

**Statement to the United States Commission on Civil Rights  
Women in Prison:  
Disparate Treatment, Disparate Impact, and the Duty of Care**

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We thank the Commission for convening this hearing and for the opportunity to submit statements about the challenges that incarcerated women, their families, and their communities face. This hearing reflects the importance of the issues affecting incarcerated women and emphasizes that measures to respond must be part of the agenda for criminal justice reform.

A word of introduction about the Liman Center at Yale Law School is in order. This Center began in 1997 to honor Yale Law School graduate Arthur Liman, who graduated in 1957 and was a distinguished lawyer and public servant. The Center furthers his commitments to improve the fairness of criminal and civil law enforcement. The Center supports Yale Law School graduate fellowships and summer fellowships at several colleges and universities.<sup>1</sup> The Center teaches classes, does research projects, and hosts colloquia. One focus has been to document the impact of incarceration in the United States. To do so, the Liman Center has studied the challenges that distance from home – or “isolation by place” – imposes on prisoners and their families.<sup>2</sup> In addition, we have researched the problems flowing from the segregation of individuals in prison, or “isolation by rule.”<sup>3</sup> And, throughout, the Liman Center has been concerned about the roles played by gender, race, and ethnicity in the criminal law enforcement system.

### **Focusing on Women in Detention**

As of November of 2018, the Federal Bureau of Prisons (BOP) reported that 180,290 individuals were in their facilities, and that 12,567 were women – or about 7% of the federal prison population.<sup>4</sup> This percentage parallels data on women in state prison systems. As of 2016, women were 7.5% of the total state prison population, or 98,919 out of a total state prison population of 1,317,565.<sup>5</sup>

The number of women in state and federal prisons has increased dramatically during the past 40 years.<sup>6</sup> In 1980, 13,000 women were in federal and state prisons; as of the end of 2012, more than 108,000 women were in federal and state prisons.<sup>7</sup>

These women are underserved in prison, even as comparisons to men in prison are awkward, in that prison systems are not “good” for anyone. Experiences are not binary; women and men of all colors, classes, and ages experience the problems of prison in different ways. Further, as media reports detail, transgender people face distinct and egregious harms when incarcerated.

A few data points illustrate the importance of analyses that attend to differences within gendered categories. Women of color are overrepresented in prison—in 2016, Black women made up 18.3% of the prison population and 13.7% of the total U.S. population. White women made up 43.9% of the prison population and 76.4% of the total U.S. population.<sup>8</sup> Looking at rates of confinement, in 2014, the imprisonment rate for Black women was 109 per 100,000 compared to an imprisonment rate of 53 per 100,000 for white women.<sup>9</sup> Moreover, as we detail below, women of color are disproportionately subjected to solitary confinement in prison systems around the country.

Another example comes from the federal prison system, which houses about 180,000 people in 122 correctional institutions and 11 privately-run correctional facilities around the United States.<sup>10</sup> Of those facilities, twenty-nine are designated to receive women.<sup>11</sup> As a

consequence, women are regularly sent to prisons far from their homes. Further, at those few facilities, employment opportunities are limited, particularly for higher-paid work. Services including health care and programs such as job training and education are limited as well. Female prisoners also continue to face safety concerns, as evidenced by criminal prosecutions and media reports of sexual assaults on female prisoners and staff within the last few years.<sup>12</sup>

We therefore thank the Commission for convening this hearing, and we urge the Commission to continue to bring attention to the problems of women in prison. We ask that the Commission call on Congress to hold hearings and to enact legislation to respond to the problems outlined here and in other submissions. In 1979, Congress took up what Representative Kastenmeier termed “the charges that women in Federal prisons are getting short-changed when it comes to facilities, rehabilitation, health services, and job training.”<sup>13</sup> In the many decades since 1979, congressional hearings focused on the problems of women in prison have been few and far between; Appendix 1 illustrates the rarity of hearings and reports by the federal government addressing the needs of incarcerated women.

However, in 2018, Congress took what it called a “first step” to reform sentencing and prisons and included a focus specifically on women’s needs. This hearing and the Commission’s Report will be the important next step to respond. One goal should be to understand how the Act is implemented and whether women and men benefit from its efforts to reduce the use of mandatory minimum sentences, to release eligible prisoners, and to provide more and better services to people who are incarcerated.

More generally comprehensive data are lacking to implement the goals of promoting gender-consciousness in services and programs and improving the lives of women in prison. Increased, intersectional data collection, coupled with regular, publicly accessible reporting by state and federal systems and by the Bureau of Justice Statistics, would help respond to the problems documented here and in the other submissions. Current data would contribute to understanding and addressing issues including discipline, “isolation by place,” economic and educational opportunities, health, and safety. One mechanism to coordinate and support such efforts would be for Congress to create a national advisory body on women in prison and authorize it to provide assistance to state and federal prisons and jail systems, as well as to serve as a clearinghouse for data collection and dissemination.

### **Recognizing Women’s Needs in Prison: The First Step Act of 2018**

In 2018, Congress recognized the harms of over-incarceration in its First Step Act. The Act provides ways to put fewer people into long-term incarceration,<sup>14</sup> to reduce sentences of some people already incarcerated,<sup>15</sup> and to improve the conditions of those in prisons.<sup>16</sup>

The First Step Act has a few provisions focused specifically on women. As Congresswoman Bass explained, “women are entering a male-centered prison system that is not designed to meet their physical or mental health needs. . . . This is the first step toward addressing the needs of women.”<sup>17</sup> The Act prohibits the use of restraints during pregnancy, labor, or postpartum recovery on any woman in Bureau of Prisons or United States Marshals Service custody. The Act permits exceptions only if a corrections official determines that a prisoner “is an immediate and credible flight risk” or “poses an immediate and serious threat of harm to herself

or others” that “cannot reasonably be prevented by other means.” It also makes an exception in the case that a health care professional determines “the use of restraints is appropriate for the medical safety of the prisoner.”<sup>18</sup> The First Step Act also requires the BOP to make available, free of charge, an adequate supply of tampons and sanitary napkins for women prisoners.<sup>19</sup> Yet, as Senator Booker commented, the Act “takes an important step but still an incomplete step in reforming the way women are treated behind bars.”<sup>20</sup>

In addition, the First Step Act calls for the BOP to “place the prisoner in a facility as close as practicable to the prisoner’s primary residence, and to the extent practicable, in a facility within 500 driving miles of that residence,” with the possibility for transfer to closer facilities.<sup>21</sup> This 500-mile standard was the BOP policy before the Act.<sup>22</sup> Legislating this concern for some degree of proximity is admirable and may help some women and men at great distance from their homes. But, as we discuss in detail below, 500 miles from homes is a distance too great for families and friends. That distance makes exchanges with lawyers more difficult and limits opportunities to work on reentry plans.<sup>23</sup>

One set of questions that needs to be answered is about implementation. Data are needed about whether the Act helps women and men of all colors equally. This Commission should call on the Federal Sentencing Commission and the Bureau of Prisons to issue yearly reports that include intersectional data on the implementation of these aspects of the Act.

In short, while the 2018 Act is indeed a “first step,” much more is needed. Below, we focus on two areas in which we have particular expertise: why legislation is needed to limit the use of solitary confinement in prisons, and why revision of the 500-mile standard is needed for prisoner placement. Thereafter, we provide a brief overview of a range of other problems that need to be addressed, including women’s economic agency, employment and education, safety, and medical care.

### **Discipline and Solitary Confinement**

In its invitation for the Liman Center to testify, the Commission requested information on disciplinary sanctions, including the use of solitary confinement. A large body of literature documents the harms of isolation, which can undermine the physical and mental health of prisoners.<sup>24</sup> Solitary confinement can exacerbate mental illness and leaves prisoners vulnerable to abuse by officers.<sup>25</sup> For individuals who have already been victims of sexual abuse, the anxiety imposed by isolation and dependence can be especially acute.<sup>26</sup> Isolation also entails radical restrictions on visits with families and thus harms children as well as parents.<sup>27</sup>

Leaders of correctional departments share concerns about the use of solitary confinement. The Association of State Correctional Administrators (ASCA) has created a series of special projects focused on what it terms “restrictive housing.” That organization is comprised of “the leaders of each U.S. state corrections agency, Los Angeles County, the District of Columbia, New York City, Philadelphia, the Federal Bureau of Prisons, U.S. Military Correctional Services (Army, Navy, Air Force, Marines), and the United States territories, possessions, and commonwealths.”<sup>28</sup> ASCA meets regularly to provide training, undertake research projects, and shape correctional policy.

Since 2012, ASCA and the Liman Center have worked to understand the use of solitary confinement, a practice encompassing what some systems term segregation, isolation, room confinement, special housing units (SHU), control units or special management units -- often referenced now under the rubric of "restrictive housing." ASCA and the Liman Center first analyzed the policies governing the use of restrictive housing. In 2013, we learned that in many systems prison staff had enormous discretion to put people into solitary confinement, and that relatively few systems focused on getting people out.<sup>29</sup> Since then, we have conducted three national surveys (with results published in 2015, 2016, and 2018) that have created the only longitudinal, nationwide data on the numbers of prisoners in solitary confinement.<sup>30</sup>

In the fall of 2017, ASCA-Liman sent surveys to the 50 states, the BOP, the District of Columbia, and four jail systems in major metropolitan areas.<sup>31</sup> The survey defined restrictive housing as "separating prisoners from the general population and holding them in their cells for an average of 22 or more hours per day for 15 or more continuous days."<sup>32</sup> This definition includes prisoners segregated for reasons described as disciplinary, administrative, or protective.

Forty-three jurisdictions provided data on prisoners in restrictive housing. Those systems held 80.6% of the U.S. prison population and reported 49,197 individuals, or 4.5% of their population, were in isolation.<sup>33</sup> Across all reporting jurisdictions, the median percentage of the population held in segregation was 4.2%; the average was 4.6%.<sup>34</sup> Extrapolating from these numbers to the systems not reporting, we estimated that some 61,000 individuals were in isolation in prisons in the fall of 2017.<sup>35</sup>

