

CONTINUING LEGAL EDUCATION

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WOMEN IN PRISON: BEFORE, DURING, AND AFTER

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Present

WOMEN IN PRISON: BEFORE, DURING, AFTER

Thursday, March 19, 2015

List of Materials

1. Reproductive Injustice:

The State of Reproductive Health Care for Women in New York State Prisons

A report of the Women in Prison Project of the Correctional Association of New York

<http://www.correctionalassociation.org/wp-content/uploads/2015/02/Reproductive-Injustice-FULL-REPORT-FINAL-2-11-15.pdf>

Too large to include in handout

2. Reproductive Injustice:

The State of Reproductive Health Care for Women in New York State Prisons

Executive Summary

3. The Nation: Article by Dani McLain:

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4. New York Times: In Labor, in Chains:

The Outrageous Shackling of Pregnant Inmates by Audrey Quinn

5. Domestic Violence Survivors Justice Act-Talking Points

6. Adoption and Safe Families Act (ASFA) Expanded Discretion Bill

7. NYS Office of Children & Family Services Mailer

8. When "Free" Means Losing Your Mother:

The Collision of Child Welfare and the Incarceration of Women in New York State

http://www.correctionalassociation.org/wp-content/uploads/2012/05/When_Free_Rpt_Feb_2006.pdf

9. A Place to Call My Own, Women and the Search for Housing After Incarceration

<http://www.correctionalassociation.org/resource/a-place-to-call-my-own-women-and-the-search-for-housing-after-incarceration>

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10. My Sister's Keeper Re-Entry Guide

11. Osborne brochures (La Fuent, Televisiting, LOL, Services) - not included

Reproductive Injustice:

**The State of Reproductive Health Care
for Women in New York State Prisons**

Executive Summary

**A report of the Women in Prison Project of the
Correctional Association of New York**

Written by Tamar Kraft-Stolar

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ABOUT THE CORRECTIONAL ASSOCIATION OF NEW YORK

The Correctional Association of New York (CA) is an independent, non-profit criminal justice advocacy organization founded by concerned citizens in 1844. In 1846, the CA was granted unique authority by the New York State Legislature to inspect prisons and to report its findings and recommendations to the legislature and public. This monitoring authority has been granted to only one other organization in the country. For 170 years, the CA has worked to create a more fair and humane criminal justice system in New York and a more safe and just society for all.

Created in 1991, the CA's Women in Prison Project (WIPP) works to reduce the overuse of incarceration for women, ensure that prison conditions for women are as humane and just as possible, and create a criminal justice system that treats all people and their families with fairness, dignity and justice. The Project's work is guided by the principle that women most impacted by incarceration should be leaders in the effort to change the harmful criminal justice policies that directly affect their lives. The Project carries out an integrated and strategic program to achieve its mission, including monitoring prison conditions for women, leading policy advocacy campaigns and coordinating the Coalition for Women Prisoners, a statewide advocacy alliance. In 2003, WIPP launched ReConnect, a leadership and advocacy training program for women recently home from incarceration. WIPP also performs research, publishes reports, and conducts community organizing, coalition building, media work and public education.

For more information, please visit

www.correctionalassociation.org
www.facebook.com/correctionalassociation
www.twitter.com/CANY_1844

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A NOTE ON REPRODUCTIVE JUSTICE

Reproductive justice is a concept that was first developed in the mid-1990s by a group of African American women leaders who understood that the reproductive rights movement's narrow focus on "choice" did not adequately speak to the lived realities and experiences of women of color and women from low-income communities. As SisterSong Women of Color Reproductive Justice Collective explains: "Reproductive Justice analyzes how the ability of any woman to determine her own reproductive destiny is linked directly to the conditions in her community – and these conditions are not just a matter of individual choice and access."

Over the years, many women of color groups have worked to articulate and advance the framework of reproductive justice. One of those groups, Forward Together, developed a powerful definition of reproductive justice: "Reproductive Justice exists when all people have the social, political and economic power and resources to make healthy decisions about our gender, bodies, sexuality and families for ourselves and our communities."

We hope that this report helps to illuminate the fundamental conflict between reproductive justice and mass incarceration. We hope it contributes to the fight for a world where women are valued, healthy, safe and able to control their own bodies, where families and communities are afforded the resources and opportunities they need to thrive, and where the basic human dignity and rights of all people are respected and upheld.

Executive Summary

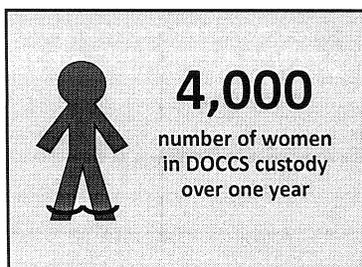
On each and every visit the Correctional Association of New York (CA) conducts to women's prisons in New York, we meet women who tell us about the serious problems they face in accessing appropriate health care and the particular challenges of securing women-specific care during their incarceration. The consistency and intensity of these concerns over the years led us to undertake this study, the most extensive study of reproductive health care in a state prison system to date.

Shining a light on this topic is critical because access to quality reproductive health care is a basic human right, as is a woman's ability to control her own reproductive decisions. Prison infringes on those rights, exposing women to substandard reproductive health care and denying women the right to choose when to have children and the right to be full-time parents to the children they already have. Prisons fuel social and racial injustice, undermining the conditions necessary for women to have reproductive autonomy, and to live safe and fulfilling lives.

Prison infringes on women's human rights to reproductive health care and reproductive decision-making

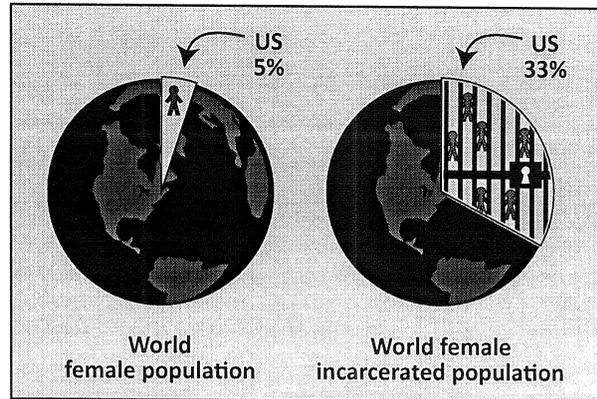
Reproductive health also serves as an important lens onto the unique experiences of incarcerated women and the dehumanization that defines life in prison. It illuminates the specific degradation that accompanies being a woman in prison, from shackling during pregnancy to the separation of mothers from their newborns to the denial of sufficient sanitary supplies.

Finally, reproductive health care in prison is fundamental to the well-being of families and communities as almost everyone in prison eventually goes home. Despite this, state prison officials do not pay adequate attention to reproductive health care and neither do public health authorities when this care happens behind prison walls. The lack of oversight is alarming considering that the New York State Department of Corrections and Community Supervision (DOCCS) is responsible for providing reproductive health care to more than 2,300 women on any given day, and to nearly 4,000 women over the course of one year, about 40 of whom are pregnant.



Women in prisons across the country face similar problems in accessing adequate reproductive health care and humane treatment, and the explosion in the number of incarcerated women over the past few decades has only exacerbated these problems. The U.S. women's prison population rose from about 11,200 in 1977 to about 111,300 in 2013, an increase of nearly 900% over a 36-year time span.

As a result, the U.S. currently incarcerates more women per capita than any other country in the world: we have less than 5% of the world's women yet nearly 33% of the world's incarcerated women.



This massive overuse of incarceration does not affect all women equally. Women in prison are overwhelmingly from low-income communities, and a vastly disproportionate number are women of color. Many have had little formal education, and many struggle with serious health conditions, including substance abuse and mental illness. Almost all have brutal histories of abuse. A majority are mothers, often of small children, and many were caring for their children on their own before prison. Most women are in prison for crimes related to addiction, poverty, mental illness, domestic violence and trauma.

These realities reflect the criminal justice system's racism and targeting of marginalized communities, and our society's destructive overreliance on incarceration as a response to problems that are, at their root, social and economic.

Below, we list our top findings on reproductive health care in DOCCS. Some findings are positive, as DOCCS is performing well in certain areas related to women's health. Overall, however, we found that reproductive health care for women in New York State prisons is woefully substandard, with women routinely facing poor-quality care and assaults on their basic human dignity and reproductive rights.

Reproductive health care for women in New York's prisons is woefully substandard

Our findings can only be fully understood in the broader context of the prison setting. By design, prisons are isolating and oppressive environments. While incarcerated women work against this environment in a variety of ways – advocating for themselves and others, fighting to maintain

relationships with children, and creating their own communities on the inside – incarceration remains a traumatizing experience. This trauma is compounded by the lack of supportive services to help women grapple with the issues that led them to prison and the challenges they face once inside, including being separated from their families. The damage the prison setting does to women's emotional well-being is profound, and women's emotional well-being is deeply connected to their physical health. Many women we spoke with talked about this connection.

