the loss of good conduct credits that would otherwise reduce time served, and in some cases, solitary confinement.[213] From 2016 to 2018, women in California prisons lost the equivalent of 1,483 years of good time credits due to disciplinary infractions, exceeding rates of credit losses for men during the same period.

In 2020, the U.S. Commission on Human Rights issued a report highlighting disparities in disciplinary actions by gender in prisons, a surprising finding given that rates of violence within women's facilities are lower than in men's.[214] The authors indicated that disparities in disciplinary actions were often fueled by the emotion and annoyance of staff rather than policy, as women in custody are more likely than men to talk to staff, ask questions, and verbally challenge staff decision-making.[215] For example, one formerly incarcerated woman

recounted having received a disciplinary infraction for "reckless eye-balling," and a Gender-Informed Practices Assessment of Illinois' largest women's prison showed that women were five times more likely than men to receive infractions for an offense titled "minor insolence."[216] The former warden of the Illinois prison explained that with women, "we discipline based on emotion rather than on safety and security."[217]

The use of solitary confinement—arguably the most severe disciplinary action taken against incarcerated people—is disproportionately used on people of color, people with mental illness, and LGBTQ+ people in prison.[218] Most research, however, focuses on the experiences of men in solitary confinement or segregation, as they make up more of the incarcerated population and are more likely to be placed in solitary confinement.[219] National statistics on solitary confinement broken down by both sex and race were not identified, creating a gap in understanding. However, a report from the U.S. Commission on Human Rights on the general population of incarcerated people found that 21% of Black people and 20% of both Native American and multiracial people had spent time in restrictive housing, compared to 16% of White people.[220] People who identified as transgender were also significantly more likely to be placed in restrictive housing compared to their cisgender peers, although the use of solitary confinement is sometimes considered a protective measure to ensure these individuals are not victimized during confinement.[221] An analysis of federal data from the BOP found that transgender people were two to three times more likely to be in solitary confinement in any given month from 2017 to 2022 than cisgender people.[222]

As for women with mental health disorders, there is existing research showing that they are more likely to spend time in solitary confinement than women who do not have mental health disorders. A review of Illinois from a 25-month period between 2013 and 2015 found that the state's largest women's prison had issued more than 127,000 days of segregation to about 1,100 women. Of the 38 women with the most days (ranging from about 500 to 5,300 days), 74% had been identified as "seriously mentally ill."[223] Another study found that incarcerated women in Pennsylvania with mental health disorders received more than two and a half times the misconduct charges than women without such disorders, and had a 48% increase in likelihood of receiving time in solitary confinement.[224]

Parenting During Confinement and the Impact on Children and Families

More than half (58%) of women in prisons are parents to minor children, compared to 47% of men.[225] Estimates suggest that at least three out of four of women in jails are mothers,

although a comparable figure for men could not be identified.[226] More than half of mothers (55%) in state and federal prison, compared to 36% of fathers, lived with their children prior to incarceration. Mothers were more than twice as likely as fathers to be the sole or primary caretaker of their children before entering jail or prison.[227]

Given that mothers are more likely than fathers to have had custody of their children when they were incarcerated, mothers are also more often subject to the termination of parental rights, which can push their children into the child welfare system. For example, a felony conviction that results in long-term incarceration and requires a child to enter foster care due to a lack of alternatives results in the termination of parental rights in 27 states.[228] Rights are terminated when incarcerated mothers do not have alternative kinship placements identified for their existing children or for any baby born during their incarceration.

While the children of incarcerated fathers are likely to stay in the community with their mothers, the termination of parental rights and reduced kinship support often push the children of incarcerated mothers into foster care. Nearly nine in 10 incarcerated fathers (88%) reported that their children were living with their other parent during their incarceration, compared to 37% of incarcerated mothers.[229] The primary caretaker of incarcerated mothers' children was a grandparent (45%), followed by other relatives (23%). Mothers in prison are five times more likely to have a child placed in foster care than fathers (10% versus 2%).[230] Because there are fewer women's prisons than men's (only one or two in many states),[231] women tend to be incarcerated farther away than men from their homes. On average, women are incarcerated 160 miles from home, which means that most incarcerated mothers never receive a visit from their children.[232]

As a result, the incarceration of mothers has powerful ripple effects on children and families. Children of incarcerated parents are at high risk for experiencing a range of social, economic, educational, criminal justice, and behavioral health challenges.[233] Although most research focuses on the children of incarcerated fathers, key differences between the children of incarcerated mothers and fathers have been identified. For example, children of incarcerated mothers are 12 times more likely to be in foster care as other children; by contrast, children of incarcerated fathers are about twice as likely to be in foster care as other children.[234]

Recent analyses suggest, however, that children's behavioral problems are more strongly linked to paternal incarceration, indicating that poor outcomes may be driven by factors preceding maternal incarceration rather than being caused by maternal incarceration.[235]

Children of incarcerated mothers are 12 times more likely to be in foster care.

A study of Black families found that children of incarcerated mothers are also more likely to be arrested at some point in their lives (53% compared to 42% of those with an incarcerated father and 46% of those with both parents incarcerated), have a younger age of first arrest, and experience significantly more lifetime arrests.[236] For example, children with an incarcerated mother had an average of 5.6 arrests as juveniles, compared to three for those with an incarcerated father, 5.1 for those with both parents incarcerated, and 2.4 for those with neither parent incarcerated.

Some prison systems have identified the importance of connecting incarcerated mothers with their children; they have developed targeted programs to enhance in-person visitation and foster connection between mothers and their children from afar. For example, the Mothers and Their Children program in one North Carolina prison provides a home-like setting for visitation, parenting, and education on healthy family relationships for mothers.[237] Kids-A-Part, operated in Vermont's women's correctional facility, provides support to pregnant women and parents and facilitates visits and communication between mothers and their children.[238]

Other programs are more widely implemented. For example, in at least 23 states, Girl Scouts Beyond Bars arranges for twice-monthly prison visits and delivers organized programming between daughters age 5 to 17 and their incarcerated mothers.[239] One evaluation of the program found that participation resulted in positive outcomes for the children, including improved relationships with their mothers, better behavior and school performance, and more involvement in community activities and helping others.[240] Other programs help create connection between incarcerated parents and their children through reading and recording children's books. The Storybook Project—which has chapters in multiple states, such as Texas, Illinois, Alabama, and Arkansas—sends recordings from incarcerated mothers along with books to their children to maintain their connection.[241]

Women Serving Life Sentences

Women represent a small but growing share of all people serving life sentences. The number of women serving a life sentence (either with or without the possibility of parole) increased 19% from 2008 to 2020, and the growth of this population has outpaced the growth among men serving life sentences.[242] By 2020, about 6,600—or one in 15—incarcerated women were serving a term of life imprisonment.[243] The increase was even higher for women serving life

without the possibility of parole (LWOP); from 2008 to 2020, there was a 43% increase in the number of women serving LWOP, compared to a 29% increase among men.[244] The number of women sentenced to death peaked in 1990 and has declined since that time. Currently, roughly 50 women are awaiting execution nationally.[245]

1 in 15 incarcerated women were serving a term of life imprisonment in 2020.

Women serving long prison sentences—including life sentences—are at high risk for developing depression and attempting suicide, especially upon prison admission and after serving extended periods of time. Research suggests that risk for suicide is heightened among women serving long sentences who experienced severe abuse prior to incarceration.[246]

Women of color are disproportionately represented among women serving life sentences, although it is unclear how crime type and criminal history influence the numbers. Nationally, one in 39 Black incarcerated women was serving life without parole in 2020, compared to one in 59 White incarcerated women.[247]

Few studies focus exclusively on the population of women serving life sentences, partly because of the small size of this population. The most recent comprehensive examination of data on women serving life sentences relied on the Survey of Prison Inmates in 2004 (the 2016 Survey of Prison Inmates did not include these variables).[248] The study indicated that 78% of women serving life sentences had experienced prior physical abuse and 60% had experienced sexual abuse.