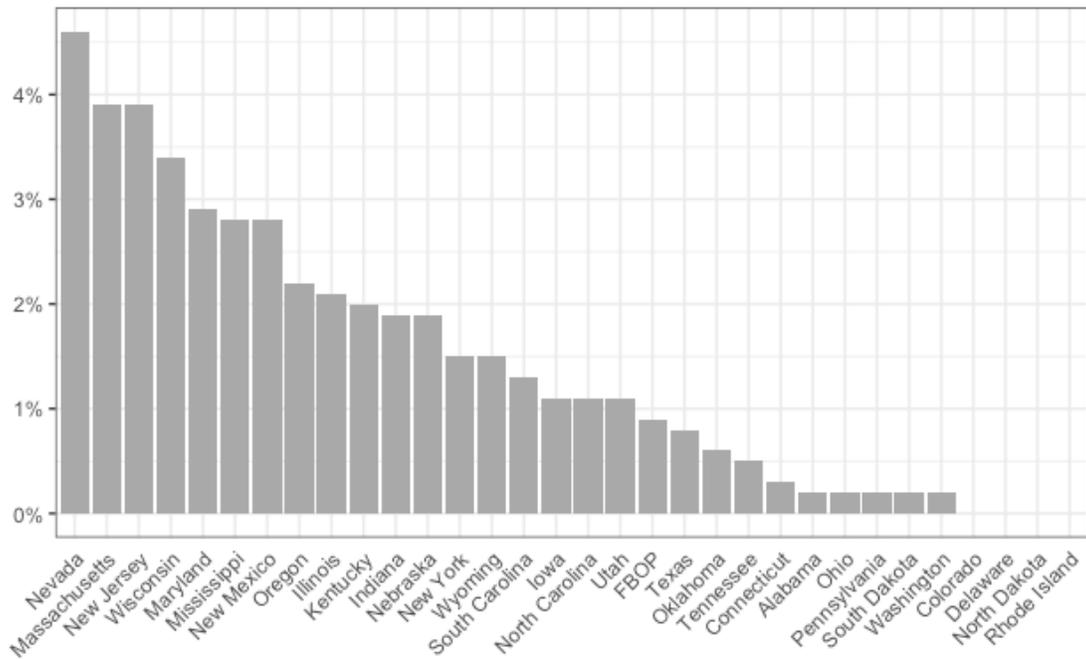
One note is needed on the limits of the data provided. As of 2016, jail systems in the U.S. held an average daily population of 731,300 people.<sup>36</sup> Women made up 14.5% of that number.<sup>37</sup> Relatively few states have unified systems in which jails are under a central Department of Corrections, and the data in the ASCA-Liman surveys come from state-level agencies, most of which run only prison systems. Therefore, our discussion here does not address the use of solitary confinement in the 2,850 jail systems nationwide.<sup>38</sup>

The ASCA-Liman surveys have gathered an array of information, including data about the gender of prisoners in restrictive housing. In 2016, 40 jurisdictions responded to questions about the gender of prisoners in solitary confinement. Those 40 systems reported 1,458 women in restrictive housing out of a total female population of 83,749. Across the systems reporting, the median percentage of women prisoners held in isolation was 1.6%.<sup>39</sup> In 2018, 32 jurisdictions provided information about the gender of individuals in restrictive housing. As depicted below, those jurisdictions counted 790 women in solitary confinement out of a total female population of 66,186. At that time, the median percentage of women prisoners in isolation was 1.1%.<sup>40</sup>



The percentage of women held in restrictive housing as of fall 2017 ranged from 4.6% of the female custodial population (59 out of 1,280 female prisoners in Nevada) to 0% in Colorado, Delaware, North Dakota, and Rhode Island.<sup>41</sup> State-by-state overviews are provided below.

**2017-2018 Percentage of Female Prisoners in Restrictive Housing by Percentage**  
 (n = 32)<sup>42</sup>



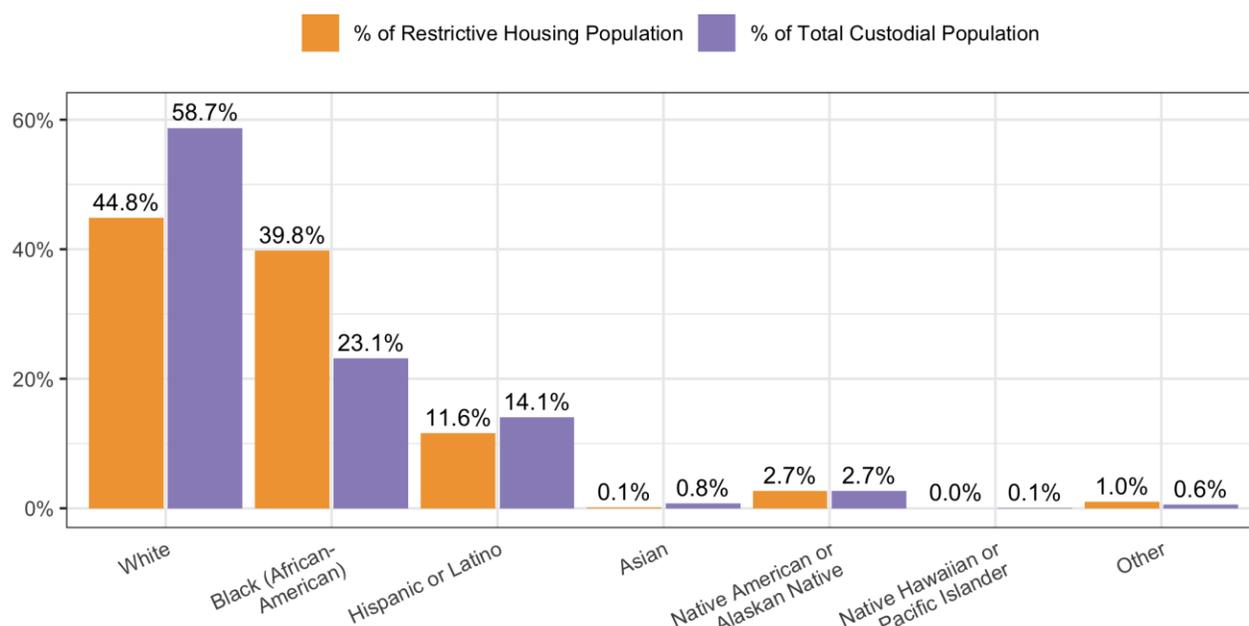
**2017-2018 Number and Percentage of Female Custodial Population in Restrictive Housing  
(n = 32)<sup>43</sup>**

<b>Jurisdiction</b>	<b>Total Custodial Population</b>	<b>Restrictive Housing Population</b>	<b>Percentage in Restrictive Housing</b>
Alabama	1,310	3	0.2%
Colorado	1,673	0	0.0%
Connecticut	955	3	0.3%
Delaware	233	0	0.0%
FBOP	11,077	101	0.9%
Illinois	2,410	50	2.1%
Indiana	2,470	48	1.9%
Iowa	705	8	1.1%
Kentucky	3,139	64	2.0%
Maryland	1,062	31	2.9%
Massachusetts	588	23	3.9%
Mississippi	902	25	2.8%
Nebraska	416	8	1.9%
Nevada	1,280	59	4.6%
New Jersey	774	30	3.9%
New Mexico	741	21	2.8%
New York	2,357	36	1.5%
North Carolina	2,933	33	1.1%
North Dakota	224	0	0.0%
Ohio	4,158	9	0.2%
Oklahoma	3,079	19	0.6%
Oregon	1,272	28	2.2%
Pennsylvania	2,620	6	0.2%
Rhode Island	130	0	0.0%
South Carolina	1,455	19	1.3%
South Dakota	525	1	0.2%
Tennessee	1,946	9	0.5%
Texas	12,180	93	0.8%
Utah	471	5	1.1%
Washington	1,302	2	0.2%
Wisconsin	1,539	52	3.4%
Wyoming	260	4	1.5%
<b>Total</b>	<b>66,186</b>	<b>790</b>	<b>1.1% (Median)</b>

The 2017 survey also asked for race and ethnicity data by sex/gender. We asked jurisdictions about the racial/ethnic categories of White, Black (African-American), Hispanic or Latino, Asian, Native American or Alaskan Native, Native Hawaiian or Pacific Islander, and Other. Thirty-two systems responded to questions about race/ethnicity of female prisoners. Not all jurisdictions used the race/ethnicity categories we provided. Some jurisdictions relied on self-reports while others categorized individuals based on correctional records or on appearance.<sup>44</sup>

Among the 32 responding jurisdictions, women of color were disproportionately subjected to solitary confinement. An overview is provided below. Black women comprised a greater percentage of the restrictive housing population (39.8%) than they did the total custodial population (22.8%). In 19 of the 32 jurisdictions providing data in response to these questions, the female restrictive housing population contained a greater percentage of Black prisoners than the total female custodial population contained. In 24 of the 32 reporting jurisdictions, the female restrictive housing population contained a smaller percentage of White prisoners than the total female custodial population contained.<sup>45</sup>

### 2017-2018 Racial and Ethnic Composition of Female Prisoners in Total Custodial Population and in Restrictive Housing Population (n=32)<sup>46</sup>



The ASCA-Liman reports also seek to understand how the use of solitary confinement affects pregnant prisoners. In 2016, the American Correctional Association (ACA) adopted new Standards on Restrictive Housing.<sup>47</sup> The 2016 Standards reflect the national consensus to limit the use of restrictive housing for vulnerable populations, as well as not to use a person's gender identity as the sole basis for segregation. Specifically, one of the Standards provided that "female

inmates determined to be pregnant” should not be housed in extended restrictive housing.<sup>48</sup> Forty-one jurisdictions responded to the 2017 survey with information sufficiently detailed and consistent to report on the numbers of pregnant prisoners. Three systems reported that, as of the fall of 2017, they housed no pregnant prisoners. The other 38 jurisdictions counted a total of 613 pregnant prisoners. No jurisdiction reported pregnant prisoners in restrictive housing.<sup>49</sup>

As with pregnancy, “protection” has often been cited as a reason for placing persons with specific needs, including transgender individuals, in restrictive housing. Concerns about the misuse of segregation for transgender individuals prompted the ACA to promulgate a Standard that prisoners not be “placed in Restrictive Housing on the basis of Gender Identity alone.”<sup>50</sup> The ASCA-Liman surveys have asked jurisdictions about the number of transgender prisoners held in solitary confinement.

In 2016, 33 jurisdictions responded to this question. Ten of those jurisdictions reported no transgender prisoners in their prison population. Of the remaining 23 systems, eight reported no transgender individuals in restrictive housing while 15 systems counted a total of 55 transgender prisoners held in solitary.<sup>51</sup> In 2018, 43 jurisdictions responded with information about transgender prisoners. Four jurisdictions indicated that they either did not track or could not report the number of transgender prisoners in their total custodial population. One jurisdiction reported having no transgender prisoners in its total custodial population. Seventeen of the remaining 38 jurisdictions reported that no transgender prisoners were in restrictive housing. The other 21 jurisdictions identified a total of 157 transgender prisoners in restrictive housing.<sup>52</sup>

Nationally, correctional administrators, legislatures, courts, and other institutions are seeking to limit the practice of holding people in cells 22 hours a day or more for 15 days or more. The 2017-2018 ASCA-Liman Report and its companion monograph, *Working to Limit Restrictive Housing: Efforts in Four Jurisdictions to Make Changes*, provide firsthand accounts by correctional leaders describing their efforts to make major changes to the use of restrictive housing. These prison administrators, in Colorado, Idaho, North Dakota, and Ohio, explain the ways in which they have revised policies, the challenges they have faced, and the impact of their efforts.

For example, as of the fall of 2017, Colorado prohibited the use of solitary confinement for longer than fifteen days for any prisoner.<sup>53</sup> Department of Corrections Director Rick Raemisch described the effects of this change: “At our two mental health prisons, where restrictive housing is completely banned, assaults, self-harm, and suicides have decreased dramatically. Staff enjoy work more because prisoners are acting in a more positive manner. It is quiet and safer. Safer facilities mean safer communities when they are released.”<sup>54</sup> North Dakota’s Director, Leann Bertsch, discussed changes that resulted from a 60-70% reduction in the population of the Administrative Segregation Unit: “the prevalence of negative behaviors by residents of the unit has...dramatically decreased” and of the 149 individuals placed in segregation from October 2015 to February 2018, “only 26 have returned” to the segregation unit.<sup>55</sup>

Once, solitary confinement was seen as a solution to a problem. Now many prison officials around the United States see solitary confinement as a problem to be solved. A national and international consensus has developed that restrictive housing imposes grave harms on the individuals confined, on staff, and on the communities to which prisoners return. This Commission should lend its support to efforts to end the use of solitary confinement, and call for legislation

that, like the U.N. 2015 Standard Minimum Rules for the Treatment of Prisoners (called the Nelson Mandela Rules), limits the use of isolation to exceptional circumstances and permits individuals to be confined for no more than fifteen days.<sup>56</sup> Moreover, during that time of confinement, individuals should have access to out-of-cell time of at least four hours a day, to fresh air, to daily showers, and to reading and writing materials.