Women in prison also have limited access to information and virtually no say over decisions, even basic ones like which doctor they see or whether they will see a doctor at all. Women

who stand up for themselves can be deemed troublemakers, and asking to see the doctor “too many times” or not keeping scheduled medical appointments can even result in getting a disciplinary ticket. Prison medical providers operate in an environment that promotes skepticism and mistrust of patients, and that expects loyalty to prison authorities. In one glaring example of this conflict, a DOCCS nurse caring for a pregnant woman the CA interviewed also served as the woman’s disciplinary hearing officer, and sentenced her to three months in solitary confinement.

The best solution to the problems identified in this report is to stop incarcerating women

Stereotypes of women as complaining and manipulative amplify this dynamic in women’s prisons, as does medical providers’ lack of training in women’s specific experiences and health care needs.

Below, we also list our top recommendations for reform. These reforms would address the problems identified in this study and go a long way toward protecting the health and rights of incarcerated women. Chief among these recommendations is for New York’s policymakers to continue the state’s recent trend away from prison and toward alternatives to incarceration. This recommendation is critical because the best solution to the problems outlined in this report is to keep women, especially pregnant women and women with small children, out of prison in the first place.

KEY FINDINGS

Top 10 problems related to reproductive health care

- 1) **Virtually no oversight of reproductive health care, substandard written policies, and inadequate data collection and analysis.**

DOCCS has failed to establish any systematic review of its reproductive health services and the State Department of Health plays no role in evaluating reproductive health care in prison. Many prisons could not supply even basic information about reproductive health care and outcomes. DOCCS' written reproductive health policies are not comprehensive, fail to reference community standards and deviate from those standards in key areas.

- 2) **Violations of New York's 2009 Anti-Shackling Law and routine shackling of women throughout all trimesters of pregnancy.**

DOCCS is out of compliance with New York State law that bans the shackling of incarcerated women during childbirth: 23 of 27 women the CA surveyed who gave birth after the law went into effect said they were shackled at least once in violation of the statute. While DOCCS has made progress in curtailing the use of restraints after women arrive at the hospital until they give birth, women continue to be shackled on the way to the hospital (even when they are in labor), during recovery (even within hours after giving birth and for long periods of time), and on the way back to the prison (even with waist chains just days after having a C-section). In addition, every woman the CA heard from was shackled when she went on trips outside the prison during her pregnancy. Women described their experiences with shackling as "painful," "horrible" and "degrading."

"When I came from Albion to Bedford, I was in full restraints during the 11-hour bus ride (shackles, cuffs, waist chain, black box) at 4½ months pregnant. . . . It was an awful experience I will not forget."

- 3) **Poor conditions of confinement for pregnant women, including insufficient food, problematic housing, officer mistreatment and few supportive services.**

Women universally reported that DOCCS did not give them enough food during their pregnancies. DOCCS has a special pregnancy diet, but the supplements are minimal, some women never receive them, and they include food that pregnant women are advised to avoid. Like other women in DOCCS, many pregnant women reported inadequate heat and ventilation, too little privacy and infestations of pests in their housing areas. Women also said that correction officers' conduct ranged from fair and professional to deeply disrespectful and abusive. In terms of support, pregnant women who moved onto the

nursery unit said they received valuable assistance while women who remained in general population received virtually none, leaving them feeling depressed and ill-equipped to find stable homes for their babies.

“I remember going to bed hungry many, many nights.”

4) Negative experiences for women during childbirth, including the denial of family support and the routine separation of women from their newborns in the hospital.

Women used words like “scary,” “overwhelming” and “stressful” to describe their childbirth experiences. A main reason is that DOCCS prohibits anyone outside the prison system from providing support to women while they are in labor. Many women also said they had too little time to bond with their newborns because their babies were placed in the hospital nursery and not in their rooms, even if there was no medical reason for the separation. Some women said that officers took so long to take them to the hospital nursery that it effectively prevented them from breastfeeding.

5) Unfair rejections of women from the nursery program at Bedford Hills.

Bedford’s administration seems to be denying more and more women acceptance to the nursery, a highly valuable program that allows women to live with their babies in a separate wing of the prison for one year, or 18 months with a special extension. Many women are rejected because they were convicted of a violent crime or had prior involvement with child welfare, without a nuanced assessment of how these circumstances relate to whether participation in the nursery is in their child’s best interest. This restrictive trend unfairly deprives mothers and babies of the chance to form critical bonds and runs contrary to statutory and case law governing the nursery.

6) Inadequate access to and delays in GYN care.

A majority of women the CA heard from said they could not see a GYN when needed. The most egregious case of delays the CA learned about was a woman who waited nearly seven months for cancer treatment. She died shortly after being released. Delays in follow-up for breast abnormalities also seem to be a problem. In part, delays are the result of insufficient GYN staffing. For example, Albion, which holds about 1,000 women, has only one GYN doctor on-site 16 hours per week.

“I asked [the GYN] why I haven’t had my annual check up. She answered, ‘It’s a thousand of y’all and one of me.’”

7) Substandard and traumatizing treatment from certain clinicians, inadequate health education and poor quality medical charts.

Women said that while some nurses and doctors treat them well, others are rude and hurry them through appointments. Experiences ranged from older women being dismissed when

they asked for help with menopause symptoms to pregnant women being brushed off when they told nurses they were in labor. Women also said that providers often communicate poorly and that insufficient opportunities exist for them to learn about health issues outside of medical appointments. GYN care experiences were deeply traumatizing for some women, especially survivors of abuse, which nine of 10 women in prison are. That women have no choice over the gender of their GYN provider only makes the situation worse. The CA also found wide variation in the quality of medical charts, with some charts so inadequate that they likely compromise patient care.

“Your questions and concerns are ignored. . . . You are rushed in and out in minutes and treated as a child.”

8) Insufficient sanitary napkin and toilet paper supplies.

A majority of women the CA heard from said they do not receive enough sanitary napkins each month. In order to get additional supplies, prisons require women to obtain a medical permit, a process that is humiliating and unjustified. At one prison, doctors insisted that women show a bag filled with their used pads as proof they needed more. Two-thirds of women said they do not get enough toilet paper each month. Most women cannot afford to buy the sanitary supplies sold in prison commissaries. A single box of tampons, for example, can cost a woman her entire week’s earnings.

9) Severely limited access to contraception.

With few exceptions, DOCCS prohibits its doctors from prescribing contraceptives. As a result, women participating in work release and overnight trailer visits, and women preparing to return to the community cannot access birth control methods other than condoms. Even women who used hormonal contraception in the community for medical reasons other than pregnancy prevention, such as irregular periods and uterine bleeding, face serious difficulty in getting it once they are in prison.

10) Poor access to GYN care and violations of privacy for women in solitary confinement, and placement of pregnant women in solitary.

There are at least 1,600 admissions to solitary each year in DOCCS’ women’s prisons, with roughly 100 women in solitary at any given time. Women said they often had to wait weeks to see a GYN and that clinicians routinely violated their confidentiality by speaking with them through a closed cell door. Solitary is a dangerous setting for pregnant women yet the CA identified seven women who were held in solitary at some point during their pregnancy between 2009 and 2012.

One woman suffered weeks of neglect in solitary before her pregnancy was diagnosed as ectopic, a life-threatening condition

Top positive findings related to reproductive health care

1) Timely and quality prenatal care for pregnant women.

Women praised the quality of the obstetricians contracted to provide prenatal care in DOCCS. Most also said they had prenatal visits at the frequency recommended in the community and could access prenatal care when needed.

2) Annual GYN exams for most women.

Most women reported having a GYN check-up in the past year, including a pelvic exam and Pap smear.

3) Certain doctors and nurses who provide quality care.

Women described some providers at each prison as being thorough, thoughtful and professional. The Medical Directors at Bedford and Beacon, when that prison was open, stood out as particularly impressive.

4) Valuable programs for survivors of trauma.

Women praised DOCCS' Female Trauma Recovery Program, a six-month residential program at Albion and Taconic which aims to help women address unresolved trauma, particularly childhood sexual abuse. Bedford also offers an important Family Violence Program for domestic violence survivors. Unfortunately, these programs serve only about 3% of women in DOCCS custody, when the vast majority of women would benefit from them.

5) Beneficial HIV education programs.

Most women said that someone in DOCCS had spoken with them about HIV and STDs during their incarceration. This likely reflects the good work of the Criminal Justice Initiative, a joint HIV-education effort between DOCCS and the State Department of Health. Complicating this positive finding, however, were comments from women expressing reluctance to seek information and reveal their HIV status because of pervasive stigma, discrimination and a lack of confidentiality.

6) An impressive nursery program at Bedford Hills that serves as a national model.

While community-based alternative-to-incarceration programs are the ideal setting for mothers serving time and their babies, when sentencing laws do not allow for alternatives, the nursery is the next best option. Mothers who are accepted receive valuable support, and babies are able to form vital secure attachments to their mothers because they live together. Participation in the nursery is also associated with lower recidivism rates, reduced risk of babies entering foster care, and improved odds that mothers and their babies will remain together after prison.