Women serving life sentences were more likely to have experienced childhood abuse and adult intimate partner violence compared to men serving life sentences and women serving sentences shorter than life. Specifically, compared to women serving less than life, women serving life sentences were more likely to have experienced sexual (23% vs. 15%) and physical intimate partner violence (55% vs. 42%) in adulthood. When compared to men serving life sentences, women were over seven times more likely to report sexual assault (60% vs. 8%) and nearly 14 times more likely to have been physically assaulted in their adult intimate relationships (55% vs. 4%).[249]

Even less is known about the population of women who have been sentenced to death in the U.S. A study of the trial transcripts of 48 women on death row suggests that nearly all (96%) of these women experienced severe and prolonged physical, sexual, and psychological abuse

throughout their lives.[250] Roughly 80% experienced severe abuse prior to age 18, typically inflicted by known individuals, including family members or caregivers (79%) and intimate partners (74%). These rates were higher among the subsample of women of color on death row; nine of the 10 Black women and every one of the nine Latina, American Indian/Native Alaskan, and Asian women in the sample survived multiple incidents of violence. The analysis indicated that defense attorneys often failed to effectively present evidence of interpersonal violence in women's capital trials, while prosecutors use gendered tropes to discredit these experiences, demonstrating a lack of understanding of the women's extensive trauma and its relevance to their culpability among criminal justice system stakeholders.

Health and Healthcare

The Constitution's Eighth Amendment ensures the right to health care for incarcerated people.[251] However, women have specific health and healthcare needs that prison- and jail-based healthcare systems struggle to address. Along with limited access to menstrual supplies during confinement and the distinct healthcare needs of pregnant and postpartum women behind bars, incarcerated women face a range of other physical health challenges during confinement, including inadequate nutrition and higher rates of cervical cancer and many chronic illnesses.

Chronic Medical Conditions

Research suggests that there is a disproportionate prevalence of many physical health issues among incarcerated women compared to incarcerated men and to women in the general population.[252] In a study of about 7,000 people incarcerated in jails, 57% of the women had a chronic medical condition compared to 40% of the men.[253] Chronic conditions that were higher among incarcerated women included cancer (8% of women compared to 1% of men), hypertension (22% compared to 17%), diabetes (7% compared to 3%), arthritis (20% compared to 13%), asthma (24% compared to 14%), and hepatitis (10% compared to 5%).[254]

Chronic conditions that were higher among incarcerated women included cancer hypertension diabetes arthritis asthma hepatitis .

Many chronic medical conditions may be exacerbated by inadequate nutrition; incarcerated

people often do not have access to nutritious or balanced diets during custody.[255] Research indicates that meals provided in most prisons and jails are high in cholesterol, low in necessary vitamins and minerals, and include large amounts of sugar. A study found that one state's prison facilities were serving food with double the department's intended target for sugar content for men, and more than triple the target for women.[256] Common chronic medical conditions among incarcerated populations, including hypertension and diabetes, can be exacerbated by a diet high in fat, sugar, and sodium.[257]

Chronic Medical Conditions by Sex

Cancer Screening, Diagnosis, and Treatment

Rates of cervical and breast cancer are significantly higher among women who have experienced incarceration compared to women who have never been incarcerated, which may be attributed to lower rates of preventive screening among this population both prior to and during custody.[258] Lower rates of cervical, breast, and colorectal cancer screenings have been associated with experiences of sexual assault in childhood, adolescence, and adulthood, as screenings are invasive and may be triggering to some survivors. In a sample of roughly 11,000 adults in Kansas, experiences of sexual assault were associated with 31% lower odds of receiving a Papanicolaou (Pap) test to screen for cervical cancer and 30% lower odds of receiving a mammogram to screen for breast cancer; sexual assault was not associated with the likelihood of colonoscopy screening for colorectal cancer.[259]

Women under correctional supervision are four to five times more likely to develop cervical cancer than women who are not in custody or under correctional supervision.[260] Specifically, among women aged 34 to 49 (the highest risk years for cervical cancer to develop), roughly 6% of those in prison and jail were diagnosed with cervical cancer, compared to 1% of women in the community.[261] In all correctional settings, preventive cancer screenings are available by patient or provider request, although few people access them. Some people are released prior to obtaining services, others decline services, and most are never seen by a provider for the services to be ordered.[262]

Women under correctional control are four to five times more likely to develop cervical cancer than women not in custody or under supervision.

Cancer Screening

In a qualitative study of 45 women incarcerated in jail, respondents possessed varying levels of cervical health literacy. Many expressed difficulties navigating the stigma of criminal justice system involvement when accessing healthcare more generally, but specifically when accessing cancer prevention services.[263] In a survey conducted among roughly 80 women in jail, however, screening rates for Pap tests and mammograms were relatively high. For example, 90% of women reported having had a Pap test within the past three years, and 94% were willing to be screened in jail. Among a subsample of 32 women eligible for a mammogram (aged 40 years and older), 41% reported having had a mammogram within two years, and 88% were willing to have one. Among respondents, knowledge about cancer screening was significantly associated with being White and having had insurance prior to incarceration.[264]

Challenges accessing screening and treatment—both in the community and during custody—can have dire consequences. One study found that for both men and women, incarceration and recent release from prison were associated with a significantly higher risk of cancer-related mortality compared to the risk among peers who were never incarcerated.[265] The risk for cancer-related death five years after diagnosis was 39% higher among those diagnosed while incarcerated and 82% higher among those recently released from prison compared to their never-incarcerated peers, after controlling for demographics, type of cancer, and stage of cancer at diagnosis. Nearly 40% of the women diagnosed with breast cancer during incarceration died within five years, compared to 18% of those diagnosed the year following release and 10% of those who had never been incarcerated. Correctional healthcare facilities are not equipped to ensure incarcerated people have routine access to preventive care, and financial and logistical barriers decrease access to effective treatments.

Mental Health and Substance Use Disorders

As noted in "Pathways," incarcerated women consistently report higher rates of mental health disorders than men, regardless of whether they are measured as a generic "mental health condition" or using specific diagnostic categories.[266]

For example, in 2011-2012, the most recent year for which national data were available, two-thirds of women in prison and 68% of women in jail were diagnosed with a mental health

disorder, compared to just over a third (35%) of men in prison and 41% of men in jail.[267] Women are twice as likely as men to be identified as experiencing serious psychological distress,[268] and are three times as likely to be diagnosed with PTSD.[269] Women are also more likely than their male counterparts to be identified as having "serious mental illness." In a study of 8,500 people in Iowa state prisons (9% female), women were more likely to be diagnosed with a mental health disorder than men (60% compared to 47%) and a greater share of women were identified as having "serious mental illness" than men (41% compared to 27%).[270]

Justice-involved women are also more likely than men to be diagnosed with a substance use disorder and to have been intoxicated at the time of their offense. For example, nearly three-quarters of women in prison (69% to 72%) meet criteria for a substance use disorder, compared to 57% of men,[271] and half of women in prison were using drugs at the time of their offense, compared to roughly 40% of men.[272]

Although mental health and substance use disorders increase risk for criminal behavior and making contact with the justice system, these disorders also create obstacles for many affected women as they adjust to their lives in confinement.[273] For example, women with mental health and substance use disorders are often less able than other incarcerated women to follow facility procedures and navigate social interactions.[274] These women are also more likely to be disciplined or placed in isolation, to self-injure, and to be physically or sexually assaulted while in custody.[275] In a study of about 7500 incarcerated people (7% female), women with a mental health disorder were three times more likely to report sexual victimization than men with a mental health disorder (23% of women compared to 8% of men) and they were 1.7 times more likely to report being physically victimized by another incarcerated person than incarcerated women with no mental health disorder.[276]

Many justice-involved women with mental health and substance use disorders struggle to access treatment in prisons and jails and their perceptions of that treatment are not well explored. For example, a meta-analysis of women's perceptions of prison-based mental health treatment only identified one study conducted in the U.S.[277]

Mental health treatment in confinement settings often focuses on medication management, rather than the provision of psychotherapy. Interviews with 50 women who accessed prison-based mental health services indicated that many women felt that service providers were not interested in listening to them about their symptoms, adverse effects of the medication, and other struggles related to their mental health.[278] Some women noted how mental health staff and correctional staff shared information about those who accessed treatment, resulting in

women experiencing stigma from correctional staff and often withdrawing from treatment services. Wait lists for mental health, and especially substance use disorder, treatment in prisons and jails are common.