### **Distance from Home, Isolation by Place, and Community Ties**

Because women have fewer placement options in the federal system, women disproportionately suffer the burdens of distance from family, friends, and children. A report by the Bureau of Justice Statistics based on 2007 data estimated that more than 62% of women incarcerated in state prisons and 56% of women incarcerated in federal prisons were mothers of minor children.<sup>57</sup> The study reflected that 58% of women in state prisons and 45% of women in federal prisons never received a visit from their minor children.<sup>58</sup> A 2018 Women & Justice Project summary reported that 62% of state prisoners who were parents and 84% of federal prisoners who were parents were incarcerated 100 miles or more from their home.<sup>59</sup> This summary is attached as Appendix 2. A 1995 study found that mothers in the federal prison system were incarcerated an average of 160 miles further from family than their male counterparts.<sup>60</sup> Six years later, another report found that “perhaps the most significant determinant of whether an inmate receives visits is the distance between her home county and the prison to which she is committed.”<sup>61</sup>

Several studies conclude that prisoners who participate in educational programs and/or receive visits while incarcerated function better in prison<sup>62</sup> and have a better chance of staying out once they are released.<sup>63</sup> These findings support a large body of literature suggesting “social connections that are maintained during the period of incarceration can be an important resource in helping released prisoners achieve positive post-release outcomes.”<sup>64</sup> That is, prisoners who stay connected to their families, friends, places of worship, and communities are better able to readjust to life outside prison.

Recognizing the beneficial effects of visits for prisoners and their families, the Department of Justice (DOJ), with White House support, launched in 2013 what it termed an “aggressive campaign” to mitigate the harms that incarceration of parents imposes on children.<sup>65</sup> According to a 2013 statement on the DOJ website: “We owe these children the opportunity to remain connected to their mothers and fathers.”<sup>66</sup> The DOJ directed BOP to support “programs to enhance family relationships, improve inmate parenting skills, and redesign visitation policies in its system.”<sup>67</sup>

Continuing this program, in 2016, Deputy Attorney General Sally Yates announced changes to BOP policies intended to strengthen family ties for incarcerated parents. The initiatives included increasing opportunities for video conferencing with families and the creation of a program that “engages children of incarcerated parents in positive youth development activities.” New policies aimed to enhance staff training on interacting “with children in a developmentally appropriate way.” The reforms called for educational programs for incarcerated parents and “tip sheets” on how to support children of incarcerated parents.<sup>68</sup> The 2016 BOP Female Offender Manual states, with regard to prisoner placement, “Staff will consider location of children and families, not just release destination, and involve the inmates in a discussion of options.”<sup>69</sup>

However, a 2018 report by the Office of the Inspector General (OIG) on BOP's management of its female population found many deficiencies. The Inspector General concluded that, although the BOP had required staff at women's prisons to receive training on "management of female inmates," "BOP has not required its National Executive Staff to take this or other training pertaining to female inmates. As a result, the officials who make decisions affecting the conditions of confinement for female inmates may not be fully aware of the unique needs of female inmates."<sup>70</sup> The OIG recommended that "all staff, including the National Executive Staff, who work with or have management decision authority over female inmates receive the current mandatory training on the unique needs of female inmates."<sup>71</sup> According to an OIG press release, the BOP agreed to this recommendation and the others made by OIG.<sup>72</sup> We urge the Commission to request information from the BOP on its implementation of the OIG recommendations.

The dispersal of the prison population around the country poses obstacles to the goals of helping parents stay connected to their children. The Liman Center began to focus on the challenges that distance imposes on women prisoners in 2013, after it learned of a BOP plan to close the Federal Correctional Institute at Danbury, Connecticut (Danbury). Hundreds of women had been housed at that facility for decades. The BOP proposed to convert Danbury to a facility for men and to leave for women only the small satellite camp.<sup>73</sup> Despite the large number of women sentenced in the Northeast in the federal system, the BOP proposed to open a new institution – to house more than 1,000 women – in Aliceville, Alabama. This location, near the Mississippi border, was far from the Northeast; moreover, given its remote location in the state, access to services for people from that area would also be difficult.<sup>74</sup>

The Liman Center joined with U.S. Senators, federal judges from the Northeast, the American Bar Association, and the National Association of Women Judges to object to that proposal.<sup>75</sup> Copies of the letters from Senators and federal judges to the BOP director are included in Appendix 3. After this host of national and local organizations raised concerns, the BOP agreed to build an additional facility for women at Danbury. Further, the BOP agreed to keep some women proximate while rebuilding was underway; dozens of women were transferred to federal jails in Brooklyn, New York, and in Philadelphia.

To justify why the BOP would not keep the number of beds at the same level as had been available for women before the closing, the BOP informed Senators that 30% of the 815 Danbury women with identifiable U.S. home addresses were residents of the BOP's Northeast region.<sup>76</sup> While that number was meant to ease concerns about the Danbury closure, the number also highlights a related issue: 70% of Danbury women with known home addresses were incarcerated in the Northeast despite the fact that the facility was far from their homes and families. Indeed, about nine percent of the women were from Texas, and more than five percent were from California.<sup>77</sup> Those figures correspond with available research on gender disparities and distance nationwide.

After several years, a low security facility for women at Danbury reopened, joining the camp for female prisoners that had remained open during the interval. The two facilities at Danbury have a total capacity of 380 women.<sup>78</sup> As January 24, 2019, 291 women are held there.<sup>79</sup> In short, the number of beds for women in the Northeast has gone down significantly with the repurposing of the larger facility at Danbury for men.

According to the BOP website, visitors can come to either of the two female facilities from 8:30 a.m. - 3:00 p.m. on weekends and holidays. In contrast, visiting hours at Danbury FCI, the male facility, include those weekends and holidays in addition to 8:30 a.m. - 3:00 p.m. on Monday and Friday.<sup>80</sup> The Bureau did open the facility in Alabama, FCI Aliceville, which as of January 24, 2019 held 1,601 female prisoners.<sup>81</sup> The BOP website lists visiting hours as limited to weekends and holidays, from 8:30 a.m. - 3:00 p.m.<sup>82</sup> In practice, not all posted hours in many prisons are available for visiting. For example, according to a 2019 Marshall Project report, family visits during the 2018 holiday season were canceled due to lack of funds during the government shutdown.<sup>83</sup>

In 2016, the Liman Center researched the effects of closing FCI Danbury on female populations across BOP regions. According to BOP data, in 2016, four percent of female prisoners were housed in the Northeast compared to nine percent in 2013. By contrast, the percentage of women in BOP facilities in the Southeast increased from 22% in 2013 to 32% 2015. Our research also investigated overcrowding of women in the federal prison system. BOP population and rated capacity statistics from 2016 showed that 11 of the then 27 BOP facilities that housed women were beyond-capacity for female prisoners. Those 11 over-capacity institutions included five of the then seven exclusively-female facilities.

The BOP's willingness to send hundreds of women to a location far from their families is evidence of the need to regulate where to place prisoners. Even a small reduction in the percentage of women housed in a region means hundreds of women sent far from their families. We urge the Commission to increase oversight of BOP standards for placement of prisoners. Further, building on the First Step Act, we recommend that the Commission advocate for legislation limiting the placement of federal prisoners to 75 miles from home unless the Bureau can demonstrate extenuating circumstances that explain why a specific individual cannot be located within that geographical limit.

The Liman Center, with assistance from ASCA, has also looked at policies for visiting in prison. That fifty-state survey showed that some jurisdictions impose more obstacles than others.<sup>84</sup> We learned the importance of expanding the timing for and number of visiting hours. Subsidies and assistance in terms of travel to remote locations are also needed. Further, we encourage the Commission to request that federal and state prison systems publish annual data on distance from home for prisoners, on the rules for individuals to visit prisoners, and the efforts made to facilitate visits.

### **Gender-Responsive Programming and Services:**

#### **Economic Opportunity, Health, Safety, and Well-Being**

We have focused our statement on the two areas in which we have done sustained research. We know that others will be providing testimony on the important issues of gender-responsive programming, economic opportunities for women in prison, health care, and prisoner safety. Here, we briefly highlight the many kind of problems that disable women prisoners. We urge the Commission to seek comprehensive data on gender-responsive programming and other services so as to analyze the impact of gender on prison employment and education, health and safety, and

the implementation of the OIG's recommendations to improve the BOP's treatment of its female population.

Why is gender-responsive treatment needed? Women and men have different paths to prison and distinct challenges that require focused attention.<sup>85</sup> We have already discussed the numbers of women who are mothers. Further, incarcerated women experience mental illness at rates higher than incarcerated men.<sup>86</sup> Our research on solitary confinement confirmed this disparity: we found that a median of 13.2% of women in prison were classified as having a serious mental illness, using each jurisdiction's own definition of serious mental illness, while 6.1% of men had this classification.<sup>87</sup> Given the reports of mental illness in the system, these numbers are likely much greater for both women and men.

In addition, a 2014 study found that "correctional education is potentially an effective strategy for improving the post-release employment prospects."<sup>88</sup> But incarcerated men and women do not have the same range of opportunities for education and employment.<sup>89</sup> What programs are available varies by jurisdiction and by prison.

In 2003, the Department of Justice National Institute of Corrections released a study concluding that "understanding the unique characteristics of the female offender population is crucial to the development of gender-appropriate policy and practice and to improving outcomes for women offenders."<sup>90</sup> One example of gender responsive opportunities comes from Hawaii's Girl's Court for juvenile-justice-involved girls. The program provides alternative supervision for girls, including education and vocational training, mental health and substance abuse treatment, and mentoring.<sup>91</sup> Other examples come from the Bedford Hills facility in New York, where programs include a prison nursery and a Family Violence Program.<sup>92</sup> The BOP's 2016 Female Offender Manual opens with a commitment to "ensure the Bureau provides programs, services, and policies that are gender-responsive, trauma-informed, culturally sensitive, and address the unique needs of incarcerated females at facilities that house female offenders."<sup>93</sup> However, the 2018 OIG report noted that BOP "has not yet finalized a mechanism to ensure" that female facilities comply with the Offender Manual.<sup>94</sup>

In sum, a comprehensive approach to women in prison is needed. We appreciate the leadership of the U.S. Commission and look forward to the report. Thank you for consideration of this statement.

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<sup>1</sup> For information on the Liman Center, see <https://law.yale.edu/centers-workshops/arthur-liman-center-public-interest-law>.

<sup>2</sup> ANNA ARONS, KATHERINE CULVER, EMMA KAUFMAN, HOPE METCALF, MEGAN QUATTLEBAUM, JUDITH RESNIK, & JENNIFER YUN, ARTHUR LIMAN PUBLIC INTEREST PROGRAM, YALE LAW SCHOOL, DISLOCATION AND RELOCATION: WOMEN IN THE FEDERAL PRISON SYSTEM AND REPURPOSING FCI DANBURY FOR MEN (September 2014), available at [https://law.yale.edu/system/files/area/center/liman/document/Liman\\_report\\_\\_Dislocation\\_and\\_Relocation\\_Danbury\\_distribution\\_\\_updated\\_footnotes\\_\(2\)\\_12\\_2\\_\(1\).pdf](https://law.yale.edu/system/files/area/center/liman/document/Liman_report__Dislocation_and_Relocation_Danbury_distribution__updated_footnotes_(2)_12_2_(1).pdf) [hereinafter LIMAN 2014 DISLOCATION AND RELOCATION].