KEY RECOMMENDATIONS

For DOCCS

- 1) Develop comprehensive written reproductive health policies that mirror and reference community standards, collect and analyze reproductive health data, and conduct regular assessments of reproductive health services at each prison.
- 2) Comply immediately with all provisions of the 2009 Anti-Shackling Law and eliminate the use of shackles on women during all trimesters of pregnancy.
- 3) Improve basic conditions for pregnant women, including providing adequate food and supportive services, and creating a separate pregnancy housing unit at Bedford Hills. For all women, maintain clean, weather-appropriate housing conditions, and enhance mechanisms to prevent and respond to abusive treatment by correction staff.
- 4) Allow women to have at least one support person of their choosing during childbirth, and place women and their newborns in the same room in the hospital.
- 5) Accept all pregnant women into Bedford's nursery program unless a determination is made, following a thorough, individualized assessment, that a woman's participation is not in the best interest of her child, as dictated by statute and case law.
- 6) Take affirmative steps to eliminate delays in access to GYN care, including increasing GYN staffing. Allow women to choose female GYN providers.
- 7) Train medical staff on women's specific health needs across the life span and on best practices for compassionate, professional and trauma-informed clinical interactions. Create a women's health education program.
- 8) Increase the monthly allotment of sanitary napkins and toilet paper for women, and give women more sanitary supplies upon request.
- 9) Offer a full range of contraceptives to women preparing for work release and trailer visits, and women returning to the community. Give women prompt access to contraception when they request it.
- 10) Eliminate the use of solitary confinement for pregnant women, women in postpartum recovery, women in the nursery program and other vulnerable groups. Strictly limit the use of solitary for all people.

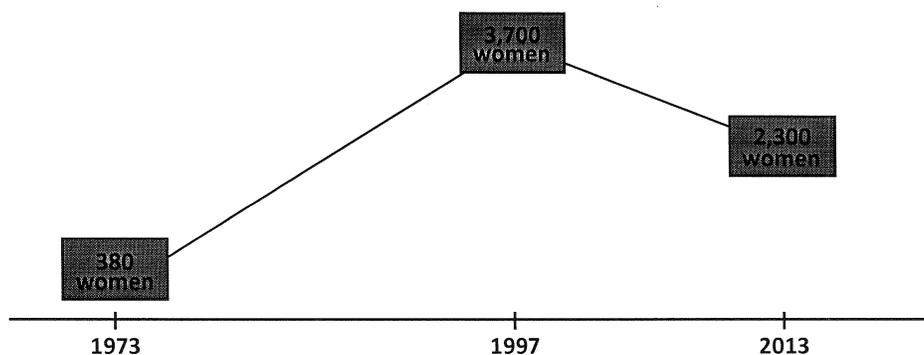
For New York State Legislature and Governor

- 1) Take actions to further reduce the prison population, including increasing opportunities for early release, establishing fairer parole policies, and enacting laws that shorten sentences and allow more people to participate in alternative-to-incarceration programs.
- 2) Expand funding for gender-specific, community-based alternative-to-incarceration and reentry programs, including programs that allow mothers to live with their children.
- 3) Enact a law requiring the State Department of Health to monitor all health care in prison and allocate funds for the Department of Health to carry out this responsibility.
- 4) Enact a law that guarantees incarcerated women access to timely and quality reproductive health care.
- 5) Amend the 2009 Anti-Shackling Law to include mechanisms to ensure compliance, including requirements to post information about the law, publicly report shackling practices and violations, train staff about the law's provisions and inform pregnant women about their rights under the law.
- 6) Enact a law that bans the shackling of women during all stages of pregnancy and during trips for babies to receive medical care outside of the prison.
- 7) Enact a law that allows women who complete Bedford's nursery program to finish serving their sentences with their children in community-based programs.
- 8) Allocate funds for DOCCS to hire sufficient GYN staff, raise salaries for DOCCS clinical providers and create an electronic medical records system.
- 9) Allocate funds for DOCCS to create a women's health education program and to expand domestic violence and trauma programming, particularly the Female Trauma Recovery Program.
- 10) Enact a law that eliminates the use of solitary confinement for pregnant women, women in postpartum recovery, women in the nursery program and other vulnerable groups, and that strictly limits the use of solitary for all people.

KEY FACTS ABOUT WOMEN IN NEW YORK'S PRISONS

- The median annual income of women in New York's prisons before incarceration was \$8,000.
- 41% were unemployed prior to their arrest, 35% received public assistance and nearly 60% were insured by Medicaid.
- 62% are women of color, even though women of color make up only 35% of New York's female population.
- 43% do not have a high school diploma.
- 70% had a substance abuse problem prior to incarceration.
- 39% have been diagnosed with a serious mental illness.
- 90% experienced physical or sexual violence in their lifetimes, 80% were severely abused as children, and 75% suffered serious physical violence by an intimate partner as adults.
- 54% have a serious or chronic illness. About 12% are living with HIV, and about 17% have hepatitis C, rates significantly higher than in the general public.
- 70% are mothers. About 63% were living with their children before arrest, and 43% were caring for their children on their own.
- 15% are 50 years or older, more than double the number in this age group 10 years ago.

TRENDS IN NEW YORK'S FEMALE PRISON POPULATION



METHODOLOGY SUMMARY

We gathered most of the information for this study from 2009 to 2013 using a range of qualitative and quantitative research methods.

We conducted a total of 20 visits to prisons housing women in New York, including: three visits to Bedford Hills Correctional Facility in Westchester County, the state's only maximum-security prison for women; four visits to Taconic Correctional Facility, a medium-security prison also in Westchester County; and four visits to Albion Correctional Facility near Rochester, a medium-security prison and the largest prison for women in New York. We also conducted four visits each to Bayview and Beacon correctional facilities, both of which were closed in 2013. In early 2014, we visited Edgecombe Correctional Facility, a minimum-security prison in Manhattan, which began housing women on work release (a transitional work program) after Bayview and Beacon closed.

We interviewed a total of 950 incarcerated women, reviewed 25 medical charts focused on reproductive health issues, and analyzed data from over 1,550 surveys on general conditions, reproductive health, pregnancy and HIV. Sixty-four of the women we spoke with or surveyed had been pregnant while in New York's prisons between 2004 and 2013.

We also reviewed extensive data collected from each prison and compared prison health policies to relevant community standards.

REPORT ROAD MAP

We present the findings from our study in five main sections:

- 1) **Oversight, policies and data collection.** This section assesses internal and external oversight of reproductive health care in DOCCS; prison policies related to reproductive health; and DOCCS' collection of data related to reproductive health care and outcomes.
- 2) **General reproductive health care.** This section analyzes women's access to routine and specialty GYN care; the quality of GYN care; the quality of medical charts; annual GYN exams; Pap smears; breast exams and mammograms; hysterectomies; access to sanitary supplies; weight and nutrition; contraception; and health education.
- 3) **Care for pregnant women.** This section examines pregnancy testing; pregnancy options counseling; abortion; sterilization; pregnancy loss; pregnancy and work release; prenatal care; prenatal education; daily life in prison for pregnant women; labor and childbirth; postpartum care; and the nursery program.
- 4) **Shackling of pregnant women.** This section assesses DOCCS' implementation of New York's 2009 Anti-Shackling Law which bans the use of restraints on incarcerated women during childbirth, and examines the experiences of pregnant women with shackling in situations not covered by the law.
- 5) **Special issues.** This section investigates experiences with reproductive health care for three specific groups: women in solitary confinement, women growing older and women living with HIV. There is increasing national attention to the challenges facing people in these groups and our study contributes women-specific findings to the debates in these areas.

READ THE FULL REPORT

The full text of this report and references are available at:

www.correctionalassociation.org/resource/reproductive-injustice

ACKNOWLEDGEMENTS

This report is dedicated to the incarcerated women who bravely shared, and continue to share, their lived experiences and ideas for change with us. We hope that this report accurately represents their concerns and recommendations.

This report is also dedicated to Donald Farole, who served as our expert data consultant for this project until he passed away in 2011. Don will be remembered and missed by all.

This report is part of an ongoing initiative by the Correctional Association of New York's Women in Prison Project to monitor and report on conditions for women in New York State prisons. This initiative is run by Tamar Kraft-Stolar, Director of the CA's Women in Prison Project and Jaya Vasandani, Women in Prison Project Associate Director.

Tamar Kraft-Stolar is the author of this report. Jaya Vasandani served as the primary reviewer of the report.

We are deeply indebted to Rachel Roth for serving as our expert advisor and consultant on this project, and for her editorial commentary on the report. We are enormously grateful to our expert readers whose input helped inform the report's analyses and recommendations: Jack Beck, Dr. Barbara J. Berg, Barbara Blanchard, Kathy Boudin, Judith Clark, Dr. Nereida Ferran-Hansard, Philip Genty, Donna Hylton, Sharon Katz, Rachel Roth and Maria Teresa Timoney.

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We are also grateful to Rachael Feeney, Elisabeth Martin and Ashley Kaper for inputting survey data and to former Women in Prison Project Fellow Allison Schwartz and our many interns whose work went into various aspects of this report, including: Vanessa Bell, Isabel Brewster, Nicola Cohen, Lillian Chargin, Melissa Eells, Brooke Eliazar-Macke, Alexander Genty-Waksberg, Margaret Hurley, Rachel Isreeli, Maya Levinson, Naomi Oberman-Briendel, Rachel Silverman, Rachel Steimnitz, Grace Tan and Mariel Ramirez.