Additionally, as the majority of incarcerated people are male, existing services were designed in response to their needs. Few gender-responsive and trauma-informed programs have been developed to meet the needs of incarcerated women with mental health and substance use disorders, and existing programs are not widely implemented. Learn more in "Gender-Responsive and Trauma-Informed Programming."

Reproductive Health

A committee opinion from the American College of Obstetricians and Gynecologists published in 2021 stated:

> There has been limited attention to addressing incarcerated women's gender-specific health care needs, which may be in part due to the smaller proportion of the incarcerated population that they represent, facilitating their neglect. However, it also relates to the inherently male focus of the system that has allowed women's needs to be eclipsed or conflated with those of males who are incarcerated.[279]

This limited focus on gender-specific health needs is reflected in the lack of data and policy related to menstruation, pregnancy, prenatal care, and birth outcomes for incarcerated women.

Menstruation

As of 2023, half of state correctional systems and the federal prison system required the provision of free menstrual supplies upon request to incarcerated women, although interpretation and enforcement of these policies varies widely.[280] The lack of access to menstrual supplies and uneven enforcement of policies create difficulties for incarcerated women, in part because evidence suggests they have higher rates of abnormal menstrual bleeding than women in the general population—a condition believed to be associated with increased levels of stress among this population.[281] One study found that one in three of

incarcerated women experienced abnormal bleeding during menstruation, compared to about 13% of the general population and roughly 16% of women who were not incarcerated but were living under the federal poverty level or had not completed high school.[282]

Even in the states with policies mandating access to menstrual supplies, women typically must request products from staff, which may result in uneven enforcement, intrusive medical examinations, or other humiliating or abusive practices.[283] For example, a 2014 Department of Justice report found that some women in an Alabama prison were coerced into sexual contact with staff to obtain necessities, including menstrual supplies.[284] While some states provide women with a set number of pads or tampons per month, women may have to remove pads and tampons during strip searches, further depleting this supply.[285] Purchasing additional supplies also can be prohibitively expensive; a box of tampons often costs twice as much in prisons as in community settings.[286] In Missouri, before a policy was passed to mandate free access to menstrual supplies, one box of brand-name tampons was estimated to cost 70% to 80% of an incarcerated woman's monthly wages.[287]

Without adequate access to menstrual supplies, women are left to generate alternative solutions, which have resulted in unsanitary and unsafe outcomes.[288] A 2018 study surveyed incarcerated women in a state where free menstrual supplies were not supplied and found that eight out of ten of respondents had resorted to homemade tampons, and 23% reported having had a vaginal infection within the previous six months.[289] There were no infections reported by those who had not used homemade tampons.

Pregnancy Behind Bars

Most women in custody are of childbearing age, and some are pregnant when they enter prison or jail. Comprehensive statistics estimating the number of pregnant individuals in prisons and jails, however, are lacking.

Data on the number of pregnant women admitted to state prisons or jails, and the outcomes of their pregnancies, are not routinely collected by the government. Data from the 2016 Survey of Prison Inmates indicate that 4% of women in state prisons and 3% of women in federal prisons self-reported being pregnant when they were admitted to prison.[290] In 2023, the Bureau of Justice Statistics conducted a feasibility study to explore the potential for collecting these data from all state prison systems, and concluded that it was possible.[291] Data collection is scheduled to begin in 2024.

4% of women in state prisons and

3% of women in federal prisons self-reported being pregnant when admitted to prison.

In 2018, the First Step Act mandated that federal prisons collect data on pregnancy and birth outcomes among women in their custody (roughly 6% of all incarcerated women in 2022 were in federal custody).[292] According to the data, in 2022, 96 of the just over 10,000 women incarcerated in federal prisons (0.9%) were pregnant at their time of admission. A majority (55%) of these pregnancies resulted in a live birth during confinement, 8% ended in miscarriage, 6% resulted in abortion, and 1% resulted in stillbirth.[293] Outcomes for the remaining 29% were unknown as the mother was released from federal prison prior to the end of her pregnancy.

While full national statistics are not collected, the Pregnancy in Prison Statistics Project gathered data on pregnancy outcomes from all federal prisons and a sample of state prisons and jails across the U.S. in 2016 and 2017.[294] Data collected for the project represented 57% of women in state and federal prisons and 5% of women in local jails. Among the facilities surveyed, roughly 4% of women in state and federal prisons and 3% of women in jails were pregnant upon admission, leading to a rough estimate of 3,000 admissions of pregnant women to prison and 55,000 to jail annually.[295] These values account for the higher number of annual jail admissions (in 2022, there were 7.3 million jail admissions[296] compared to 470,000 state and federal prison admissions[297]) and the shorter average length of stay in local jails.

Pregnancy outcomes differed slightly for pregnant women in prisons and jails.[298] Just under half (42%) of pregnant women admitted to prison and 86% of women admitted to jail were released prior to the end of their pregnancy. Just over half of pregnancies in prison (54%) resulted in live birth, 3% resulted in miscarriage, less than 1% resulted in abortion, and less than 1% resulted in stillbirth. Due to the shorter stays of women in jails, only 9% of pregnancies resulted in a live birth during confinement. Just under 3% of pregnancies in jail resulted in miscarriage, 2% resulted in abortion, and less than 1% resulted in stillbirth.

Some prisons and jails restrict access to abortions during custody or do not have written policies detailing access to abortion. Others permit the procedure, but financial and logistical barriers may prevent access. National data on abortion policies in prisons and jails were not identified.

The Pregnancy in Prison Statistics Project also collected data about incarcerated women's access to abortion in 2016 and 2017. Results from a sample of 22 state prison systems and six jail systems indicated that 19 of the sampled prisons permitted women to obtain an abortion and three did not. Four of the six jails permitted abortions and two did not. The availability of abortion access and any time limitations imposed on the procedure were roughly conversant with state-level policy.[299] The authors noted that abortion rates in the four jails that allowed the procedure were higher (33%) than for those observed among the general U.S. population (18%). Two-thirds of the state prisons and one of the jails that permitted women to obtain an abortion required women to pay for it themselves. More research is needed to understand whether and how incarcerated women can access abortion services in line with state policy.

Many prisons and jails lack established policies about women's access to contraception during incarceration, leading to subjective provision of contraceptive medication and variability of access. In addition to gathering information about pregnancy outcomes and abortion access, the Pregnancy in Prison Statistics Project in collected data on women's access to contraception from a sample of 22 state prison systems, six jail systems, and three juvenile facilities in 2016. Overall, 65% of sample sites had formal written policies about contraception.[300] The authors noted that some sites provided contraception without a formal policy. Nearly all (94%) sample sites allowed incarcerated people to initiate contraception during custody (all jails and juvenile detention systems as well as 19 of the 22 prisons in the sample). One prison provided prescriptions for contraception if women requested them prior to their release.