<sup>3</sup> ASSOCIATION OF STATE CORRECTIONAL ADMINISTRATORS & ARTHUR LIMAN PUBLIC INTEREST PROGRAM AT YALE LAW SCHOOL, ADMINISTRATIVE SEGREGATION, DEGREES OF ISOLATION, AND INCARCERATION: A NATIONAL

OVERVIEW OF STATE AND FEDERAL CORRECTIONAL POLICIES (June 2013) (co-authors include, at Yale, Judith Resnik, Hope Metcalf, Jamelia Morgan, Samuel Oliker-Friedland, Julia Spiegel, Haran Tae, Alyssa Work, and Brian Holbrook, and, at ASCA, A.T. Wall, George Camp, Wayne Choinski, and Patricia Hardyman), *available at* [https://law.yale.edu/system/files/area/center/liman/document/Liman\\_overview\\_segregation\\_June\\_25\\_2013\\_TO\\_POST\\_FINAL\(1\).pdf](https://law.yale.edu/system/files/area/center/liman/document/Liman_overview_segregation_June_25_2013_TO_POST_FINAL(1).pdf) [hereinafter ASCA LIMAN 2013 DEGREES OF ISOLATION]; ASSOCIATION OF STATE CORRECTIONAL ADMINISTRATORS & ARTHUR LIMAN PUBLIC INTEREST PROGRAM AT YALE LAW SCHOOL, TIME-IN-CELL: THE LIMAN-ASCA 2014 NATIONAL SURVEY OF ADMINISTRATIVE SEGREGATION IN PRISON (September 2015) (Co-authors include, at Yale, Sarah Baumgartel, Corey Guilmette, Johanna Kalb, Diana Li, Joshi Nuni, Devon Porter, and Judith Resnik, and, at ASCA, Camille Camp and George Camp), *available at* [https://law.yale.edu/system/files/area/center/liman/document/time\\_in\\_cell\\_2014\\_final\\_combined.pdf](https://law.yale.edu/system/files/area/center/liman/document/time_in_cell_2014_final_combined.pdf) [hereinafter ASCA-LIMAN 2015 TIME-IN-CELL]; ASSOCIATION OF STATE CORRECTIONAL ADMINISTRATORS & ARTHUR LIMAN PUBLIC INTEREST PROGRAM AT YALE LAW SCHOOL, AIMING TO REDUCE TIME-IN-CELL: REPORTS FROM CORRECTIONAL SYSTEMS ON THE NUMBERS OF PRISONERS IN RESTRICTED HOUSING AND ON THE POTENTIAL OF POLICY CHANGES TO BRING ABOUT REFORMS (November 2016) (Co-authors include, at Yale, Judith Resnik, Johanna Kalb, Anna VanCleave, Sarah Baumgartel, Kristen Bell, Olevia Boykin, Corey Guilmette, Tashiana Hudson, Diana Li, Joseph Meyers, Hava Mirell, and Jessi Purcell, and, at ASCA, George and Camille Camp), *available at* <https://law.yale.edu/system/files/area/center/liman/document/aimingtoeducetic.pdf> [hereinafter ASCA LIMAN 2016 AIMING TO REDUCE TIME-IN-CELL]; ASSOCIATION OF STATE CORRECTIONAL ADMINISTRATORS & ARTHUR LIMAN CENTER AT YALE LAW SCHOOL, REFORMING RESTRICTIVE HOUSING: THE 2018 ASCA-LIMAN NATIONWIDE SURVEY OF TIME-IN-CELL (October 2018) (Co-authors include, at Yale, Judith Resnik, Anna VanCleave, Kristen Bell, Alexandra Harrington, Greg Conyers, Catherine McCarthy, Jenny Tumas & Annie Wang, and at ASCA, Leann Bertsch, Kevin Kempf, Bob Lampert, Gary Mohr, Rick Raemisch, A.T. Wall, and Wayne Choinski), *available at* <https://law.yale.edu/centers-workshops/arthur-liman-center-public-interest-law/liman-center-publications>, [hereinafter ASCA-LIMAN 2018 REFORMING RESTRICTIVE HOUSING]; ASSOCIATION OF STATE CORRECTIONAL ADMINISTRATORS & ARTHUR LIMAN CENTER AT YALE LAW SCHOOL, WORKING TO LIMIT RESTRICTIVE HOUSING: EFFORTS IN FOUR JURISDICTIONS TO MAKE CHANGES (October 2018) (Co-authors include, at ASCA, Henry Atencio, Leann Bertsch, Gary Mohr, Rick Raemisch, Keith Yorby, and at Yale, Kristen Bell, Greg Conyers, Alexandra Harrington, Catherine McCarthy, Judith Resnik, Jenny Tumas, Anna VanCleave, Annie Wang), *available at* [https://law.yale.edu/system/files/area/center/liman/document/asca\\_liman\\_2018\\_restrictive\\_housing\\_efforts\\_in\\_four\\_jurisdictions\\_to\\_make\\_changes.pdf](https://law.yale.edu/system/files/area/center/liman/document/asca_liman_2018_restrictive_housing_efforts_in_four_jurisdictions_to_make_changes.pdf) [hereinafter ASCA LIMAN 2018 WORKING TO LIMIT RESTRICTIVE HOUSING]; ARTHUR LIMAN PROGRAM, YALE LAW SCHOOL, ISOLATION AND REINTEGRATION: PUNISHMENT CIRCA 2014 (Judith Resnik, Hope Metcalf, & Megan Quattlebaum, eds.) (2014), *available at* [https://law.yale.edu/system/files/area/center/liman/document/Liman\\_Colloquium\\_2014\\_Isolation\\_and\\_Reintegration\\_Punishment\\_Circa\\_2014\\_revised\\_Jan\\_8\\_2015.pdf](https://law.yale.edu/system/files/area/center/liman/document/Liman_Colloquium_2014_Isolation_and_Reintegration_Punishment_Circa_2014_revised_Jan_8_2015.pdf); Chesa Boudin, Trevor Stutz & Aaron Littman, *Prison Visitation Policies: A Fifty State Survey*, 32. *Yale L. & POL'Y REV.* 149 (2013), *available at* [https://law.yale.edu/system/files/area/center/liman/document/prison\\_visitation\\_policies.pdf](https://law.yale.edu/system/files/area/center/liman/document/prison_visitation_policies.pdf) [hereinafter Boudin, Stutz, Littman, *Prison Visitation* 2013].

<sup>4</sup> FEDERAL BUREAU OF PRISONS STATISTICS, *available at* [https://www.bop.gov/about/statistics/statistics\\_inmate\\_gender.jsp](https://www.bop.gov/about/statistics/statistics_inmate_gender.jsp) (accessed January 18, 2019).

<sup>5</sup> *Id.*

<sup>6</sup> See Oliver Roeder, *Just Facts: Actually, Orange Really is the New Black*, BRENNAN CENTER FOR JUSTICE BLOG, June 16, 2014, *available at* <http://www.brennancenter.org/blog/actually-orange-really-new-black>.

<sup>7</sup> *Id.*

<sup>8</sup> E. ANN CARSON, U.S. DEPARTMENT OF JUSTICE, BUREAU OF JUSTICE STATISTICS, PRISONERS IN 2016 (January 2018) at 13, *available at* <https://www.bjs.gov/content/pub/pdf/p16.pdf>; UNITED STATES CENSUS BUREAU, *American Fact Finder, Annual Estimates of the Resident Population by Sex, Race, and Hispanic Origin for the United States, States, and Counties: April 1, 2010 to July 1, 2017*, *available at* <https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=bkmk>.

<sup>9</sup> THE SENTENCING PROJECT, *Fact Sheet: Incarcerated Women and Girls*, *available at* <https://www.sentencingproject.org/wp-content/uploads/2016/02/Incarcerated-Women-and-Girls.pdf>.  
Liman Statement to US Commission on Civil Rights re Women in Prison revised 3 January 25 2019

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<sup>10</sup> See FEDERAL BUREAU OF PRISONS, *Our Locations*, <https://www.bop.gov/locations/>.

<sup>11</sup> *Id.*

<sup>12</sup> See, e.g., U.S. DEPARTMENT OF JUSTICE, U.S. ATTORNEY'S OFFICE, EASTERN DISTRICT OF NEW YORK, *Bureau of Prisons Lieutenant Convicted of Sexually Abusing Female Inmates at Metropolitan Detention Center in Brooklyn*, May 14, 2018, available at <https://www.justice.gov/usao-edny/pr/bureau-prisons-lieutenant-convicted-sexually-abusing-female-inmates-metropolitan>; Matthew Haag, *7 Prison Guards in Pennsylvania Charged with Sexually Abusing Inmates*, THE NEW YORK TIMES (February 16, 2018), available at <https://www.nytimes.com/2018/02/16/us/pennsylvania-prison-guards-sexual-abuse.html>; Caitlin Dickerson, *Hazing, Humiliation, Terror: Working While Female in Federal Prison*, THE NEW YORK TIMES (November 17, 2018), available at <https://www.nytimes.com/2018/11/17/us/prison-sexual-harassment-women.html>.

<sup>13</sup> See *The Female Offender, Hearing before the Subcomm. on Courts, Civil Liberties, and the Administration of Justice of the House Comm. on the Judiciary*, 96th Congress, (1979) (statement of Representative Kastenmeir).

<sup>14</sup> First Step Act of 2018, S 756, Pub. L. No. 115-391, Title IV (2018).

<sup>15</sup> *Id.* at Sec. 404.

<sup>16</sup> *Id.* at Title I, Title V, Title VI.

<sup>17</sup> 164 CONG. REC. H201 (daily ed. Dec. 20, 2018) (statement of Congresswoman Bass) available at <https://www.congress.gov/congressional-record/2018/12/20/house-section/article/H10346-4>; See also 154 CONG. REC. H84 (daily ed. May 22, 2018), available at <https://www.congress.gov/congressional-record/2018/05/22/house-section/article/H4302-2>.

<sup>18</sup> First Step Act, *supra* note 14, at Sec 301.

<sup>19</sup> *Id.* at Sec. 611.

<sup>20</sup> 164 CONG. REC. S199 (daily ed. December 18, 2018) (statement of Senator Booker), available at <https://www.congress.gov/congressional-record/2018/12/18/senate-section/article/S7753-1>.

<sup>21</sup> *Id.* at Sec. 601.

<sup>22</sup> U.S. DEPARTMENT OF JUSTICE, FEDERAL BUREAU OF PRISONS, Program Statement P5100.08, *Inmate Security Designation and Custody Classification*, September 12, 2006, available at [https://www.bop.gov/policy/progstat/5100\\_008.pdf](https://www.bop.gov/policy/progstat/5100_008.pdf).

<sup>23</sup> See, e.g., Johnna Christian, *Riding the Bus: Barriers to Prison Visitation and Family Management Strategies*, 21 J. CONTEMP. CRIM. JUST. 1, 31 (2005).