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Dani McClain

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Third-rail politics: Analysis at the intersection of gender, health and race.

Women in New York State Prisons Don't Have Enough Sanitary Pads, Not to Mention Other Daily Indignities

Dani McClain on February 13, 2015 - 4:33 PM ET



Coalition for Women Prisoners rally for NY's 2009 Anti-Shackling Law (Women in Prison Project).

Pregnant women and those who have just had babies in New York state prisons are shackled—despite a 2009 state law that prohibits the use of restraints during labor, delivery and recovery. Women who are not pregnant use newspaper and magazines while on their periods because they are not provided an adequate number of pads. Others face weeks- or months-long delays to see medical providers, and so sexually transmitted infections worsen or cancerous cells spread past the point of being treatable. Others are rushed through appointments and deemed “problem patients” if they ask too many questions, or else forced to discuss the intimate details of a health issue through the door of a solitary confinement cell. Incarceration violates women’s reproductive rights—to say nothing of their dignity and humanity—at every turn. These are among the findings of a report on the state of reproductive health care for women in New York state prisons released this week.

The Correctional Association of New York, an organization that’s monitored conditions in the state’s prisons since 1846 and which produced the report “Reproductive Injustice,” calls it the most extensive study of reproductive health care in a state prison system to date. It’s the product of five years’ worth of investigation into New York’s Department of Corrections and Community Supervision (DOCCS), which provides reproductive healthcare to 4,000 women per year, according to the report. Women make up just 4 percent of DOCCS’s prison population, but because of the upward national trend in incarcerating women—the women’s prison population

increased in the US by nearly 900 percent between 1977 and 2013—the study offers a look at the inhumane conditions faced by a growing number of women, the majority of whom are poor and of color.

The report attempts to tell us who women incarcerated in New York are. Seventy percent are mothers. Just over half have a serious or chronic illness. Ninety percent have experienced physical or sexual violence in their lifetimes, and 80 percent were severely abused as children. Three-fourths of the women have survived violence at the hands of their intimate partners. These harrowing statistics help us understand why one of the report's recommendations is that the state prison system train its medical staff in how to provide trauma-informed care, meaning that staff should learn how abuse continues to affect the women they're caring for and tailor their approach accordingly. For example, a number of women interviewed said they preferred to be examined by a woman gynecologist, but were given little or no choice in the matter. This despite quotes like this, from the report: "I've been raped numerous times, so any type of contact down there makes me feel messed up, but I know I need to be checked." Among other findings:

—54 percent of survey respondents said they did not get enough sanitary napkins each month, while 68 percent said they did not get enough toilet paper.

—44 percent of respondents who saw a male gynecologist said it made them feel uncomfortable talking about their needs.

—13 percent of women who were pregnant and entered the system during the legal time frame to get an abortion said someone talked to them about their reproductive options.

—85 percent of women who gave birth between 2009, when the law was passed, and 2013, were shackled at least once, in violation of the law.

The challenges faced by the women interviewed are the same challenges faced by women incarcerated nationwide, said Tamar Kraft-Stolar, who directs the Women in Prison Project at the Correctional Association and wrote the report. "This fundamental conflict between reproductive justice and mass incarceration is not something that's unique to New York," she said. "We're hoping that this report contributes to the national conversation that's happening right now about over-incarceration."

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This broader critique of incarceration is clear throughout the study, which at one point boldly states, "The best solution to the problems outlined in this report is to keep women, especially pregnant women and women with small children, out of prison in the first place." Instead, the state should look to community-based alternatives to incarceration, the Correctional Association argues, perhaps through policy initiatives similar to what voters in California approved just months ago. In California, shoplifting, drug possession, and four other felony crimes have been reclassified as misdemeanors, meaning less jail time for women convicted of them.

In the meantime, the report is part of an ongoing effort to bring about reforms and improve conditions in New York's prisons. The Correctional Association is part of a statewide coalition for women's prisoners that includes more than 100 organizations advocating for policy change. Recent victories include that 2009 anti-shackling law, which the campaign wants to not only see enforced but also expanded to outlaw the use of shackles on women throughout all stages of their pregnancies.

"What was deeply disturbing was the magnitude of violations of reproductive rights that women are going through," Kraft-Stolar said of producing the report. "It's really racism and gender oppression that drive society's tolerance of this extraordinary level of human suffering that happens behind prison walls."

In Labor, in Chains The Outrageous Shackling of Pregnant Inmates

By AUDREY QUINN JULY 26, 2014

EARLY one morning in November 2011, Tina Tinen, a pregnant prisoner at the Bedford Hills Correctional Facility in Westchester County, N.Y., woke with painful contractions. Guards called an ambulance to take her to the hospital and, according to her account, shackled her wrist to the bar of a gurney — despite a 2009 state law against shackling pregnant inmates during and after labor.

Ms. Tinen, who was serving time for a nonviolent drug offense, had been placed in restraints frequently throughout her pregnancy. A few weeks earlier, wearing handcuffs and ankle irons, she had slipped and fallen on icy pavement. Although she was now suffering considerable labor pain, guards refused to unshackle her until she reached the hospital bed, 15 minutes before she gave birth.

Not long after that, in July 2012, another Bedford Hills prisoner, Jacqueline McDougall, was shackled on the return trip to the prison after giving birth in Westchester Medical Center. Although Ms. McDougall had undergone an emergency cesarean section and had needed a blood transfusion, her handcuffs were linked to a chain around her waist and clamped together over her sutured incision, she recalled. “With the weight on the stomach,” she said, “it felt like they were ripping open my C-section.”

Ms. Tinen and Ms. McDougall are not isolated cases. A report to be released in September by the Correctional Association of New York, a nonprofit group that monitors prison conditions, indicates that such shackling is common. Of 27 women whom the association surveyed who had given birth in New York prisons since the passage of the 2009 law, 23 reported having been shackled just before, during or after their delivery.

“The law was put in place because New York State recognized that these practices are an affront to human rights and decency,” said Tamar Kraft-Stolar, director of the association’s Women in Prison Project. “The fact that it’s being routinely violated is egregious.”

A spokesman for the Department of Corrections and Community Supervision in New York declined to comment on the report.

This is a multistate problem. Over the last 15 years, 21 states have enacted laws against shackling pregnant inmates during and after labor, but many of the laws have proved ineffectual. In interviews with former inmates, prison officials and medical providers — and in records acquired through freedom of information requests — I

have found evidence of negligence in the implementation of these laws across the country.

Although it is estimated that only about 2,000 prisoners in American correctional facilities give birth each year, the issue raises a broader concern about excessively punitive aspects of prison culture. Democratic and Republican politicians alike have pushed for anti-shackling legislation. Doctors have called shackling a threat to the health of both mother and child. Criminologists have deemed it unnecessary, as it appears that no unshackled pregnant inmate has ever escaped during labor.

But in many correctional systems, doctors, guards and prison officials simply are not told about anti-shackling laws, or are not trained to comply. In Illinois, improperly trained guards continued to shackle women for years after such a law was passed in 1999. After some 80 prisoners in Cook County brought a class-action lawsuit, the state in 2012 passed legislation strengthening protections in the county. (The suit was settled for \$4.1 million.) But downstate, an unpublished survey of county jails by Chicago Legal Advocacy for Incarcerated Mothers cites 20 institutions that don't have written policies that fully comply with the statewide law. Corrections officials would not comment on these allegations but said that they expect each county facility to meet all existing standards.

Even California, an early adopter of anti-shackling legislation, has struggled to effectively implement its original 2005 law and an updated 2012 law. A report this year from Legal Services for Prisoners with Children, in San Francisco, found that a majority of California county correctional facilities had yet to implement proper written policies. Confronted with these findings, the Board of State and Community Corrections noted that there have been no incidents of shackling under the new law, that they are inspecting for compliance and that a review meeting to create standards for the jails is scheduled for later this year.

Inadequate implementation isn't the only problem. The language of some of the laws gives wide latitude to corrections officers to use restraints if they identify security risks. In theory, this should improve safety, but in practice, it creates opportunities for the continuation of shackling.

In Pennsylvania, files provided by the state corrections department document just over 100 incidents in which women were shackled from July 2012 to June 2013, with security or risk of flight usually cited as the reason. But according to a recent report from the A.C.L.U. of Pennsylvania, hospital staff members report routinely seeing pregnant prisoners handcuffed in the hospital and during delivery.

Nationwide, perhaps the most prominent case is that of Valerie Nabors, who sued the state of Nevada after giving birth in its prison system three years ago. The state had previously outlawed restraints during labor and delivery. Ms. Nabors was serving a sentence at the Florence McClure Women's Correctional Center in Las Vegas for stealing more than \$250 in casino chips, and was not deemed a high flight risk.

According to the complaint, when Ms. Nabors went into labor, a prison nurse called an ambulance and Ms. Nabors was handcuffed and taken to the vehicle. Then officers shackled her ankles together. An ambulance supervisor protested, explaining that if Ms. Nabors's water broke or complications developed, the supervisor would not have proper access to help her. Officers refused to remove the restraints.