All sites allowed women to continue at least one form of contraception they were already taking upon admission (exclusions by type of contraceptive method and medical necessity–whether the medication was treating a medical condition and not being used solely to prevent pregnancy–were common). The contraceptive patch and ring methods were the least available methods for adult women. Two of the three juvenile detention systems allowed incarcerated girls to continue all forms contraception for either birth control or medical purposes. The shorter average stays for women in jails and girls in detention underscore the necessity of allowing continuation of these medications during confinement to prevent disruption and reduce unintended pregnancies after release. More research is needed to understand whether the policies of sample sites are representative of prisons, jails, and juvenile detention systems nationally and how these policies relate to pregnancy and medical outcomes for incarcerated women and girls. Additionally, given that 45% of facilities made continuation of contraception available only when it was deemed "medically necessary," research is needed to evaluate how those determinations are made.

Prenatal Care

Prisons and jails are required by the Eighth Amendment to provide prenatal care to incarcerated pregnant women. But few standards detailing the required level of care exist and it is unclear whether prenatal care policies are uniformly enforced in prisons and jails. For example, 12 states have no official policy about the provision of prenatal care, and 31 states make no dietary adjustments for pregnant women.[301] Self-reported data drawn from the 2016 Survey of Prison Inmates indicate that roughly nine out of every 10 pregnant women in state or federal prisons report having received at least one obstetric exam during custody (91% of women in state prisons and 87% of women in federal prisons),[302] a drop from the 2004 estimate of 94%.[303] In 2016, about half of pregnant women in state (50%) and federal (46%) prison reported receiving some other form of prenatal care, including education, exercises, a special diet, medication, or special testing from a medical professional.

The inconsistent attention given to prenatal care can result in negative birth outcomes. While the Pregnancy in Prison Statistics Project estimated an average miscarriage rate of 6% in prisons in 2016 and 2017, lower than a national average of 10%,[304] the miscarriage rate was between 17% and 22% in five of the 22 states that provided data, indicating critical state-level differences in pregnancy screening and prenatal care.[305]

Incarcerated women often have preexisting risk factors, including chronic illness and substance use disorders, that result in their pregnancies being identified as high-risk.[306] However, the federal prison system and 22 of the 48 states (46%) had no policy to identify or manage high-risk pregnancies.[307] In a cohort of about 175,000 women who gave birth in Massachusetts between 2012 and 2014, women who had been incarcerated during pregnancy or the postpartum period were 21% more likely to be diagnosed with an opioid use disorder than other women in the sample.[308] Data collected in 2016 and 2017 indicated that more than a quarter (26%) of pregnant women admitted to state prisons and 14% admitted to local jails had an opioid use disorder.[309] Opioid exposure during pregnancy is associated with premature birth, and babies born to opioid-using mothers are twice as likely to require intensive care.[310] Although medications for opioid use disorder are the standard of care, especially during pregnancy, not all correctional settings provide them.[311] In a survey of 836 jail medical facilities conducted in 2019, 60% initiated or continued medications for opioid use disorder and 23% put opioid-using pregnant women through a withdrawal protocol.[312] The Pregnancy in Prison Statistics Project found that while more than 80% of prisons continued medications for opioid use disorder during a woman's pregnancy, fewer than one in five would initiate medication.[313]

Many pregnant women who become justice-involved lack consistent access to food, shelter, and healthcare in the community.[314] For example, a meta-analysis of 28 studies representing nearly 2,000 women in prison found that while incarcerated women were more likely to deliver prematurely or have a low-birth-weight baby compared to women in the community generally, they had better outcomes when compared to similarly disadvantaged women in the community.[315]

Shackling During Pregnancy and Birth

Many medical professional societies, including the American College of Obstetricians and Gynecologists, the American Medical Association, the Association of Women's Health, Obstetric and Neonatal Nurses, and the National Commission on Correctional Health Care, strongly oppose the use of restraints on pregnant women prior to birth, during labor, and during the postpartum period.[316] Shackling prevents comprehensive medical examinations and is associated with an increased risk of falling—sometimes resulting in miscarriage—and birth complications.[317]

While over time corrections officials have cited security protocols to explain the shackling of pregnant women, lawmakers around the country have gradually taken action to ban the practice. As of early 2024, 41 states and the federal prison system have laws that prohibit the shackling of women during labor and delivery; some states also prohibit the shackling of women at other points during pregnancy and the postpartum period,[318] although anecdotal evidence suggests that these practices still occur.[319] The Pregnancy in Prison Statistics Project found that despite near universal correctional facility policies prohibiting shackling, half of the 22 prisons and four of the six jails in the sample (which included the five largest jails in the U.S.) used restraints during pregnancy, birth, or the postpartum period in 2016 and 2017.[320] Specifically, three prisons and two jails across four states that had anti-shackling statutes and a mandate to not restrain women in transport to the hospital for delivery, still reported restraining pregnant women under these circumstances. Data on the number of women who are shackled during their pregnancies were not available.

Inconsistencies in compliance persist due to correctional decision-making about security as well as some hospital policies.[321] For example, a 2017 survey of healthcare providers found that 83% of providers who had cared for incarcerated pregnant and postpartum women reported that their patients were shackled some or all of the time.[322]

Postpartum Care

Although some incarcerated mothers can remain with their newborns in specialized prison nursery programs, most are separated from their babies 24 to 72 hours after giving birth. Many incarcerated women struggle during the postpartum period to recover physically and emotionally from the birth experience. In a longitudinal study of 58 women who were pregnant and gave birth during custody, more than a third met the criteria for moderate to severe postpartum depression, with higher rates seen among women with longer sentences and women separated from their newborns.[323] About 14% of women in the community develop postpartum depression.[324] While separation from one's newborn is associated with increased mental health challenges, it also disrupts or fully prevents breastfeeding. Many prisons and jails do not have policies about breastfeeding or pumping breast milk, or enforce them, despite a large body of research on the health and developmental benefits of breastfeeding for infant development.[325]

Among women diagnosed with an opioid disorder, those with a history of incarceration were 4x more likely to overdose in the year following the birth of a child.

The management of opioid use disorder during pregnancy and the postpartum period poses unique challenges for women in prisons and jails. Pregnant women with opioid use disorders are disproportionately represented in correctional facilities, and while some pregnant women are allowed to start or continue medications for treatment during incarceration, few standards exist to continue their access after birth. During the postpartum period, medications for opioid use disorder are discontinued for most women, despite their continued benefits to reduce the risk of overdose for mothers.[326] For example, half of prisons and more than three-quarters of jails discontinued medications for opioid use disorder immediately after birth, forcing women into a withdrawal protocol.[327] Scholars note that discontinuation of these medications upon birth suggests that the fetus, rather than the mother, was the treatment target.[328] This is especially problematic given that medication is standard practice for the chronic disease management of opioid use disorder and that postpartum discontinuation increases the risk of fatal and nonfatal overdose. For example, among women diagnosed with an opioid use disorder, those with a history of incarceration were four times more likely to overdose in the year following the birth of a child.[329]

Prison Nursery Programs

Although separating mothers from their newborns is associated with increased health risks for both women and infants, just eight states—Illinois, Indiana, Nebraska, New York, Ohio, South Dakota, Washington, and West Virginia—allow for newborns to stay with their incarcerated mothers after birth.[330] Two additional prison nursery programs are under development; Missouri plans to open a program in July 2025[331] and Utah has approval to open a program but has faced funding challenges.[332]