<sup>24</sup> See, e.g., Craig Haney, *The Psychological Effects of Solitary Confinement: A Systemic Critique*, 47 CRIME AND JUST. 365 (2018); Terry Kupers, *The SHU Post-Release Syndrome: A Preliminary Report*, 17 CORRECTIONAL MENTAL HEALTH REPORT 81 (2016); BRIE A. WILLIAMS, ANNA CHANGE, CYRUS AHALT, HELEN CHEN, REBECCA CONANT, C. SETH LANDEFELD, CHRISTINE RITCHIE & MICHU YUKAWA, CURRENT DIAGNOSIS & TREATMENT: GERIATRICS, 2E (2014); Brie A. Williams, *Older Prisoners and the Physical Health Effects of Solitary Confinement*, 106 AM. J. PUB. HEALTH 2126, 2126–27 (2016).

<sup>25</sup> See AMERICAN PSYCHIATRIC ASSOCIATION, *Position Statement on Segregation of Prisoners with Mental Illness* (2012), available at [http://www.dhcs.ca.gov/services/MH/Documents/2013\\_04\\_AC\\_06c\\_APA\\_ps2012\\_PrizSeg.pdf](http://www.dhcs.ca.gov/services/MH/Documents/2013_04_AC_06c_APA_ps2012_PrizSeg.pdf) (noting that “prolonged segregation of adult inmates with serious mental illness, with rare exceptions, should be avoided due to the potential for harm to such inmates”); COMMITTEE ON CAUSES AND CONSEQUENCES OF HIGH RATES OF INCARCERATION, THE GROWTH OF INCARCERATION IN THE UNITED STATES: EXPLORING CAUSES AND Liman Statement to US Commission on Civil Rights re Women in Prison revised 3 January 25 2019

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CONSEQUENCES 201 (Jeremy Travis, Bruce Western, and Steve Redburn, eds.) (2014) (concluding that isolation “can create or exacerbate serious psychological change in some inmates...” and that “long-term segregation is not an appropriate setting for seriously mentally ill inmates).

<sup>26</sup> AMERICAN CIVIL LIBERTIES UNION, *WORSE THAN SECOND-CLASS: SOLITARY CONFINEMENT OF WOMEN IN THE UNITED STATES* (April 2014), available at [https://www.aclu.org/sites/default/files/field\\_document/worse\\_than\\_second-class.pdf](https://www.aclu.org/sites/default/files/field_document/worse_than_second-class.pdf).

<sup>27</sup> *Id.*

<sup>28</sup> ASSOCIATION OF STATE CORRECTIONAL ADMINISTRATORS, [www.asca.net](http://www.asca.net) (last accessed January 23, 2019).

<sup>29</sup> ASCA LIMAN 2013 DEGREES OF ISOLATION, *supra* note 3.

<sup>30</sup> ASCA LIMAN 2015 TIME-IN-CELL, *supra* note 3; ASCA LIMAN 2016 AIMING TO REDUCE TIME-IN-CELL, *supra* note 3; ASCA LIMAN 2018 REFORMING RESTRICTIVE HOUSING, *supra* note 3.

<sup>31</sup> ASCA-LIMAN 2018 REFORMING RESTRICTIVE HOUSING, *supra* note 3, at 8.

<sup>32</sup> *Id.* at 7.

<sup>33</sup> *Id.* at 10.

<sup>34</sup> *Id.* at 4.

<sup>35</sup> *Id.* at 10.

<sup>36</sup> ZHEN ZENG, UNITED STATES DEPARTMENT OF JUSTICE, BUREAU OF JUSTICE STATISTICS, *JAIL INMATES IN 2016* (February 2018), available at <https://www.bjs.gov/content/pub/pdf/ji16.pdf>.

<sup>37</sup> *Id.*

<sup>38</sup> Two jail systems, Los Angeles and Philadelphia, responded to our 2017-2018 survey. The report includes snapshots of the restrictive housing populations in jails in those two jurisdictions. See ASCA-LIMAN 2018 WORKING TO LIMIT RESTRICTIVE HOUSING, *supra* note 3, at 56.

<sup>39</sup> ASCA LIMAN 2016 AIMING TO REDUCE TIME-IN-CELL, *supra* note 3, at 33.

<sup>40</sup> ASCA LIMAN 2018 REFORMING RESTRICTIVE HOUSING, *supra* note 3, at 20-21.

<sup>41</sup> *Id.* at 20.

<sup>42</sup> *Id.*

<sup>43</sup> *Id.* at 21.

<sup>44</sup> *Id.* at 22.

<sup>45</sup> *Id.* at 31.

<sup>46</sup> *Id.* at 23.

<sup>47</sup> AMERICAN CORRECTIONAL ASSOCIATION, *RESTRICTIVE HOUSING PERFORMANCE BASED STANDARDS AUGUST 2016*, available at <https://www.asca.net/pdfdocs/8.pdf> [hereinafter ACA 2016 RESTRICTIVE HOUSING STANDARDS].

<sup>48</sup> *Id.* ACA Standard 4-RH-0033, at 38

Limán Statement to US Commission on Civil Rights re Women in Prison revised 3 January 25 2019

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<sup>49</sup> ASCA LIMAN 2018 REFORMING RESTRICTIVE HOUSING, *supra* note 3, at 55.

<sup>50</sup> *Id.* See also ACA Standard 4-RH-0035, at 40. The National Standards under the Prison Rape Elimination Act (PREA) also call for careful attention to the needs and safety of transgender individuals, defined as “a person whose gender identity (i.e., internal sense of feeling male or female) is different from the person’s assigned sex at birth.” NATIONAL STANDARDS TO PREVENT, DETECT, AND RESPOND TO PRISON RAPE UNDER THE PRISON RAPE ELIMINATION ACT (PREA) 28 C.F.R. § 115.5 (2012); *see generally* 28 C.F.R. §§ 115.15, 115.31, 115.41, 115.42, 115.86.

<sup>51</sup> ASCA LIMAN 2016 AIMING TO REDUCE TIME-IN-CELL, *supra* note 3, at 55.

<sup>52</sup> ASCA LIMAN 2018 REFORMING RESTRICTIVE HOUSING, *supra* note 3, at 55.

<sup>53</sup> *Id.* at 67; ASCA LIMAN 2018 WORKING TO LIMIT RESTRICTIVE HOUSING, *supra* note 3, at 3.

<sup>54</sup> ASCA LIMAN 2018 REFORMING RESTRICTIVE HOUSING, *supra* note 3, at 68; ASCA LIMAN 2018 WORKING TO LIMIT RESTRICTIVE HOUSING, *supra* note 3, at 4.

<sup>55</sup> ASCA LIMAN 2018 REFORMING RESTRICTIVE HOUSING, *supra* note 3, at 72-73; ASCA LIMAN 2018 WORKING TO LIMIT RESTRICTIVE HOUSING, *supra* note 3, at 8-9.

<sup>56</sup> United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules), U.N. ESC Committee on Crime Prevention and Criminal Justice, 24<sup>th</sup> Sess., U.N. Doc. E/CN.15/2015/L.6/Rev.1 (May 22, 2015), *available at* [https://www.unodc.org/documents/justice-and-prison-reform/GA-RESOLUTION/E\\_ebook.pdf](https://www.unodc.org/documents/justice-and-prison-reform/GA-RESOLUTION/E_ebook.pdf). Rule 43 prohibits “prolonged solitary confinement,” defined as “solitary confinement for a period in excess of 15 consecutive days. Rule 45 provides that solitary confinement “shall be used only in exceptional cases as a last resort, for as short a time as possible and subject to independent review, and only pursuant to the authorization by a competent authority. It shall not be imposed by virtue of a prisoner’s sentence.” *See also* CRIMES AND OFFENSES, 2018 Mass. Legis. Serv. Ch. 69 (S.B. 2371) (eliminating the use of restrictive housing to protect individuals beyond 72 hours, with certain exceptions; requiring placement reviews of decisions to put people in isolation; establishing a restrictive housing oversight committee; providing access to vocational, educational, and rehabilitative programming for those held 60 days or more; barring the use of gender identity or sexual orientation as a basis for placement in segregation; and limiting the use of solitary confinement for those with “a serious mental illness”).

<sup>57</sup> LAUREN E. GLAZE & LAURA M. MARUSCHAK, BUREAU OF JUSTICE STATISTICS, SPECIAL REPORT, PARENTS IN PRISON AND THEIR MINOR CHILDREN (March 2010) *available at* <https://www.bjs.gov/content/pub/pdf/pptmc.pdf> [hereinafter BJS Special Report Parents in Prison].

<sup>58</sup> *Id.* at 18.

<sup>59</sup> WOMEN & JUSTICE PROJECT, *Incarcerated Mothers & Their Children* (2018), Appendix 2.

<sup>60</sup> The Honorable Jack C. Coughenour, *Separate and Unequal: Women in the Federal Criminal Justice System*, 8 FED. SENTENCING REP. 142 (1995) (summary based on materials collected by the Ninth Circuit Gender Bias Task Force, which Judge Coughenour chaired). *See* John C. Coughenour, Proctor Hug, Jr., Marilyn H. Patel, Terry W. Bird, Deborah R. Hensler, M. Margaret McKeown, Judith Resnik & Henry Shields, Jr., *The Effects of Gender in the Federal Courts: The Final Report of the Ninth Circuit Gender Bias Task Force*, 67 S. CAL. L. REV. 745 (1994).

<sup>61</sup> Karen Casey-Acevedo & Tim Bakken, *The Effects of Visitation on Women in Prison*, 25 INT’L J. COMP. & APPL. CRIM. JUST. 48, 49 (2001).

<sup>62</sup> *See, e.g., id.*; Nance E. Schafer, *Exploring the Link Between Visits and Parole Success: A Survey of Prison Visitors*, 38 INT’L J. OFFENDER THERAPY & COMP. CRIMINOLOGY 17 (1994); John D. Wooldredge, *Inmate Experiences and Psychological Well-Being*, 26 CRIM. J. & BEHAV. 235 (1999).

<sup>63</sup> See, e.g., LOIS M. DAVIS, ROBERT BOZICK, JENNIFER L. STEELE, JESSICA SAUNDERS & JEREMY N.V. MILES, *EVALUATING THE EFFECTIVENESS OF CORRECTIONAL EDUCATION: A META-ANALYSIS OF PROGRAMS THAT PROVIDE EDUCATION TO INCARCERATED ADULTS* (2013) at xvi, available at [https://www.rand.org/pubs/research\\_reports/RR266.html](https://www.rand.org/pubs/research_reports/RR266.html); see also William D. Bales & Daniel P. Mears, *Inmate Ties and the Transition to Society*, 45 J. RES. CRIME & DELINQUENCY 287 (2008); Mark T. Berg & Beth M. Huebner, *Reentry and the Ties that Bind: An Examination of Social Ties, Employment, and Recidivism*, 28 JUST. Q. 382 (2010).

<sup>64</sup> CHRISTY A VISHER, VERA KACHNOWSKI, NANCY LA VIGNE & JEREMY TRAVIS, URBAN INSTITUTE, BALTIMORE PRISONERS' EXPERIENCES RETURNING HOME (March 2004) at 2, available at [http://www.urban.org/UploadedPDF/310946\\_BaltimorePrisoners.pdf](http://www.urban.org/UploadedPDF/310946_BaltimorePrisoners.pdf).