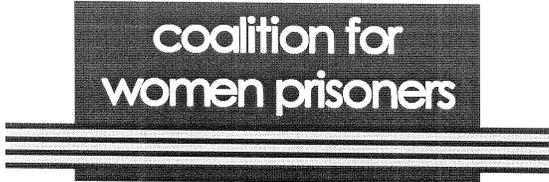
At the hospital, a nurse also questioned the use of the shackles. The officers again refused to remove them. At the insistence of a delivery room nurse, they relented. Ms. Nabors gave birth to a daughter through an emergency cesarean section, but within 10 minutes she was placed back in ankle shackles and chained to the bed.

Doctors later found that Ms. Nabors had suffered several pulled muscles in her groin. X-rays revealed a separation of her pubic bones. Her physician concluded that the injuries were a direct result of the restraints. "We were shocked," Staci Pratt of the A.C.L.U. of Nevada said of Ms. Nabors's experience. "And it takes a lot to shock an A.C.L.U. attorney."

Victims of illegal shackling rarely litigate, often because of feelings of shame or fear of repercussions. But Ms. Pratt helped Ms. Nabors bring a case against the Nevada Department of Corrections in 2012. This January, the state paid a settlement of \$130,000.

Two months later, the Nevada Board of State Prison Commissioners adopted new regulations for oversight, including training requirements for corrections officers and investigatory obligations for the state.

Danyell Williams, a former doula for prisoners in Philadelphia, says that such lawsuits are crucial to ensuring proper compliance with anti-shackling laws. "These laws were passed," she said, "and everybody patted themselves on the back for doing what was right and human and then went on about their business. But there's no policing entity that's really going to hold these institutions responsible."

The logo for the Coalition for Women Prisoners features the text "coalition for women prisoners" in a white, lowercase, sans-serif font. The text is centered within a dark grey rectangular box. Below this box are three horizontal white lines of varying lengths, creating a stylized graphic element.

coalition for
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**Justice and Dignity for DV Survivors in the Criminal Justice System
What You Need to Know About the
Domestic Violence Survivors Justice Act (A.4409/S.2036)**

“I was a victim before I was a defendant.” From the time Kate was 7 until she was 10, a friend of Kate’s stepfather sexually abused her. At 20, Kate began to date Darnell. Looking back, Kate realizes that Darnell’s initial attentiveness was the first sign of his need to isolate and control her. “He instilled fear in me and once the fear is instilled, it’s always there.”

In the years that followed, Darnell beat and raped Kate. She had him arrested five times, but it never stopped the violence. On three occasions, Kate’s injuries were so severe that she went to the hospital. Twice, she admitted to hospital staff that Darnell had beaten her. Friends wondered why she didn’t leave. “Experience taught me happiness didn’t come without pain. I thought dealing with Darnell’s temper was a small price to pay.”

One day, while driving, Darnell and Kate got into a terrible fight. Darnell pulled over and started choking Kate. As they struggled, Kate reached for a gun Darnell kept under the seat. She swung up to sitting position and the gun went off, the bullet hitting Darnell. Kate got out of the car and ran. Darnell drove away. The next day, the police arrested Kate and told her that Darnell had died.

The prosecutor refused to lower his plea offer of 8 years. “I didn’t fit the profile of a battered woman because I had a job.” Kate did not want to plead guilty and instead went to trial. At trial, a DV expert did not testify on her behalf and documents attesting to the abuse were never entered into the record. Kate was convicted of Manslaughter in the 1st Degree.

Kate was sentenced to 8 1/3 to 25 years in prison. She was denied parole 4 times and served 17 years before her release in 2008.

Why is the Domestic Violence Survivors Justice Act important?

- Domestic violence (DV) affects women in prison in staggering numbers:
 - 75% of women in NY's prisons suffered severe physical violence by an intimate partner during adulthood.
 - The NYS Department of Corrections and Community Supervision found that 67% of women sent to prison in 2005 for killing someone close to them were abused by the victim of their crime.
- All too often the criminal justice system's response to DV survivors who act to protect themselves from an abuser's violence is to send them to prison, often for many years. This represents a shameful miscarriage of justice. Instead of giving survivors who have suffered life-shattering abuse compassion and assistance, we give them harsh punishment and prison. Instead of providing protection, the criminal justice system becomes just one more entity in the continuum of violence in survivors' lives. We are failing survivors twice, first by failing to protect them from abusive relationships, and second by sending them to prison.
- One of the main problems is that the law's mandatory sentencing provisions force judges to send survivors to prison for long periods of time even when they think an alternative-to-incarceration program or a lower sentence is more appropriate.
- The DV Survivors Justice Act would change this. By untying judges' hands and giving them discretion in these cases, the Act would help restore humanity and justice to the way we treat survivors who protect themselves. By allowing incarcerated survivors to apply for resentencing, the Act would bring long overdue relief to survivors who have been locked up for years and who pose no threat to public safety.

Who supports this bill?

- A broad coalition of **126 domestic violence organizations, women's groups, crime victims groups and criminal justice organizations and thousands of individuals from across the state** are united in support of this legislation.
- These groups include: the Downstate Coalition for Crime Victims, NY State Coalition Against DV, Erie County Coalition Against Family Violence, Rochester/Monroe County DV Consortium, Nassau County Coalition Against DV, Suffolk County Coalition Against DV, Sanctuary for Families, Lawyers Committee Against DV, Men Can Stop Rape, Rockland Family Shelter, Safe Homes of Orange County, Equinox Domestic Violence Services, Family Counseling Service of the Finger Lakes, NYS Public Affairs Committee of the Junior League, NYC Bar Association's Criminal Justice Operations and Domestic Violence Committees, the YWCA of Northeastern NY, My Sisters' Place, American Association of University Women NYS, Legal Action Center, Osborne Association, Fortune Society, Women's Prison Association, Center for Community Alternatives, Hour Children, Greenhope Services for Women, Bronx Defenders, STEPS to End Family Violence, Community Service Society, the Correctional Association of NY and the Coalition for Women Prisoners, a statewide alliance of over 1,800 people in New York.

What are the bill numbers?

- A.4409 and S.2036

Who are the bill sponsors and co-sponsors?

- *Senate Bill Sponsor:* Senator Ruth Hassell-Thompson (D-Mt. Vernon).

- *Assembly Bill Sponsor:* Assemblymember Jeffrion Aubry (D-Queens)
- In addition to the bill sponsors, there are 40 Assemblymembers and 17 Senators who are co-sponsors of the bill. In total, there are 41 Assembly and 18 Senate co-sponsors.

Where is the bill now?

- In the Assembly Codes Committee and the Senate Codes Committee.

What would the bill do?

- The bill does TWO main things to establish more compassionate sentencing for DV survivors:
 - 1) It allows judges to sentence DV survivors convicted of crimes directly related to the abuse they suffered to:
 - a. shorter prison terms and,
 - b. in some cases, to community-based alternative-to-incarceration (ATI) programs instead of prison.
 - 2) It provides DV survivors currently in prison the opportunity to apply to the courts for resentencing, granting much-deserved relief for incarcerated survivors who pose no threat to public safety.

Who would be eligible for DV alternative sentencing and resentencing?

To be eligible, a judge must find that:

- 1) the defendant was, at the time of the offense, a victim of domestic violence subjected to substantial physical, sexual or psychological abuse inflicted by a spouse, intimate partner or relative (either by blood or marriage).
 - 2) the abuse must be a “significant contributing factor” to the crime.
 - 3) a sentence under the law’s general sentencing provisions would be “unduly harsh.”
- A survivor who was being abused by her spouse, partner, boyfriend or girlfriend, pimp, relative, spouse’s relative or person she has a child in common with would be eligible under this bill.

What does “significant contributing factor” mean?

- There is no exact definition of this term. It is up to the court to decide. However, there IS PRECEDENT for the term – or similar terms:
 - 1) Judges can sentence defendants to serve time at Willard Drug Treatment Campus (a prison focusing on treatment of people with substance abuse histories) if they find that “the defendant has a history of controlled substance dependence that is a significant contributing factor to such defendant’s criminal conduct.”
 - 2) Under the Rockefeller Drug law reforms, judges can divert a defendant with a substance abuse history to probation if, among other things, “the defendant has a history of alcohol or substance abuse or dependence” and “such alcohol or substance abuse or dependence is a contributing factor to the defendant’s criminal behavior.”
 - 3) The current DV alternative sentencing uses the criteria that the abuse was a “factor” in the defendant’s committing a homicide or assault crime against her abuser. This bill adopts an even stricter standard (significant contributing factor).

How many people would this bill affect?