Prison nursery programs typically permit mothers and babies to remain together for a period of 12 to 30 months and provide education on child development and structured parenting classes, as well as employment and educational supports to help mothers after release. These programs are associated with positive outcomes for babies, including the development of resiliency and secure attachment observed by preschool age, compared to a group of similarly high-risk babies of incarcerated mothers who did not participate in prison nursery programs.[333] Anecdotally, mothers who participate in prison nursery programs report feeling more connected to their young children during critical stages of bonding and development.[334]

Prison nursery programs are also associated with reduced recidivism for mothers after release. An evaluation of all women who participated in the Mother Offspring Development Program, housed at the Nebraska Correctional Center for Women, from 1994 to 2012 found that program participants had a 28% reduction in the three-year return to custody rate than other women incarcerated and released during the same time period.[335] These recidivism reductions were estimated to have saved the state $6 million over the study period in both reduced recidivism and foster care utilization.[336] Other studies of prison nursery programs have produced similar findings. In a study of 139 mothers who participated in the Bedford Hills or Taconic Prison Nursery Programs in New York, 14% of participants were re-incarcerated, compared to 29% of women residing in the prisons in the general population during the same years.[337]

Prison nursery programs have strict eligibility criteria that make many women ineligible. As recidivism and other outcomes are based on comparing women in prison nursery programs to women in the general population of the facility, analyses may overstate the effects of these programs.[338] Put another way, women who are admitted to prison during their pregnancy and who choose or are selected to participate in a prison nursery program likely differ from other women in prison in ways that influence their post-release behaviors. Program participants also receive individualized attention and reentry preparation not provided other incarcerated women. All of these factors could result in reduced recidivism among program participants.

Aging and Menopause

Older adults represent the fastest-growing demographic in prison settings. In 2011, the incarcerated population aged 55 and older was 14 times larger than it was 30 years earlier. Estimates suggest that by 2030, incarcerated older adults will make up more than a third of the nation's prison population.[339] While the aging process poses significant challenges to all incarcerated people, women's aging has unique facets; many of the impacts are not well understood, given that incarcerated women are underrepresented in research on aging in prison. One meta-analysis of studies published from 2007 to 2017 that explored the health of the aging prison population identified 21 studies in all, only two of which had a female sample.[340] One of these studies examined obesity among older incarcerated women;[341] while the other examined the relationship between physical and mental health issues and death anxiety.[342] Therefore, little is known about women's experience of aging behind bars, and whether and how their health needs are met. Still, some authors use existing research conducted on younger incarcerated women and older women in the community to estimate the health needs of this population.[343]

The physical and emotional symptoms of menopause are seldom addressed or effectively managed in correctional facilities. Qualitative interviews with women who experienced menopause in prison or jail suggest that women were unable to access common remedies used to manage menopause symptoms in the community (e.g., showers, air conditioning, homeopathic remedies, and hormonal medication) which increased their physical and emotional distress.[344] During interviews, women said they struggled to access adequate menstrual supplies, clothing, and bedding to manage heavy bleeding; many also said they were unable to pay for medical visits to address their symptoms or pursue pain relief. Some described the discomfort of experiencing hot flashes during the summer in facilities without air conditioning. Overall, women reported that their menopause symptoms were largely dismissed by staff, and noted that it was difficult for them to access information about menopause, their symptoms, and potential interventions during confinement.[345]

Programs and Services in Women's Prisons and Jails

A range of programs are provided in women's and men's prisons, with typical offerings addressing needs related to education, employment and vocation, parenting, violence and crime prevention, and religion and spirituality.[346] These so-called "gender-neutral" programs were designed based on the known risks and needs of incarcerated men, and few existing

programs have been designed specifically for incarcerated women.[347]

Some prisons—about 35%—also offer college courses, though they serve a small part of the total prison population.[348] A recent report found that while 15% of those enrolled in college courses under the Second Chance Pell program in the 2020-2021 financial aid year were female, men earned 93% of all degrees and other credentials.[349] This suggests that although women are enrolling in higher education programs at nearly twice the rate as their presence in the prison population, they are less likely than men to complete the program and earn the degrees or credential.[350] It is unclear how the length of women's sentences and other factors influence their completion rates.

Program implementation and access are not distributed equally between women's and men's prisons. For example, women in Texas prisons can pursue an Associate's degree or certification in just two occupations—office administration and culinary arts/hospitality—while men have access to Bachelor's and Master's programs and certifications in 21 occupations.[351] Many prison systems provide similarly gendered offerings; women have access to more traditionally "feminine" and domestic-focused programs, such as cooking, cosmetology, and hospitality, while men have access to a wider range of programs, from HVAC repair to computer science.[352]

The fact that there are more men in prison and that, on average, women serve shorter sentences than men has been used to explain these differences in program access. However, in 2020, the U.S. Commission on Human Rights highlighted a national trend of prison systems consistently providing lower-level and highly gendered programs to women.[353] Research suggests that prison programs prepare men for work and economic mobility while focusing on women as caretakers and in roles deemed more domestic and feminine, such as administration, hospitality, and beauty work.[354] These program offerings do little to address the higher rates of mental health and substance use disorders in the female prison population and have been criticized for failing to prepare women for high-paying jobs upon release.[355]

The observed disparities in incarcerated women's completion of higher education during confinement affects their likelihood for success during reentry. Completion of prison-based programing is associated with lower rates of recidivism after release, although results are seldom broken down by the sex of program participants.[356] However, in a meta-analysis of 37 studies examining the relationship between prison-based program completion and recidivism, women had equivalent reductions in recidivism when compared to similar analyses of men (women who completed programs were 22% to 35% less likely to recidivate than those who

did not).[357] The effects were strongest for the studies that examined the impact of participation in gender-responsive programming, rather than all prison-based programming that might be available.[358]

Gender-Responsive and Trauma-Informed Programming

Several gender-responsive and trauma-informed programs have been developed and implemented to address women's risk factors and needs during confinement.[359] These prison-based programs often focus on experiences of trauma and PTSD, co-occurring mental health and substance use disorders, and the challenges of parenting during incarceration.[360] One identified program also explores how trauma and substance use influence women's use of violence in the community and during confinement.[361]

Gender-responsive and trauma-informed programs are typically conducted in small or large groups, and program content is designed to help women identify problematic behaviors, whether in themselves or within their relationships, and make changes using strengths-based and empowerment approaches.[362] The majority of these programs are grounded in Cognitive Behavioral Theory techniques and enhanced with additional modalities. Most also focus content on what is happening currently rather than asking women to recount previous traumatic events and specifically address the link between PTSD and substance misuse.[363]

Evaluations show that completion of gender-responsive and trauma-informed programs is associated with statistically significant pre- to post-intervention decreases in mental health symptoms and in-prison behavioral infractions, as well as increases in self-reported coping and wellness.[364] Programs that follow these designs have been associated with significantly lower rates of depression, strong reductions in PTSD symptoms, improved emotional regulation and coping, and decreases in anger.[365] For example, among 42 women in a state prison assigned to receive one of two gender-responsive and trauma-informed programs, raw scores on standardized measures of mental health dropped significantly from pre-to-post intervention.[366] Specifically, women had a 15-point average decline in PSTD scores (from 43 to 28), dropping the average score below the clinical threshold of 31 to 33 for diagnosis. Participants also had a 9-point average drop in depression symptoms (from 29 to 20), which brought average scores closer to the clinical threshold of 16 for a depression diagnosis. Additionally, in a pilot study of 19 incarcerated women convicted of violent offenses and randomly assigned to receive a gender-responsive and trauma-informed anger reduction program or a gender-neutral program, anxiety scores dropped significantly for women in the gender-responsive and trauma-informed group, but not for women in the gender-neutral

group.[367] Average scores for women in the gender-responsive and trauma-informed group fell from 5.3 (mild anxiety disorder) to 2.2 (no anxiety disorder). Women in the gender-responsive and trauma-informed group also had significant drops on an anger scale.