<sup>65</sup> U.S. DEPARTMENT OF JUSTICE, *Giving a Boost to Kids of Incarcerated Parents*, THE JUSTICE BLOG (JUNE 12, 2013), available at <http://blogs.justice.gov/main/archives/2950> (last visited Nov. 5, 2013).

<sup>66</sup> *Id.*

<sup>67</sup> *Id.*

<sup>68</sup> U.S. DEPARTMENT OF JUSTICE, *Deputy Attorney General Sally Q. Yates Announces Family-Friendly Prison Policies to Strengthen Inmate-Familial Bonds*, April 2016, available at <https://www.justice.gov/opa/pr/deputy-attorney-general-sally-q-yates-announces-family-friendly-prison-policies-strengthen>.

<sup>69</sup> U.S. DEPARTMENT OF JUSTICE, BUREAU OF PRISONS, FEMALE OFFENDER MANUAL (November 2016), available at <https://www.bop.gov/policy/progstat/5200.02.pdf> [hereinafter BOP FEMALE OFFENDER MANUAL 2016].

<sup>70</sup> U.S. DEPARTMENT OF JUSTICE, OFFICE OF THE INSPECTOR GENERAL, *REVIEW OF THE FEDERAL BUREAU OF PRISONS' MANAGEMENT OF ITS FEMALE INMATE POPULATION* (September 2018) at 16, available at <https://oig.justice.gov/reports/2018/e1805.pdf> at 16 [hereinafter OIG REVIEW OF MANAGEMENT OF FEMALE POPULATION 2018].

<sup>71</sup> *Id.* at 18.

<sup>72</sup> U.S. DEPARTMENT OF JUSTICE, OFFICE OF THE INSPECTOR GENERAL, *DOJ OIG Releases Report on the Federal Bureau of Prisons' Management of Its Female Inmate Population*, September 18, 2018, available at <https://oig.justice.gov/press/2018/2018-09-18a.pdf>.

<sup>73</sup> LIMAN 2014 DISLOCATION AND RELOCATION, *supra* note 2, at 1-2.

<sup>74</sup> See *Id.*; Nancy Gertner & Judith Resnik, *Keep female prisoners close to family*, THE BOSTON GLOBE, September 3, 2013, available at <https://www.bostonglobe.com/opinion/2013/09/03/keep-female-prisoners-close-family/eQf4dCawmOGmQ41Ap53GxL/story.html>; Letter from Senators Murphy, Gillibrand, Blumenthal, Leahy, Schumer, Shaheen, Casey, Sanders, King, Warren, and Markey to Hon. Charles E. Samuels, Jr., Director, Federal Bureau of Prisons (August 2, 2013); Letter from Chief Judges of federal district courts in the Northeast and the Northeast corridor to Hon. Eric H. Holder, Jr., Attorney General of the United States (October 2013).

<sup>75</sup> LIMAN 2014 DISLOCATION AND RELOCATION, *supra* note 2.

<sup>76</sup> See Letter from Charles E. Samuels, Jr., Director, Federal Bureau of Prisons, to Hon. Christopher Murphy, U.S. Senator (Sept. 27, 2013) at 6. The BOP defines the "Northeast Region" to include ten states: Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, and Vermont.

<sup>77</sup> *Id.* (noting various data concerning residences of Danbury prisoners).

<sup>78</sup> FEDERAL BUREAU OF PRISONS, *FCI Danbury Holds Staff Recognition Event*, April 13, 2018, available at [https://www.bop.gov/resources/news/20180413\\_danbury\\_recognition\\_event\\_dedication.jsp](https://www.bop.gov/resources/news/20180413_danbury_recognition_event_dedication.jsp).

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<sup>79</sup> FEDERAL BUREAU OF PRISONS, *FCI Danbury*, available at <https://www.bop.gov/locations/institutions/dan/> (accessed January 23, 2019).

<sup>80</sup> *Id.*

<sup>81</sup> FEDERAL BUREAU OF PRISONS, *FCI Aliceville*, available at <https://www.bop.gov/locations/institutions/ali/> (accessed January 23, 2019).

<sup>82</sup> *Id.*

<sup>83</sup> Eli Hager, *What the Government Shutdown Looks Like Inside Federal Prisons*, THE MARSHALL PROJECT, Jan. 7, 2019, available at <https://www.themarshallproject.org/2019/01/07/what-the-government-shutdown-looks-like-inside-federal-prisons>.

<sup>84</sup> Boudin, Stutz, Littman, *Prison Visitation 2013*, *supra* note 3.

<sup>85</sup> See, e.g., ALAN J. BECK & MARCUS BERZOFSKY, BUREAU OF JUSTICE STATISTICS, *SEXUAL VICTIMIZATION IN PRISONS AND JAILS REPORTED BY INMATES 2011-12* 17 (May 2013).

<sup>86</sup> See BUREAU OF JUSTICE STATISTICS, *INDICATORS OF MENTAL HEALTH PROBLEMS REPORTED BY PRISONERS AND JAIL INMATES, 2011-12* (June 2017), available at <https://www.bjs.gov/content/pub/pdf/imhprj1112.pdf>.

<sup>87</sup> ASCA LIMAN 2018 REFORMING RESTRICTIVE HOUSING, *supra* note 3, at 48-9. Note that because of the variation in scope and detail among jurisdictions' definitions of serious mental illness, a person could be classified as seriously mentally ill in one jurisdiction but not another. The 2018 report, therefore, neither aggregated nor scaled the data on serious mental illness.

<sup>88</sup> LOIS M. DAVIS, JENNIFER L. STEELE, ROBERT BOZICK, MALCOLM V. WILLIAMS, SUSAN TURNER, JEREMY N. V. MILES, JESSICA SAUNDERS & PAUL S. STEINBERG, RAND CORPORATION, *HOW EFFECTIVE IS CORRECTIONAL EDUCATION, AND WHERE DO WE GO FROM HERE? THE RESULTS OF A COMPREHENSIVE EVALUATION* (2014), available at [https://www.rand.org/pubs/research\\_reports/RR564.html](https://www.rand.org/pubs/research_reports/RR564.html).

<sup>89</sup> See Adam Harris, *Women in Prison Take Home Economics, While Men Take Carpentry*, THE ATLANTIC, April 2018, available at <https://www.theatlantic.com/education/archive/2018/04/the-continuing-disparity-in-womens-prison-education/559274/>.

<sup>90</sup> BARBARA BLOOM, BARBARA OWEN STEPHANIE COVINGTON & MYRNA RAEDER, U.S. DEPARTMENT OF JUSTICE NATIONAL INSTITUTE OF CORRECTIONS, *GENDER-RESPONSIVE STRATEGIES RESEARCH, PRACTICE, AND GUIDING PRINCIPLES FOR WOMEN OFFENDERS* (June 2003), at 8, available at <https://s3.amazonaws.com/static.nicic.gov/Library/018017.pdf>.

<sup>91</sup> See Tamar Lerer, *Hawai'i Girls & Court: Juveniles, Gender, and Justice*, 18 BERKELEY J. CRIM. L. 1 (Spring 2013).

<sup>92</sup> See Stacy L. Mallicoat, *The Incarceration of Women*, in *WOMEN AND CRIME: A TEXT/READER* 465 (1st ed., 2011), available at [http://www.sagepub.com/upm-data/44337\\_10\\_\(final\).pdf](http://www.sagepub.com/upm-data/44337_10_(final).pdf); CORRECTIONAL ASSOCIATION OF NEW YORK, *BEDFORD HILLS CORRECTIONAL FACILITY* 8 (May 2006), available at [http://www.correctionalassociation.org/wp-content/uploads/2012/05/bedford\\_2005.pdf](http://www.correctionalassociation.org/wp-content/uploads/2012/05/bedford_2005.pdf).

<sup>93</sup> BOP FEMALE OFFENDER MANUAL 2016, *supra* note 69.

<sup>94</sup> OIG REVIEW OF MANAGEMENT OF FEMALE POPULATION 2018, *supra* note 70, at 12.

## **Appendix 1: Past Congressional Oversight on Women in Prison**

This overview provides a sampling of congressional involvement in issues related to women in prison. Our research identified four congressional hearings in the last forty years specifically focused on incarcerated women. Two of those hearings focused on female prisoners from Washington, D.C. In addition to hearings on women in prison, Congress has focused on sexual assaults, pregnant women, and, since the enactment of PREA, has held oversight hearings.

### **Hearings on Incarcerated Women**

On October 10 and 11, 1979, the House Subcommittee on Courts, Civil Liberties and the Administration of Justice held hearings entitled, “The Female Offender.” In his introductory remarks, Representative Robert W. Kastenmeier described the hearings as the first to focus on the problems and needs of women in the federal prison system, and to monitor the work and recommendations of the BOP’s then-existing task force on female offenders.<sup>1</sup> Testifying were the Director of the BOP, wardens of some federal facilities that housed female inmates, academics, and three women who were then incarcerated in federal facilities.

On May 6, 1982, the House Subcommittee on Judiciary and Education of the Committee on the District of Columbia held a hearing entitled “D.C. Female Offenders in the Federal Prison System.” As Representative Mervyn M. Dymally noted in his opening remarks, the hearing focused on women who were convicted of felonies in D.C., yet incarcerated at FCI Alderson, far from their homes and families.<sup>2</sup> Those testifying included the Director of the BOP, the ACLU’s National Prison Project, a social science analyst from the U.S. Department of Labor, and an academic focused on criminal justice who had written her dissertation on FCI Alderson.

On June 29, 1993, the Senate Judiciary Committee held a hearing entitled “Women in Prison: Programs and Alternatives.” According to Senator Paul Simon, the hearing was convened to consider whether “our correctional systems responded adequately to the needs of . . . women prisoners.”<sup>3</sup> Witnesses included the president of the American Correctional Health Services Association, the Hon. Gladys Kessler, then of the D.C. Superior Court, Brenda Smith, then-senior counsel at the National Women’s Law Center, and a former inmate from the Bedford Hills correctional facility in New York.

On July 27, 2010, the House Subcommittee on Federal Workforce, Postal Service, and D.C. and the Committee on Oversight and Government Reform held a hearing, “Female D.C. Code Felons: Unique Challenges in Prison and at Home.” The focus was reentry and community reintegration; Rep. Stephen F. Lynch noted that BOP housed female felons from D.C. in facilities in nine states and the District of Columbia (the majority in Connecticut, Pennsylvania, and West Virginia), raising the questions of how best to help them stay “connected to their families and community resources.”<sup>4</sup> Witnesses included the Director of the BOP, two former female offenders, and Nancy LeVigne of the Urban Institute.

### **Hearings on the Prison Rape Elimination Act**

We provide below information on two congressional hearings exploring the implementation of the 2003 Prison Rape Elimination Act.

On July 8, 2009, the House Subcommittee on Crime, Terrorism, and Homeland Security held a hearing entitled, “National Prison Rape Elimination Commission Report and Standards.” The aim of the hearing was to discuss the findings of the National Prison Rape Elimination Commission’s final report, released in June 2009, and its proposed standards for preventing, detecting, and monitoring sexual abuse in prisons.<sup>5</sup> Among those testifying were the Chairman of the National Prison Rape Elimination Commission, the Director of the South Carolina Department of Corrections, and a representative from Just Detention International.