- This bill is all about giving judges discretion so it's difficult to project exactly how many people it would affect, BUT we do know that it will NOT affect very large numbers of people.
- While it is not possible to say exactly how many people will be affected, we estimate these figures for the total pool of possible candidates. It is important to remember that NOT all of these individuals will be eligible, and that we expect that many more women than men to be eligible given that women are disproportionately affected by DV.
 - About 185 CURRENTLY incarcerated women survivors would be potentially eligible for RESENTENCING under the bill and 175 incarcerated male survivors (360 total).
 - About 365 women survivors would be potentially eligible for DV ALTERNATE SENTENCING per year, either lower sentences or diversion to ATIs, and 115 male survivors (480 total).
- This bill is narrowly tailored to apply to only those survivors to whom it is intended to apply. For example, to use the alternate sentencing, the judge has to find that the defendant meets a strict three-part test: 1) that the defendant was a DV survivor at the time of the offense; 2) that abuse was a "significant contributing factor" to the crime; and 3) that a sentence under the regular sentencing statute would be "unduly harsh."
- It is important to note that to be eligible for the alternate sentencing, the survivor has to have been a victim of abuse AT THE TIME the offense was committed. In other words, having a history of childhood abuse does NOT make a person eligible under this bill.
- In addition, the judge is NOT obligated to use the discretion they are granted under this bill. The judge can always sentence a defendant to a longer sentence if they think necessary.
- The bill excludes people convicted of Murder in the First Degree, Aggravated Murder, Sex Offenses and Terrorism Offenses.

Why can't judges sentence all survivor-defendants to ATIs now?

- Most violent felony offenses and some more serious non-violent offenses carry mandatory prison penalties. Mandatory sentencing constrains a judge's ability to take DV and its effects into account during sentencing.
- Under mandatory sentencing, the charge determines the sentence if the person is convicted. For example, if a person is charged with a B violent felony, then if the person is convicted, the judge MUST sentence that person to a mandatory prison term of anywhere between 5 and 25 years.
- Under mandatory sentencing, the person who controls the charge controls the sentence (if the defendant is convicted). The person who controls the charge is the District Attorney.
- This takes power from the judge – who is supposed to be the neutral arbiter of the case – and gives it to the DA. DAs sometimes use this power to convince defendants to plead guilty (because defendants are afraid to go to trial and face a long sentence if they lose).
- Because judges lack discretion, they cannot sentence a survivor to probation or an ATI unless the prosecutor reduces the charge to a lower-level offense.

Why is it important for the bill to include DV survivors who did not defend themselves against their abuser directly but who were convicted of engaging in other illegal acts to protect themselves from their abuser's violence?

- DV plays a complex role in a survivor's behavior. Abusers often force survivors, through a range of power and control tactics – such as physical attacks, threats of violence, manipulation, and provocation – to participate in crimes such as forgery, robbery, burglary, drug sale, shoplifting and prostitution.
- Threats from abusers can come in the form of comments or actions that might seem insignificant to an outside observer but that carry signs of imminent attack for a survivor of domestic violence. Some survivors turn to illegal substances as a way of coping with ongoing abuse. Other survivors confess to their abusers' crimes, fearing increased violence if they do not.
- Not including survivors who engaged in other acts to protect themselves from their abuser's violence would create an unfair double standard and, in effect, penalize survivors for not committing physical crimes against their abusers.

Why is the resentencing part of the bill important?

- Including a retroactivity provision is central to the bill's intent and purpose, and to the fair application of any sentencing reform effort. When a sentencing reform bill of this type becomes law, it signifies the government's recognition that the prior sentencing statute was too harsh. That recognition should extend to those convicted before the law's passage as well as to those after.
- It is counterintuitive to grant mitigated sentencing eligibility to one group of survivors and not another based solely on their conviction date. Denying resentencing eligibility to survivors who, but for their conviction date, would have been eligible for an alternate sentence is arbitrary and unjust.

How does the bill ensure that resentencing is granted only to those survivors who meet the bill's 3-part test?

- An application for resentencing does not guarantee resentencing. Far from it: to even be granted a resentencing hearing, an incarcerated person must go through two levels of screening. First, she must submit a request to apply for resentencing to the court. This request must include documentation that she meets the basic criteria under the law: that she is currently in prison serving a sentence with a minimum or determinate term of 8 years or more, that her offense occurred prior to the effective date of the law, and that her offense is an eligible offense under the bill (i.e. it cannot be Murder in the first degree, Aggravated Murder, Terrorism, or Sex Offense).
- Only after a court finds that an incarcerated person has passed the first level of screening is the person eligible to apply for resentencing. In her application for resentencing, a survivor must include at least two pieces of evidence that she was a DV victim at the time of her commitment offense. At least one of those pieces of evidence must be an official document, such as a police report, order of protection, domestic incidence report, hospital record or pre-sentence report.
- Only if the applicant submits the required evidence will she be granted a hearing. At the hearing, the judge must find that the applicant meets the bill's strict three-part test before granting resentencing: (1) the defendant must have been a victim of domestic violence at the time the crime was committed, (2) the abuse must be a "significant contributing factor" to the crime, and (3) a judge must find that a sentence under the law's general sentencing provisions would be "unduly harsh."
- Even after holding the hearing and reviewing the information, a judge can still decide not to resentence an applicant.

How will the bill affect public safety?

- This bill poses absolutely no risk to public safety.
- The vast majority of survivors incarcerated for crimes directly related to domestic violence have no prior history of violent behavior. For example, 85% of women sent to New York's prisons for a violent felony in 2011 had never before been convicted of a felony.
- In addition, of the 38 women convicted of murder and released between 1985 and 2003, **not a single one returned to prison for a new crime within 3 years of release.**
- Alternative-to-incarceration programs reduce recidivism, keep families together and help people build healthy, crime-free lives. By increasing the use of ATIs, this bill will enhance public safety.

Will the bill save money?

- This bill has the potential to save the state money. This is because: (1) some survivors would be sentenced to shorter prison terms; (2) some survivors would be diverted to ATIs; and (3) some survivors would be released early from prison.
- Incarceration is more costly and less effective than probation or an ATI. It costs upwards of \$55,000 to incarcerate one adult per year in New York and only \$11,000 for an ATI program.

What is the Jenna's Law DV exception and how has it fallen short?

- There is a law on the books called the Jenna's Law DV exception that was meant to provide more compassionate sentencing for survivor-defendants. This law has been a complete failure because:
 1. It doesn't provide sufficiently lower sentences. In fact, it is possible to get a LONGER sentence and serve more time under the exception than under the general statute.
 2. It doesn't allow judges to send survivor-defendants to ATIs and probation. It ONLY allows mandatory prison penalties.
 3. It is limited only to survivors convicted of certain homicide or assault crimes against abusers and excludes survivors convicted of other crimes they were involved in as a result of an abuser's violence or threats of violence. It also doesn't include murder in the second degree which is important because some survivors are convicted of this crime.
 4. It has been woefully underused: in 2007, the NYS Sentencing Commission found that only one person was serving a sentence under the statute and it was a male survivor who was sentenced to more time than the minimum allowed under the general statute and who was denied parole twice. In 2009, the Commission found that no one was serving a sentence under the exception.
- Clearly, this statute needs to be overhauled. The DV Survivors Justice Act would do just that.

What is the Coalition for Women Prisoners?

- The Coalition is a statewide alliance of more than 1,800 individuals from over 100 organizations dedicated to making the criminal justice system more responsive to the needs and rights of women and their families. Created in 1994, the Coalition is coordinated by the Women in Prison Project of the Correctional Association of New York. Members include formerly incarcerated women and men, social service providers, academics, attorneys, women's and human rights organizations, faith and community leaders, and concerned individuals.
- For more information, or sources on statistics used in this memo, please call 212-254-5700.

A Fair Chance for Families Separated by Prison

Incarcerated parents and their children receive long sought-after, critical support in efforts to maintain ties to each other and to protect parental rights.

JUNE 15, 2010 - After years of advocacy by the Correctional Association of New York's Women in Prison Project, the Coalition for Women Prisoners, and allies statewide, Governor David Paterson signed into law the Adoption and Safe Families Act (ASFA) Expanded Discretion Bill.

This bill amends New York's ASFA law, which almost always requires foster care agencies to file termination of parental rights papers if a child has been in care for 15 of the last 22 months. The median sentence for women in New York's prisons is 36 months, far exceeding ASFA's timeline. Incarcerated parents often face barriers in meeting legal responsibilities required to preserve their parental rights, like maintaining contact and finding children a non-foster care home while they are away. The result? ASFA inadvertently tips the scales in favor of terminating parental rights of incarcerated parents, even when such an action is not necessarily in the long-term best interests of the child and family.

The new law—which applies to both mothers and fathers—allows foster care agencies to refrain from filing for termination if a parent is in prison or a residential drug treatment program or if a parent's prior incarceration or program participation is a significant factor in why the child has been in foster care for 15 of the last 22 months.

For the first time, foster care agencies will be required to inform parents in prison and residential drug treatment of their rights and responsibilities and to provide referrals to social services and family visiting programs. Because mothers in prison are much more likely to report having children in foster care than fathers, the new law has particular importance for incarcerated women.

Working with bill sponsor Assemblymember Jeffrion Aubry and expert advisors, the Project drafted the bill and, with the determined advocacy of members of the Coalition for Women Prisoners and its Incarcerated Mothers Committee, secured its passage in the Assembly every year since 2007. With strong sponsorship by Senator Velmanette Montgomery, the Coalition and community partners mounted an intensified campaign for the bill in the State Senate, including: organizing a series of advocacy days in Albany; creating a user-friendly one-pager and photo slideshow; securing support from key organizations and the State Office of Children and Family Services; stepping up efforts to facilitate the leadership of women directly affected by ASFA; and providing opportunities for mothers to share their experiences in written documents, public forums, and press conferences.