Long-term recidivism analyses also indicate statistically significant decreases in recidivism for those who complete these programs, especially when analyses were limited to studies that used rigorous methods such as randomization to create groups.[368] For example, women who participated in a residential gender-responsive and trauma-informed program were significantly less likely to return to prison in the year after release compared to women in a gender-neutral therapeutic community (an intensive prison-based residential substance use disorder treatment program).[369] Significantly fewer women in the gender-responsive and trauma-informed program group returned to prison compared to women in the gender-neutral program group (31% compared to 45%). Specifically, the odds of returning to prison were 67% lower for women in the gender-responsive and trauma-informed group, representing a small to medium effect size (d = 0.28). Women in the gender-responsive and trauma-informed program also took longer to return to prison than women in the gender-neutral program–eight months, on average, compared to six months, representing a medium to large effect size (d = 0.61).

Additionally, women who were randomly assigned to receive a gender-responsive and trauma-informed anger reduction program had significant reductions in 12-month recidivism compared to women assigned to a gender-neutral program.[370] Eleven percent of women in the gender-responsive and trauma-informed group had any arrest and 16% had any jail time in the year post-release, compared to 38% and 50% of women in the gender-neutral group, respectively. Taken together, these findings suggest that women who participate in gender-responsive and trauma-informed program are more successful in the community after their release.

Despite such evidence, gender-based and trauma-informed programs are not widely implemented in correctional settings, which means that few high-quality evaluations of such programs have been conducted. The majority of programs are implemented by academic researchers; program evaluations are also limited by the use of small, predominantly White samples, short follow-up periods during which symptoms and behaviors are assessed, and a limited number of studies that explore recidivism or other community stability outcomes after release.[371]

The "gender-responsive" approach has been critiqued as stereotyping women as less capable and culpable for their actions, conceptualizing women's criminal offending as a consequence of abuse or trauma.[372] An additional critique of this approach is that it positions the criminal

justice system (arrest and incarceration) as the primary source of women's access to services and treatment, which, scholars suggest, may fuel women's incarceration in lieu of alternatives to incarceration.[373] An additional criticism of many gender-responsive and trauma-informed programs is that they may not address the unique traumatic experiences and needs of women of color and those who identify as LGBTQ+.[374] As most evaluations have been conducted on White samples that lack information about participants' sexual orientation, cultural adaptation is likely needed to better meet the needs of women of color and LGBTQ+ people in prison.[375]

Release and Reentry

Release

An analysis conducted in 2014 suggested that about 22% of people in state prisons serve the entirety of their judicial sentence prior to release, although results were not broken down by sex.[376] There are several ways people can leave prison prior to the end of their maximum court-ordered sentence. Parole is a common release mechanism available to people incarcerated in state prisons in 34 states. Good time and earned time sentence credits allow people in some states and the federal prison system to advance their release date.[377] These credits typically accrue when people engage in educational and therapeutic programming and remain free from disciplinary infractions, but they can be revoked by the prison warden based on behavior (see section on "Disciplinary Infractions").

No national analyses appear to examine the accrual or revocation of sentence credits by sex. A review of Illinois' women's prison population found that in 2015, women lost a combined 93 years of good time sentence credits due to disciplinary infractions.[378] Additionally, although most women (85%) in state prisons in Illinois were eligible to participate in prison-based programming to receive sentence credits in 2018, fewer than a quarter (24%) participated in programs; that proportion was down from 45% in 2011, reflecting reduced availability and accessibility of programs in women's facilities.

Other release mechanisms, including prosecutor-initiated resentencing and Second Look policies, allow for prosecutors to adjust the original imposed sentence on a case-by-case basis. No analyses were identified that examined these policies by sex.

Parole

At the end of 2022, the most recent year for which data were available, about 77,000 women were on parole.[379] Little is known about women's experiences with the parole process; the majority of studies conducted in this area examine a single state (which obscures state variation in parole processes), focus on the experiences of men, or do not include the perspectives of women on parole.[380]

One review of nearly 100 transcripts from parole board hearings for women with murder convictions in California found that more than 90% of women had a history of trauma and roughly a quarter explicitly linked their crime to experiences of violent victimization involving an intimate partner.[381] Language used by some of the women indicated that a history of assault or strangulation may have resulted in a traumatic brain injury (TBI) in the months or years preceding their crime.[382] Parole board members often based their release decisions on nebulous factors about a woman's history and character. For example, whether a woman had an "unstable social history," a concept that was not defined, guided some release decisions. In another example, one commissioner described how one woman's history of dysfunctional relationships might result in her committing future violence.

Not all parole board members are provided with specialized education or training about trauma, intimate partner violence, behavioral health, or other common experiences of incarcerated populations. Board members bring their own biases about how the person in front of them should dress, behave, speak, and especially, express remorse.[383]

For example, in a national survey of parole board members conducted in 45 states in 2015, only 44% of releasing authorities used parole guidelines or sequential models to guide release decisions.[384] Respondents identified the five most important factors in the decision-making process as input from the prosecutor, judge, and the incarcerated person's family; testimony from the person up for parole; and a person's demeanor at the hearing. A synthesis of literature mostly published in the 1980s and 1990s highlighted four additional factors as the primary influences on parole decisions: a person's behavior during incarceration; their crime severity, sentence length and criminal history; whether the person has been diagnosed with a mental health disorder; and input from the victim.[385]

Qualitative interviews with women up for parole underscore the importance of testimony and demeanor to release decisions.[386] Many women noted that they felt the need to change their appearance for hearings to look how they thought members of the parole board would want them to look, and some—especially Black women—felt the need to speak differently, "code

switch," or adopt "prep girl [White girl] talk" to make themselves seem more worthy of parole.

Reentry

The reentry period—typically defined as the six months prior to prison release through the first year post-release—can be a challenging and stressful time for those whose sentences are coming to an end. Typically, people must find housing and employment while reconnecting with their loved ones, meeting the terms of post-release supervision, managing any pending child welfare cases, and paying fines, fees, or restitution. Many people face barriers to accomplishing these goals. They range from physical or mental illness to lack of transportation, difficulty accessing public benefits and navigating government systems, housing instability, and financial insecurity. For some, living in rural areas presents additional challenges, as employment opportunities, social services, and transportation are generally more limited than they are in urban areas.[387] The collateral consequences of a criminal record—which can restrict people with criminal convictions from accessing public housing, obtaining federal or state benefits, voting, accessing higher education, qualifying for financial aid, volunteering at a child's school, or serving as a chaperone—affect all formerly incarcerated people.[388] In addition to these common barriers to successful reentry, women experience several specific challenges during this transitional time.[389]

Parenting

Because women are more likely to have been the primary or sole caretaker for their children prior to their incarceration,[390] many common reentry challenges are exacerbated by caretaking responsibilities and financial need. Women must often navigate childcare in addition to finding employment, securing housing for themselves and their children, and juggling the demands of any post-release supervision.[391] Some mothers must navigate the child welfare system to attempt to regain custody. Others must navigate relationships with those who cared for their children during incarceration—often their own mothers or female relatives. This can create stress for all involved, especially when the relationship between an incarcerated mother and her children's caretaker(s) was emotionally tumultuous prior to her incarceration.[392] For some women, family commitments and reuniting with children may also conflict with the terms of supervision, which typically require women to obtain out-of-home employment, attend mental health or substance use disorder treatment in the community,

and avoid contact with people with criminal convictions—even when those people are immediate family.[393]