On February 23, 2010, the same subcommittee held a hearing entitled, “Keeping Youth Safe While in Custody: Sexual Assault in Adult and Juvenile Facilities.” The hearing focused on the particular vulnerability of incarcerated youth, who research shows are at a greater risk of being sexually abused in prisons and jails.<sup>6</sup>

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In addition to these hearings, several research reports by federal government offices have focused on women in the federal prison system.

In 1980, the General Accounting Office produced a report entitled *Women in Prison: Inequitable Treatment Requires Action*.<sup>7</sup> GAO found that women “in correctional institutions do not have access to the same types of facilities, job training, jobs in prison industries, and other services as men prisoners.”<sup>8</sup>

In 1999, GAO produced a report entitled *Women in Prison: Sexual Misconduct by Correctional Staff*.<sup>9</sup> The GAO found that the BOP received 236 allegations of staff-on-inmate sexual misconduct between 1995 and 1998, 22 of which were sustained, and it recommended that the Director of the BOP develop systems and procedures for monitoring, analyzing, and reporting allegations of such misconduct.

In the same year, GAO issued *Women in Prison: Transition of District of Columbia Female Felons to the Federal Bureau of Prisons*.<sup>10</sup> As the title reflects, this report was focused on women from D.C., and it described a transition then occurring whereby D.C. felons were moved out of the custody of the D.C. Department of Corrections and into the custody of the BOP. Women with felony convictions were transferred to FCI Danbury, in Connecticut.

Also in 1999, GAO released a report entitled *Women in Prison: Issues and Challenges Confronting U.S. Correctional Systems*.<sup>11</sup> The GAO recommended that facilities for women make improvements in a variety of areas, including classification, education and job training, parenting, and health care.

In 2000 and 2004 respectively, the Congressional Research Service released reports entitled *Women in Prison*. These reports provided a snapshot of the female inmate population in state and federal prisons and offered a summary of congressional action on behalf of women prisoners, which included numerous bills relating to inmates’ reproductive rights.<sup>12</sup>

From 1992 to 1999 the Bureau of Justice Statistics released three reports on the numbers of incarcerated women. In 1992 a report focused on *Women in Jail*.<sup>13</sup> In 1993 a report focused on

Women in Prison.<sup>14</sup> In 1999 the BJS released a report on “Women Offenders.”<sup>15</sup> The BJS “Prisoners” and “Jail Inmates” series also contain some data by gender.<sup>16</sup>

In 2010 the Bureau of Justice Statistics produced a Special Report, *Parents in Prison and their Minor Children*. The document outlines the numbers of state and federal prisoners with minor children and details the data by a number of different demographics.<sup>17</sup>

In 2018, the United States Department of Justice Office of the Inspector General issued a report on BOP’s management of female prisoners. The report, *Review of the Federal Bureau of Prisons’ Management of Its Female Inmate Population*, outlined several problems with BOP’s oversight of its female population and provided ten recommendations to improve staff training, care, and resources for women in federal prison. BOP agreed to all of the recommendations.<sup>18</sup>

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<sup>1</sup> *The Female Offender, Hearing before the Subcomm. on Courts, Civil Liberties, and the Administration of Justice of the House Comm. on the Judiciary, 96th Congress (1979)* (statement of Representative Robert Kastenmeir).

<sup>2</sup> *D.C. Female Offenders in the Federal Prison System, Hearing before the Subcomm on the Judiciary and Education of the House Comm on the District of Columbia, 97th Congress (1982)* (statement of Representative Mervyn M. Dymally, Chairman).

<sup>3</sup> *Women in Prison: Programs and Alternatives, Hearing before the Senate Judiciary Comm. 103rd Congress (1993)* (statement of Sen. Paul Simon).

<sup>4</sup> *Female D.C. Code Felons: Unique Challenges in Prison and at Home, Hearing Before the House Subcomm. on Federal Workforce, Postal Service, and D.C. and Comm. On Oversight and Government Reform, 111th Congress (2010)* (statement of Representative Stephen F. Lynch, Chairman).

<sup>5</sup> *National Prison Rape Elimination Commission Report and Standards, Hearing before the House Subcomm. on Crime, Terrorism, and Homeland Security, 111th Congress (2009)* (statement of Representative Robert C. Scott, Chairman).

<sup>6</sup> *Keeping Youth Safe While in Custody: Sexual Assault in Adult and Juvenile Facilities, Hearing before the House Subcomm. On Crime Terrorism and Homeland Security, 111<sup>th</sup> Congress (2010)*.

<sup>7</sup> U.S. GENERAL ACCOUNTING OFFICE, WOMEN IN PRISON: INEQUITABLE TREATMENT REQUIRES ACTION (December 1980), available at <http://www.gao.gov/assets/140/131280.pdf>.

<sup>8</sup> *Id.* at i.

<sup>9</sup> U.S. GENERAL ACCOUNTING OFFICE, WOMEN IN PRISON: SEXUAL MISCONDUCT BY CORRECTIONAL STAFF (June 1999), available at <http://www.gao.gov/archive/1999/gg99104.pdf>.

<sup>10</sup> U.S. GENERAL ACCOUNTING OFFICE, WOMEN IN PRISON: TRANSITION OF DISTRICT OF COLUMBIA FEMALE FELONS TO THE FEDERAL BUREAU OF PRISONS (July 1999), available at <http://www.gao.gov/assets/90/88966.pdf>.

<sup>11</sup> U.S. GENERAL ACCOUNTING OFFICE, WOMEN IN PRISON: ISSUES AND CHALLENGES CONFRONTING U.S. CORRECTIONAL SYSTEMS (Dec. 1999), available at <http://www.gao.gov/assets/230/228630.pdf>.

<sup>12</sup> JOANNE O’BRYANT, CONGRESSIONAL RESEARCH SERVICE, WOMEN IN PRISON (Nov. 30, 2004); JOANNE O’BRYANT, CONGRESSIONAL RESEARCH SERVICE, WOMEN IN PRISON (Nov. 20, 2000).

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<sup>13</sup> TRACY L. SNELL, U.S. DEPARTMENT OF JUSTICE, BUREAU OF JUSTICE STATISTICS, WOMEN IN JAIL 1989 (March 1992), *available at* <https://www.bjs.gov/content/pub/pdf/wj89.pdf>.

<sup>14</sup> TRACY L. SNELL, U.S. DEPARTMENT OF JUSTICE, BUREAU OF JUSTICE STATISTICS, WOMEN IN PRISON (March 1994), *available at* <https://www.bjs.gov/content/pub/pdf/WOPRIS.PDF>

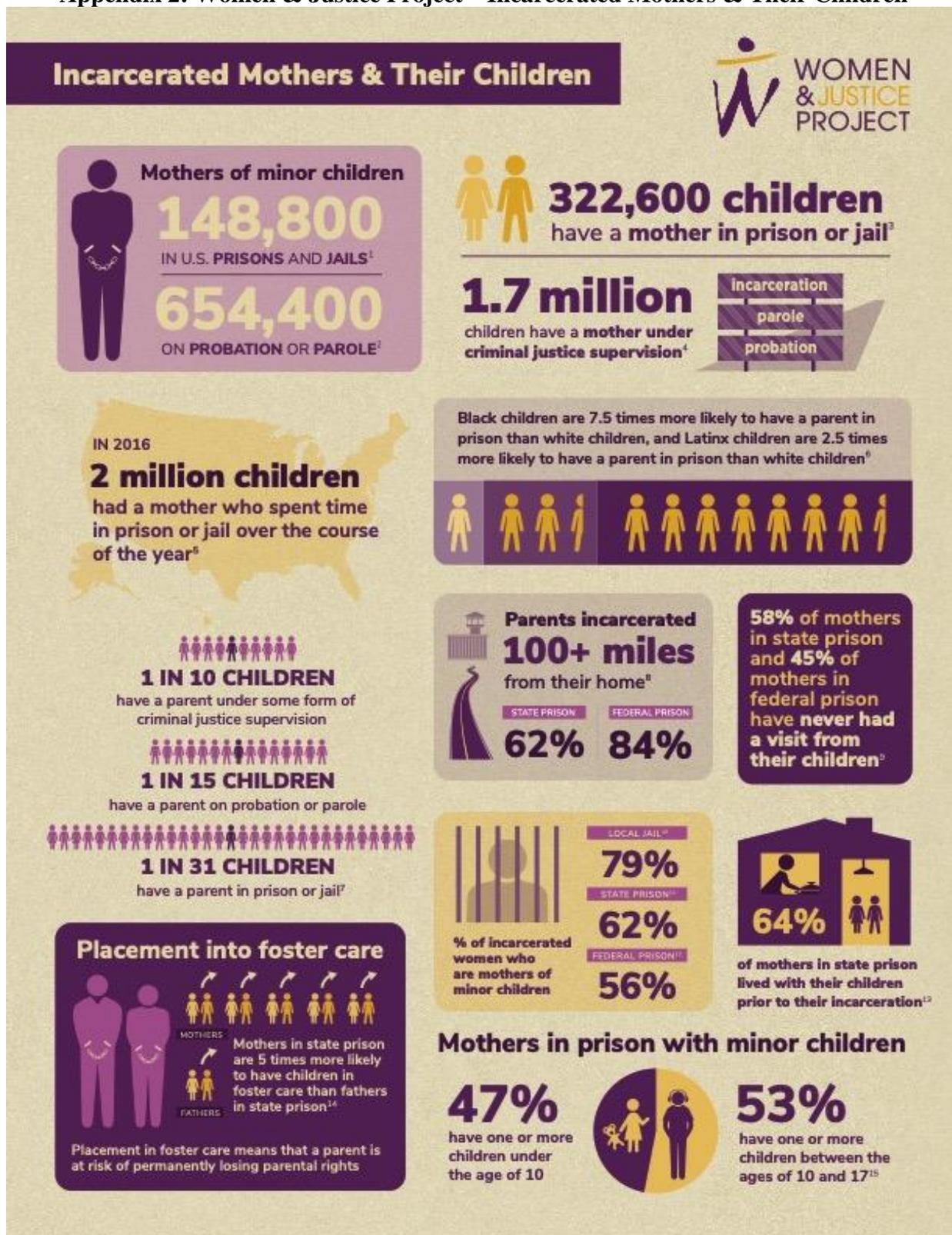
<sup>15</sup> LAWRENCE A. GREENFELD & TRACY L. SNELL, U.S. DEPARTMENT OF JUSTICE, BUREAU OF JUSTICE STATISTICS, WOMEN OFFENDERS (December 1999), *available at* <https://www.bjs.gov/content/pub/pdf/wo.pdf>.

<sup>16</sup> *See, e.g.*, E. ANN CARSON, U.S. DEPARTMENT OF JUSTICE, BUREAU OF JUSTICE STATISTICS, PRISONERS IN 2016 (January 2018), *available at* <https://www.bjs.gov/content/pub/pdf/p16.pdf>; ZHEN ZENG, UNITED STATES DEPARTMENT OF JUSTICE, BUREAU OF JUSTICE STATISTICS, JAIL INMATES IN 2016 (February 2018), *available at* <https://www.bjs.gov/content/pub/pdf/ji16.pdf>.