One-by-one, the Project garnered the commitment of senators. By April, all but four of the majority

needed to secure passage of the bill had pledged their support. Coalition members, including many formerly incarcerated mothers, travelled to Albany to meet with the remaining hold-outs. The action was a success.



Photo: Correctional Association of NY, courtesy of James Trory

Two legislators pledged their support that day and two others agreed shortly after. After a vigorous floor debate, the Senate passed the bill three weeks later.

The new law places New York among the most progressive states in the country for child welfare policies that recognize the special circumstances of families separated by incarceration. In the months to come, the Women in Prison Project and the Coalition for Women Prisoners will work to ensure that the new law is implemented effectively and helps to prevent the devastating, permanent separation of families—families who can, if given a fair chance, rebuild safe, loving and life-long relationships.

For more information, please contact the Correctional Association of New York at 212-254-5700 or visit www.correctionalassociation.org



What is termination of parental rights?

Termination of parental rights (TPR) ends the legal relationship between a parent and child and frees the child to be adopted.

A petition to terminate parental rights can be filed for a number of reasons described in New York State Social Services Law 384-b. For example, when a child has been in foster care for six months or more and the parent has had no significant contact with the child, the foster care agency, or the social services agency, the agency can file a TPR for abandonment.

If a child is in foster care for 12 consecutive months or 15 of the most recent 22 months and the parent has failed either to maintain contact with the child or to plan for the child's future, the agency can file a TPR for permanent neglect if it has made diligent efforts to work with the parent. The agency does not have to make these efforts if the parent moves and fails to provide new contact information to the agency.

The law allows the agency to decide **not** to file a TPR for a number of reasons: that the child is living with a relative foster parent, that there is a compelling reason why TPR is not in the child's best interests, and that the parent is incarcerated or in a residential substance abuse treatment program and has maintained a meaningful role in the child's life. These decisions are made on a case-by-case basis, with a focus on the best interests of the child.

You can help keep your parental rights by:

- Arranging for an appropriate friend or relative to care for your child while you are incarcerated.
- Staying in touch with your child, your child's caseworker, and your attorney.
- Attending planning meetings and court proceedings.
- Visiting with your child as often as possible.

You don't have to stop being a parent while you are incarcerated.

You have the right to:

Help find an appropriate person, such as a friend or relative, to care for your child. If this person needs financial or other assistance, he/she can apply for a "child only" temporary assistance grant or to become certified or approved as a foster parent for your child. If you are unable to make such an arrangement, your child will be placed with a foster parent or in another setting, such as a group home.

Be informed about the foster care agency responsible for your child's care, the name of your child's caseworker, and how to contact the caseworker and his/her supervisor. You should be notified in a timely manner if your child's caseworker changes.

Know how to reach your family caseworker, if that person is different from your child's caseworker.

Participate in permanency planning for your child (see reverse side).

Take advantage of services to help you address the issues that led to your child's placement in foster care (parenting classes, substance abuse treatment, etc.).

Participate in meetings about your Family Service Plan (see reverse side).

Get information about family visiting and other services that can help you build a meaningful relationship with your child while you are incarcerated and after your release.

Visit with your child unless the court orders otherwise. Ask about video/teleconferencing if in-person visits are not possible. If you are not having regular visits with your child or you are dissatisfied with your visits, contact your child's caseworker, his/her supervisor, or your attorney.

Be kept up to date on your child's health and development and his/her progress in school.

Be assigned an attorney to represent you in your child's Family Court case, if you are financially eligible. Speak with your attorney if you have any issues with the foster care agency or the court. Your attorney is your advocate and should keep you informed about your case.

Attend Family Court proceedings. If you know of an upcoming court date, talk to your attorney, caseworker, and corrections counselor about making arrangements for you to attend court.

If your child is in foster care, you have the responsibility to:

Make regular contact with your child. Although this can be difficult while you are incarcerated, you are expected to make efforts to communicate with your child unless there is a court order prohibiting such contact. Even if that is the case, you should stay in contact with the agency caseworker. You must be able to show your caseworker and the judge that you have made every effort to stay in contact with your child and/or the foster care agency caseworker. It is a good idea to:

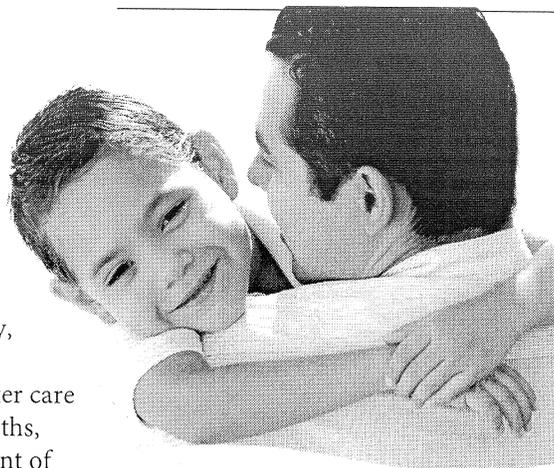
- Keep all the papers you receive about your case.
- Keep a list of all scheduled visits with your child (even if they didn't happen).
- Document all the phone calls you make to the caseworker, your child, and your child's caregiver (even if you left a message or no one answered the phone).
- Make a copy of every letter, birthday card, or other mail you send your child.

Show that you are planning for your child's future. Find someone to care for your child while you are away.

Stay in touch with your child's caseworker, your family caseworker, and your attorney. Notify the foster care agency if you are released, you are transferred to another facility, or your address changes. If you haven't had contact with the foster care agency or your child for six months, it can be considered abandonment of your child and a petition could be filed to terminate your parental rights.

Complete any programs your Family Service Plan requires. Work with the foster care agency to finish the goals stated in your Family Service Plan (see box below).

Participate in Family Court proceedings. Contact your attorney if you have questions or concerns and arrange to talk before every court date. Make sure your attorney has copies of any documents relevant to your service plan or to the case. If you can't go to court for an important reason (such as seeing the parole board), notify your attorney, your caseworker, and the judge.



What is permanency planning?

In general, foster care is a temporary arrangement – permanency is a primary goal for every child in foster care. Possible permanency goals for a child include:

- Return to parent(s).
- Referral for legal guardianship with a relative. This may include participation in the Kinship Guardianship Assistance Program.
- Permanent placement with a fit and willing relative or other suitable person.
- Surrender of parental rights or termination of parental rights and placement for adoption.
- Another permanent, planned living arrangement with a significant connection to an adult. This goal may be appropriate for an older child who is ready to live independently.

What is a Family Service Plan?

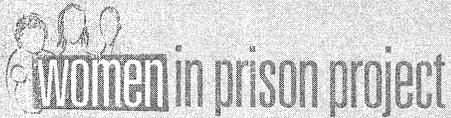
The Family Service Plan outlines your child's permanency goal and the services required to achieve that goal. The plan should include steps you are expected to take to achieve that goal.

- Your plan should take into account the special challenges facing you and your family due to your incarceration.
- You have a right to participate in regular Service Plan Reviews (SPRs). SPRs begin 60 to 90 days after the child is placed in foster care and are held every six months thereafter. If you can't be there in person, you can participate via phone or videoconference, if available. This can be arranged through your corrections counselor and foster care agency caseworker.
- You should receive two weeks' notice when SPRs are scheduled and you should get a copy of the Family Service Plan within 30 days after the SPR.



New York State
Office of
Children &
Family Services

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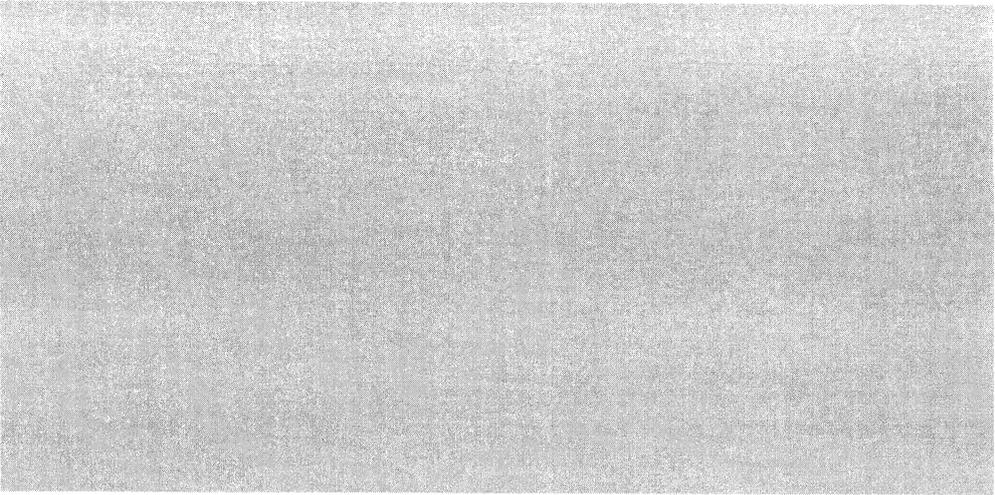
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When “Free” Means Losing Your Mother:

The Collision of Child Welfare and the Incarceration of Women in New York State

A report of the Women in Prison Project of the
Correctional Association of New York

February 2006



When “Free” Means Losing Your Mother:

The Collision of Child Welfare and the Incarceration of Women in New York State

This report of the Women in Prison Project of the Correctional Association of New York was co-authored by **Julie Kowitz Margolies**, Project Director from 2000 to 2003, and **Tamar Kraft-Stolar**, Project Director from 2003 to present.