Housing and Homelessness

Women who experienced abusive or unstable housing prior to incarceration often struggle to find stable housing in the community upon their release. A lack of reliable housing may lead some women to return to abusive relationships or to unhealthy environments with friends or family members in order to find shelter.[394] These women are at high-risk of becoming homeless. While little data exists on rates of homelessness among formerly incarcerated people, the 2008 National Former Prisoner Survey indicated that formerly incarcerated people were ten times more likely to experience homelessness than those who had never been incarcerated.[395] The findings show clear racial and gender disparities in who became homeless after prison. The rate of homelessness (both sheltered and unsheltered) among formerly incarcerated women (264 per 10,000 population) was 35% higher than the rate for formerly incarcerated men (195 per 10,000 population). Rates among unsheltered women were not broken down by sex and race, but the rate of sheltered homeless Black women (203 per 10,000 population) was 60% higher than the rate for White women (127 per 10,000 population).[396]

Financial Instability

Financial instability, coupled with the need to obtain stable housing for oneself and one's children, may also result in some women engaging in criminal behavior.[397] A nine-year longitudinal study of more than 300 women with felony convictions who were on probation or parole found that recidivism was significantly related to poverty, with higher rates of recidivism associated with changes in financial stability.[398] The authors note that new crimes were often directly tied to poverty (e.g., theft, selling drugs, or writing bad checks) and sometimes indirectly related through measures taken to manage financial stress (e.g., drug use or use of violence).

Employment

Formerly incarcerated women often struggle to find employment during reentry due to

prohibitive daycare costs and their tendency to have less extensive work histories than formerly incarcerated men. Criminal convictions may also pose barriers to obtaining licenses and certifications in fast-growing and in-demand industries that tend to be female-dominated, such as health care, home support, and personal care.[399]

Women consistently made, on average, $3,200 to $7,200 less per year than men.

Contemporary national data on post-release employment outcomes, however, are lacking, and results from analyses using older data show mixed findings. For example, analyses using data from the 2008 National Former Prisoner Survey found that 38% to 51% of formerly incarcerated women were unemployed, compared to 27% to 41% of formerly incarcerated men.[400] In contrast, a four-year longitudinal study of 51,500 people released from federal prison in 2010 (12% female) found that women were more likely to be employed than men at all post-release periods.[401] The study showed that nearly half (41% to 46%) of women were employed, compared to just over a third (34-37%) of men. However, despite higher levels of employment, women had lower incomes. Women consistently made, on average, $3,200 to $7,200 less per year than men.[402] This suggests that the gender pay gap may contribute to disproportionate economic disadvantage for women with justice system involvement.[403]

Food Insecurity

Formerly incarcerated women are more likely to be the primary caretakers for children and other adults, which means they are more likely to rely on government benefits like Temporary Assistance for Needy Families (TANF) and Supplemental Nutrition Assistance Program (SNAP).[404] Most people with felony convictions are banned from enrolling in these emergency programs, although recent law changes have extended eligibility to people convicted of some drug offenses.[405] Therefore, while restrictions placed on access to food stamps and other emergency services, subsidized housing, education, and school engagement affect both men and women, they disproportionately impact women and their families, often fueling poverty and increasing risk for homelessness, food insecurity, and criminal behavior.

Analyses of long-term effects from imposed bans on SNAP and TANF for those with some felony convictions detail long-term negative effects on children, including higher rates of cognitive difficulty and stress, and lower rates of high school completion. For example, an

economic analysis of two major national datasets found lower rates of employment among adults who became ineligible for SNAP benefits due to their conviction history.[406] This implies that for some, losing access to benefits does not result in workforce participation, but rather results in making their financial situation more precarious. Outcomes for the children of those who lost access to SNAP benefits were similarly concerning. Analyses of American Community Survey data from 2008 to 2019 showed that children who lost benefits had higher rates of cognitive difficulty and stress, which resulted in lower rates of high school completion.[407] These effects were amplified for children who were younger when their family lost access to benefits.

Health and Healthcare

Many women enter prison with significant untreated physical and mental health conditions, yet few receive relevant treatment options during or after incarceration.[408] The untreated symptoms of chronic illness, infectious disease, traumatic brain injury, and mental health and substance use disorders often present additional challenges for women during reentry.[409] While much is known about the impact of health on men's reentry experiences,[410] little is known about how health and healthcare needs affect the reentry experiences of women and their likelihood for success after incarceration.

In a comparative study of nearly 12,000 older adults (8% of whom were formerly incarcerated), poorer mental and physical health were noted among those with a history of incarceration, regardless of sex or race and ethnicity.[411] These results persisted when childhood abuse and adversity and other early-life factors were controlled for in the models. Specifically, formerly incarcerated women had worse mental and physical health compared to both formerly incarcerated men and people who had never been in prison, regardless of gender. These results were amplified among formerly incarcerated women of color, who reported the highest levels of depression and physical limitations. These women reported more symptoms of depression than formerly incarcerated White women (3.4 symptoms, on average, compared to 2.5), nearly twice as many symptoms of depression compared to never-incarcerated women (1.9 symptoms, on average), and more than twice as many symptoms as never-incarcerated White women (1.3 symptoms, on average). These same patterns were replicated in analyses examining physical limitations.

During interviews, women suggested that incarceration compounded issues related to accessing healthcare in the community, resulting in poor outcomes and limited options during reentry.[412] Interviews with formerly incarcerated Black women suggest that during

incarceration, medical care was hampered by long wait times and lack of follow-up from providers, misdiagnoses and issues with health claims not being taken seriously, and inaccessible and expensive healthcare options.[413] After release, women were unsure where to begin or what type of provider they needed to see. Many lacked trust in the medical system. Given the trend of women's rising incarceration in prison and jail settings over the past several decades, a growing number of older women in the community are likely to face health challenges linked to their time in prison.

Formerly incarcerated women were

5.5x

more likely to die by overdose in the two years after their release compared to women who had never been incarcerated.

Formerly incarcerated men were

3.3x

more likely to die by overdose in the two years after their release than men who had never been incarcerated.

As women leave prison and return home during reentry, they are also at significant risk for overdose fatality.[414] Research suggests that the first two weeks following release are critical; specifically, incarcerated men and women are estimated to be 12 times more likely to die by overdose immediately after release than their never-incarcerated peers.[415] Over time, however, women are at greater risk of overdose fatality compared to women in the community. Formerly incarcerated women were 5.5 times more likely to die by overdose in the two years after their release compared to their never-incarcerated female peers.[416] This risk outpaced that observed among men; formerly incarcerated men were 3.3 times more likely to die by overdose in the two years after their release than men who had never been incarcerated.[417]

Incarcerated men and women are estimated to be 12x more likely to die by overdose immediately after release than their never-incarcerated peers.

Recidivism

Whether recidivism is defined as rearrest, reconviction, or reincarceration, rates are consistently lower for women than for men. For example, in the most recent national analysis examining long-term outcomes of people released from state prisons between 2012 and 2017, 63% of women were rearrested or reincarcerated within five years of release compared to 72% of men.[418] Women were less likely to return to prison for violent crimes than men (16% women, 30% men), drug crimes (29% women, 33% men), and public order offenses (45% women, 55% men), and equally as likely to return for property crimes (36%).[419]

Factors influencing women's recidivism are linked to mental health and substance use disorders, low educational attainment, unemployment prior to incarceration, and returning to disadvantaged communities with few resources to support the reentry transition. Research also suggests, however, that race and ethnicity influence post-release success for women. In an analysis of more than 500 women on parole, recidivism was significantly associated with substance use disorders for all women, but the relationship between substance use disorders and recidivism was stronger for women of color.[420] White women with substance use disorders were more than twice as likely to recidivate than White women without substance use disorders; women of color with substance use disorders were six times more likely to recidivate. Additionally, substance use disorders were more common among women of color, with 28% of women of color diagnosed as substance dependent compared to 17% of White women. Women of color in the sample were less likely to be diagnosed with a mental health disorder (7%) than White women (13%) and more likely to return to a disadvantaged community. A third (33%) of the women of color in the sample returned to disadvantaged communities, compared to 5% of White women.