<sup>17</sup> LAUREN E. GLAZE & LAURA M. MARUSCHAK, BUREAU OF JUSTICE STATISTICS, SPECIAL REPORT, PARENTS IN PRISON AND THEIR MINOR CHILDREN (March 2010), *available at* <https://www.bjs.gov/content/pub/pdf/pptmc.pdf>

<sup>18</sup> U.S. DEPARTMENT OF JUSTICE, OFFICE OF THE INSPECTOR GENERAL, REVIEW OF THE FEDERAL BUREAU OF PRISONS' MANAGEMENT OF ITS FEMALE INMATE POPULATION (September 2018), *available at* <https://oig.justice.gov/reports/2018/e1805.pdf> at 16.

Appendix 2: Women & Justice Project – Incarcerated Mothers & Their Children





## Incarcerated Mothers & Their Children

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womenandjusticeproject.org

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- <sup>2</sup> WJP's calculations are based on the following data sources:  
 Glaze, L.E. & Maruschak, L.M. (2010). Parents in Prison and Their Minor Children. Washington, D.C.: Bureau of Justice Statistics. Retrieved from: <http://www.bjs.gov/content/pub/pdf/pptmc.pdf>  
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- <sup>3</sup> WJP's calculations are based on the following data sources:  
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- <sup>4</sup> 1,742,700. WJP's calculations are based on the following data sources:  
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- <sup>5</sup> 2,024,100. WJP's calculations are based on the following data sources:  
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**Appendix 3**  
**Letters to BOP Director Samuels from Northeastern Senators and Federal Judges**  
**Regarding Conversion of FCI Danbury from a Female Facility to a Male Facility**



August 2, 2013

The Honorable Charles E. Samuels, Jr.  
 Director  
 Federal Bureau of Prisons  
 320 First Street, NW  
 Washington, DC 20534

Dear Director Samuels:

We are concerned with the recently announced mission change of the Federal Bureau of Prisons (BOP) to transfer more than a thousand female inmates from the Federal Correctional Institute in Danbury, Connecticut to a new facility in Aliceville, Alabama beginning this month. This plan will permanently convert over 1100 female beds to male, which will mean there are no longer any federal prison beds for women in the Northeast region of the United States. This transfer would dramatically disrupt the lives of these female inmates, many of whom are from the Northeast, and place them out of reach of their families and loved ones.

According to a New York Times editorial from June 23, 2012, this transfer was justified by your office because facilities for women were 55 percent over capacity. While we are aware that the Aliceville facility was always intended to be a women's facility, it has come to our attention that the competing priority of creating additional space for lower security *male inmates* is in fact the impetus for transferring the majority of Danbury's female inmates to Alabama. We are troubled by that justification and would like additional information to better understand why the Danbury facility has been selected for this change.

Research shows that being housed far from home without the support of family harms inmates while they are incarcerated and makes their reentry into society more difficult. According to the National Women's Law Center, more than half of female inmates have children under the age of 18. We were pleased to see the efforts of the BOP and the Department of Justice to encourage inmates to stay connected to their families, especially their children, through the new Children of Incarcerated Parents program launched in June. A memo you distributed to all federal inmates on June 19 reinforced that message and encouraged inmates to have visits with their children because "there is no substitute for seeing your children, looking them in the eye, and letting them know you care about them." The decision to shift the female inmates from Danbury to Aliceville and eliminate all female prison beds in the Northeast seems to contradict the spirit and undermine the impact of this commitment.

We understand that the small percentage of women inmates in the federal system means that many women will be incarcerated very far from home. Given BOP's commitment to maintaining family contact, the goal should be to have as many inmates as close as possible to their home. The Federal Corrections Institute at Danbury is uniquely well-situated to do just that. It is located along a densely populated urban corridor and a significant number of the inmates are from the surrounding states. Danbury is only 60 miles from Hartford, 70 miles from New York City, and 150 miles from Boston. It is easily accessible by public transportation, train, and car. In contrast, Aliceville is over 1000 miles away from each of these cities. It has no airport, train or other forms of long-distance public transportation. Cab rides from airports, as well as the need for overnight housing and the extensive travel time required to get to Aliceville, make visits impossible for many families.

The Honorable Charles E. Samuels, Jr.  
 August 2, 2013  
 Page 2 of 3

We respectfully request answers to the below questions so that we can understand the rationale behind this dramatic change in the mission of the Danbury facility and the impact it will have on women and families from our states.

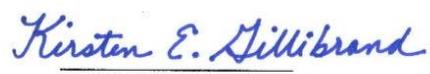
- Given the unique proximity of the Danbury facility to major Northeastern cities, why was it selected to be converted into a facility for men? And what facilities in the Northeast will be available for women currently at the security level housed at Danbury?
- What are the home residences for the women currently housed at Danbury, broken down by city and state?
- What percentage of the female inmates at Danbury have children under the age of 18?
- Why was the Danbury facility selected to be converted into a facility for men, given that Aliceville was explained as needed to respond to overcrowding of women's prisons?
- How much will it cost to "convert" Danbury to a men's facility? What different kinds of programs, activities, and facilities will be provided? What will happen to the current equipment or other items used by women?
- Since some BOP policies suggest that family visits are one factor included when inmates are considered for transfer to less secure facilities, what role will visitation history play in the transfer of inmates from Danbury to Aliceville?
- Given the 1997 BOP program statement on meeting the needs of women prisoners, and the June 19, 2013 memo committing resources and support to parenting and to "helping you prepare to reenter society," what steps is the BOP taking to ensure women inmates transferred from Danbury to Aliceville continue to have contact with their families and are prepared for reentry, including the following:
  - Cost of communication (e.g., phone calls, packages)?
  - Cost of transportation to Aliceville?
  - Access to lawyers from their home districts to support keeping custody of children, dealing with migration issues, or questions on convictions and sentencing?
  - Access to education and reentry programs?
  - Access to work opportunities?
  - Access to residential drug and alcohol treatment programs similar to the ones currently offered at Danbury?
- What will be the total cost of transferring female inmates to Aliceville from Danbury and moving male inmates into Danbury?
- What information did you provide to Congress and when regarding this transfer project?

The Honorable Charles E. Samuels, Jr.  
August 2, 2013  
Page 3 of 3

Until these questions are answered, we request that the Bureau of Prisons suspend its plan to transfer the women inmates from Danbury to Aliceville. These are important concerns that should be properly addressed before any plan is pursued. We look forward to your prompt response.

Sincerely,

  
CHRISTOPHER MURPHY  
United States Senator

  
KIRSTEN E. GILLIBRAND  
United States Senator

  
RICHARD BLUMENTHAL  
United States Senator

  
PATRICK LEAHY  
United States Senator

  
CHARLES E. SCHUMER  
United States Senator

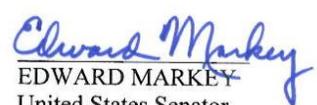
  
JEANNE SHAHEEN  
United States Senator

  
ROBERT P. CASEY, JR.  
United States Senator

  
BERNARD SANDERS  
United States Senator

  
ANGUS S. KING, JR.  
United States Senator

  
ELIZABETH WARREN  
United States Senator

  
EDWARD MARKEY  
United States Senator

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK  
500 PEARL STREET  
NEW YORK, NEW YORK 10007-1312

LORETTA A. PRESKA  
CHIEF JUDGE

212-805-0240  
FAX 805-7941

The Honorable Eric H. Holder, Jr.  
Attorney General of the United States  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001

Re: FCI Danbury, Connecticut

Dear Attorney General Holder,

As the Chief Judges of the federal district courts in the Northeast and the Northeast corridor, we write to express our deep concern with the plan to convert FCI Danbury, the only federal correctional facility in the Northeast that houses women, to a predominantly male facility. It is our understanding that the result of the planned Danbury mission change would be that almost no women federal prisoners would be housed in the Northeast and that many of them would be moved to a remote facility in Aliceville, Alabama. On behalf of the judges who are tasked with sentencing these women to federal prison, we urge you to reconsider.

FCI Danbury currently houses approximately 1200 female inmates, most of whom were sentenced by judges from our courts. By virtue of its close proximity to New York, Boston, Hartford, Providence, Newark, and Springfield, and the availability of plentiful public transportation throughout the region, Danbury is readily accessible to the family and friends of those from our districts who are incarcerated there.

As judges responsible for sentencing and supervising criminal defendants, we well know that this accessibility has important ramifications for these inmates -- during their incarceration and afterwards. First, research indicates that offenders who have regular visitation are less likely to have disciplinary problems during incarceration. They are also less likely to recidivate. Indeed, the Bureau of Prisons ("BOP") recognizes this when it includes "family and community ties" in its risk classification system. In particular, BOP gives inmates points for family ties when determining what level of security placement is appropriate for a particular inmate. And receiving visits is considered in deciding whether an inmate is qualified to transfer to a less secure facility.

Second, a substantial majority of women in federal prison have young children. According to information recently provided by BOP, 59% of inmates at FCI Danbury have a child under the age of 21. Ensuring that inmates can stay connected to their families is important for all prisoners, which is why we frequently recommend that the defendants we sentence be housed in facilities as close to the Northeast as possible. But given the above noted statistic, this is particularly important in the case of mothers and young children. If the planned mission

change for Danbury goes forward, our ability to recommend incarceration near family members and children for male inmates will continue, but we will have no ability to do the same for female inmates.

Third, we see regularly in our courtrooms the emotional impact that separation of mother and child has on young children. We believe that maintenance of that relationship through regular visitation is important for mother and child alike.

We understand that BOP has provided information indicating that not all of the inmates who will be impacted by the planned mission change will be transferred to Alabama. In particular, BOP has indicated that approximately 300 of them would be moved to the Secure Female Facility in Hazelton, West Virginia or the Federal Detention Center in Philadelphia, Pennsylvania. Although we are encouraged that BOP is considering all available options, and mindful of the challenges inherent in running a national prison system, we remain concerned that neither of these options will address the issues outlined above. First, although West Virginia may not be as geographically distant as Alabama, it will still be prohibitively inaccessible for many families who are currently able to make regular visits to their loved ones at Danbury. Second, FDC Philadelphia is a detention facility, which means that it has a higher security level with more restrictive conditions of confinement than the Danbury facility. As a result, the relative advantage of proximity may be counterbalanced by harsher conditions of confinement and fewer opportunities for correctional treatment. And, finally, transfers to the West Virginia and Philadelphia facilities will not address the long-term lack of housing for women inmates in the Northeast. As the judges who will sentence women defendants in the future, we are concerned about the ability of future inmates to maintain these critical ties with children and family.

For all these reasons, we respectfully request that you reconsider the decision to close the women's facility at Danbury. Like you, we remain committed to ensuring the safety and well-being of all federal prisoners and their families and we look forward to working with you in developing a long-term solution that meets the needs of women inmates in the Northeast.

Sincerely,

  
Loretta A. Preska  
Chief Judge, Southern District of New York

/s/  
Janet Hall  
Chief Judge, District of Connecticut

/s/  
Gregory Sleet  
Chief Judge, District of Delaware

/s/  
John Woodcock  
Chief Judge, District of Maine

/s/

Deborah Chasanow  
Chief Judge, District of Maryland

/s/

Joseph Laplante  
Chief Judge, District of New Hampshire

/s/

Patti B. Saris  
Chief Judge, District of Massachusetts

/s/

Jerome B. Simandle  
Chief Judge, District of New Jersey

/s/

Carol B. Amon  
Chief Judge, Eastern District of New York

York

/s/

William M. Skretny  
Chief Judge, Western District of New

/s/

Christopher C. Conner  
Chief Judge, Middle District of Pennsylvania

/s/

Mary M. Lisi  
Chief Judge, District of Rhode Island