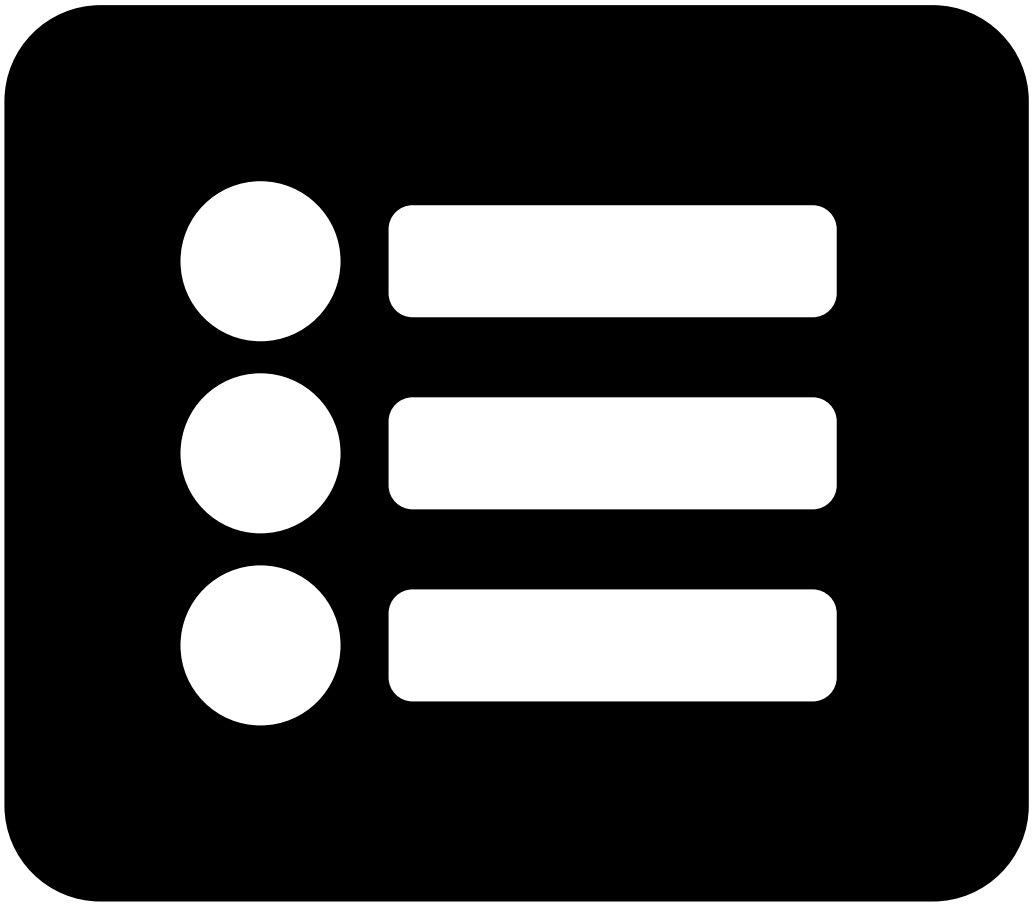
Most research on post-incarceration outcomes focuses on whether people return to prison following release. It is important to note that there are significant markers for successful community reintegration for women other than whether or not they are re-arrested or return to prison. These can include positive health outcomes and well-being, high levels of connection with and support from friends and family, ability to access crucial resources like stable housing and employment, and community involvement.[421]

Recidivism by Sex and Offense Type

Conclusion and Next Steps

Although all people experience significant challenges before, during, and after their involvement with the criminal justice system, women encounter distinct barriers that remain unaddressed by a system designed to manage the needs of men. Women who make contact with the criminal justice system are more likely than their male counterparts to have experienced trauma and abuse, have mental health and substance use disorders, be living in poverty, have custody of minor children, and have engaged in crime in the context of their relationships with intimate male partners. Women's roles as caretakers add special complexity to how they navigate the system, and many of the negative effects of system involvement reverberate for their children, families, and communities.

While in prison or jail, women's specific healthcare needs—especially needs related to reproductive health—are often neglected, leading to a range of negative physical and mental health outcomes. Women's access to educational and vocational programs responsive to their needs and experiences is limited, potentially affecting their ability to succeed during reentry. Finally, when women return home from incarceration, their preexisting challenges are exacerbated by stressors associated with family reunification and childcare, difficulty finding safe and affordable housing, barriers to accessing benefits, and economic marginalization.



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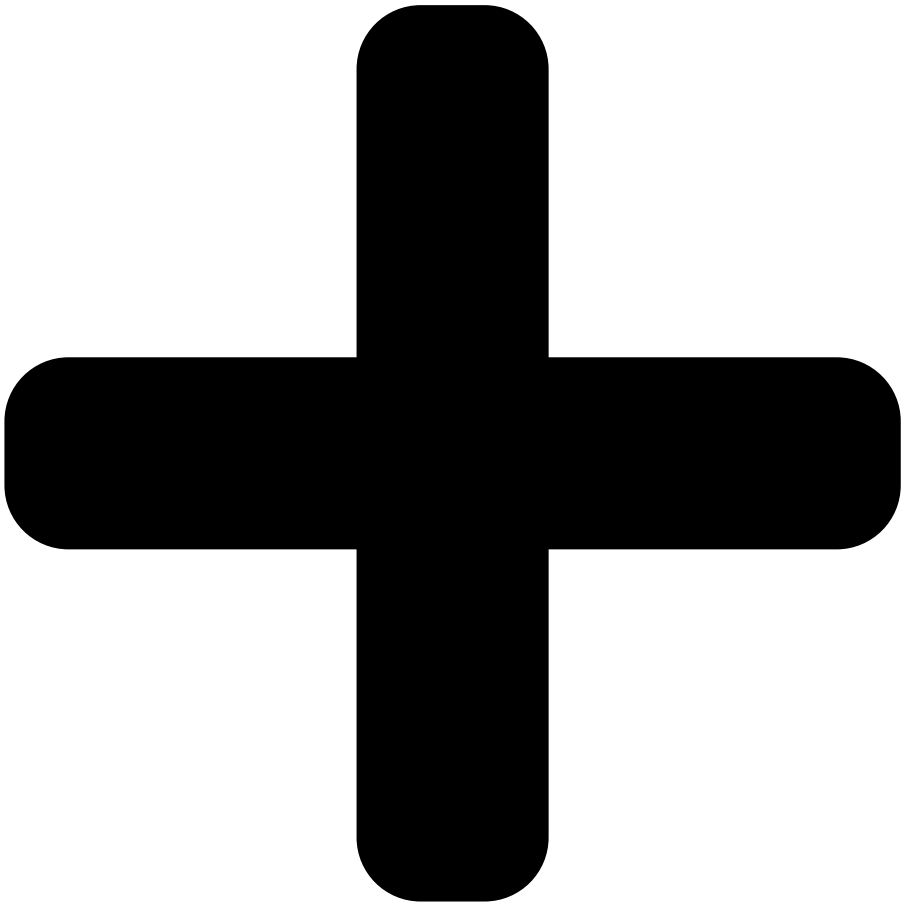
Endnotes

Council on Criminal Justice

Women's Justice: A Preliminary Assessment of Women in the Criminal Justice System



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