This report was made possible by the generous support of the **Child Welfare Fund** and the **Daphne Foundation**.

The Correctional Association of New York (CA) was formed in 1844 by citizens concerned about prison conditions and the lack of services for inmates returning to their communities. In 1846, the New York State Legislature granted the CA authority to inspect prisons and report on its findings. Through four projects — Juvenile Justice, Prison Visiting, Public Policy/Drug Law Reform, and Women in Prison — the CA advocates for a more humane prison system and a more safe and just society.

Created in 1991, the Women in Prison Project is dedicated to addressing the effects of the state's criminal justice policies on women and their families. Recognizing that incarceration is an ineffective and inhumane response to the social ills that drive crime, the Project advocates for a shift in government priorities away from imprisonment and toward alternative to incarceration programs where a woman can stay connected to her family, take responsibility for her actions, address underlying issues, and become a productive member of society.

Under the CA's legislative mandate, the Project has the unique authority to monitor conditions inside women's correctional facilities in New York State. Additionally, the Project performs research and policy analysis; produces reports, policy papers and fact sheets; manages ReConnect, a leadership training program for formerly incarcerated women; conducts public education and legislative advocacy; and coordinates the Coalition for Women Prisoners, a statewide alliance of more than 900 people. Through these integrated and strategic efforts, the Project strives to create a criminal justice system that addresses women's specific needs and that treats people, their families and their communities with fairness, dignity and respect.

For more information about the Women in Prison Project or the Coalition for Women Prisoners, please call 212-254-5700 or visit www.correctionalassociation.org/WIPP/WIPP_main.html

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“We do not believe that incarcerated mothers and their children were sentenced to lose each other.... The fact that the mother has made a serious error does not negate motherhood, nor should it condemn children to lose their rights to the support and guidance of their mother. To profoundly disrupt family relations during the mother’s imprisonment is to sentence the children to possible life-long injury.”

– Precious Bedell and Kathy Boudin

The Foster Care Handbook for Incarcerated Parents

Bedford Hills Correctional Facility, 1993

When “Free” Means Losing Your Mother: The Collision of Child Welfare and the Incarceration of Women in New York State

EXECUTIVE SUMMARY

Mary, a mother of two young children, is sentenced to three to six years in prison after being convicted of larceny for using her ex-boyfriend’s debit card. She is incarcerated at a medium-security prison eight hours away from her home, which is in New York City. Mary has no family in New York, so a friend takes her children after Mary is arrested. Unfortunately, the friend cannot afford to continue caring for both her own children and Mary’s, and eventually Mary’s children are placed in foster care. Acting under state law, the child welfare agency files a petition to terminate Mary’s parental rights 15 months after her children enter foster care. Termination of rights was not part of Mary’s sentence, yet she now faces the prospect of being cut off from her children forever.



In 1973, about 380 women were incarcerated in New York State correctional facilities. Driven by policies like New York’s harsh Rockefeller Drug Laws, today that number has increased by nearly 630%, a rate of growth significantly higher than the rate for men. Although New York’s female prison population — along with the total prison population — has been steadily decreasing since 2000, there are currently still more than 2,800 women in state custody. Women of color are disproportionately represented: nearly three-quarters of New York State women prisoners are African American or Latina. Almost 75% are mothers; most were primary caretakers of their children before their arrest, many as single parents. More than 11,000 children have a mother incarcerated in a New York correctional facility, either in a state prison or city or county jail.

When a mother is sent to prison, she becomes part of a stigmatized and invisible community. She often receives substandard health care and deficient rehabilitation services,

has minimal access to effective vocational and educational programs, and faces significant barriers to maintaining stable relationships with — and sometimes parental rights to — her children. These obstacles include limited visiting and family reunification services, inadequate or non-existent legal representation in Family Court, and insufficient coordination between corrections departments, child welfare agencies and the courts.

A mother's incarceration has a pernicious effect on her family and community. The removal of a primary caretaker disrupts family structures, while relatives who may assume responsibility for minor children must grapple with added financial burdens. Separation and dislocation cause children significant mental distress. These repercussions are concentrated within a handful of low-income communities of color in New York City, where more than half of the state's women prisoners lived before their incarceration. Social, emotional and economic harm to families and communities is a defining legacy of female imprisonment.

This picture need not be so grim. Research and experience have shown that maintaining family ties can mitigate the destructive aspects of parental incarceration by helping children process their mother's absence, easing family reunification when a mother returns home, bolstering children's well-being and healthy development, and decreasing the likelihood that a mother will return to prison.

Visits play a critical role in preserving and building family ties, but consistent visiting between incarcerated parents and their children at most New York State prisons is the exception rather than the rule. Albion Correctional Facility, New York's largest women's prison, which houses more than 40% of the state's female inmates, is roughly 370 miles from New York City. The associated travel expenses can be prohibitive for families typically struggling with poverty, while the long distances are extremely taxing on young children and the older relatives with whom they often live. Child welfare agencies often fail to arrange regular prison visits and the handful of private organizations that facilitate visits do not have sufficient resources to provide services for most children of incarcerated parents who need them. A government study published in 2000 found that more than half of mothers in state prisons nationwide have never had a visit with their children.

Incarceration adversely affects families regardless of whether the children are living in foster care or in a private custody arrangement. Changes in New York's child welfare policies, however, have exacerbated the risks for incarcerated mothers with children in foster care. In 1999, New York State enacted a law modeled on the federal Adoption and Safe Families Act (ASFA) that requires a child welfare agency to file a petition to terminate parental rights if a child has been in foster care for 15 of the last 22 months. Although ASFA has laudable goals — to prevent children from lingering in foster care and to find permanent homes quickly for children who cannot be reunified with their families — in practice it is a blunt instrument that often causes serious damage.

No comprehensive data exist on termination of parental rights proceedings filed against incarcerated parents. A recent study, however, indicates that termination proceedings involving incarcerated parents nationwide increased by an estimated 108% from ASFA's enactment in 1997 to 2002. In contrast, in the five years preceding the implementation of ASFA, the number of termination proceedings involving incarcerated parents increased by about 67%. New York State's ASFA laws make no exception for incarcerated parents. Because the median minimum sentence for women in New York (36 months) far exceeds ASFA's 15-month timeline, mothers in prison — including mothers whose children remain in foster care solely because they can find no alternative temporary home — face increased danger of being separated from their children forever.

ASFA does have limited exceptions, one of which allows a foster care agency to waive filing a termination proceeding if it has documented a “compelling reason” why termination would not be in the “best interest of the child.” This exception is critical for incarcerated mothers with children in foster care. A caseworker who observes first-hand that a child's relationship with her mother is integral to the child's well-being is more likely to exercise his or her discretion and reconsider filing a termination proceeding after ASFA's 15-month deadline has been reached.

Unfortunately, most child welfare agencies do not provide caseworkers with adequate training, resources or support to facilitate regular prison visits, and New York State corrections' policies and practices often make visiting difficult and unpleasant even for the most experienced visitor. These realities, along with the courts' frequent unwillingness to hold foster care agencies and correctional facilities accountable, lead many already over-worked caseworkers to disregard their legally mandated responsibilities to arrange for child-parent prison visits at least once per month. Without visits and the chance to witness interactions between a mother and her child, a caseworker would be hard pressed to find a “compelling reason” not to petition the court to terminate parental rights.

ASFA's time limits intensify the challenges facing incarcerated mothers. State law mandates that parents with children in foster care — including incarcerated parents — maintain consistent contact with and “plan for the future” of their children, which includes finding a stable, non-foster care home placement within a reasonable period of time. Failure to fulfill these obligations can trigger allegations of “abandonment” or “permanent neglect” which can serve as grounds to terminate parental rights and “free” a child for adoption. Unlike other parents, an incarcerated mother confronts serious impediments to maintaining contact with the outside world: she can only place extremely expensive collect calls which many foster care agencies, foster families, relatives and friends do not or cannot accept; she is rarely able to participate in important planning meetings with her child's caseworker; and she often faces difficulty being produced for Family Court hearings where she might meet her child's lawyer or caseworker and the judge.

An incarcerated mother's limited access to legal representation and the courts jeopardizes her fundamental rights as a parent. Even though New York State law provides indigent parents with the right to assigned counsel in Family Court proceedings, generally an attorney will be initially assigned only if the parent is physically produced in court — sometimes an insurmountable hurdle for an incarcerated mother. Additionally, even if an incarcerated mother is produced and assigned counsel during one phase of her case, the representation can end with that phase. Recently passed legislation designed to provide indigent parents with continuity of counsel may improve this situation, although the practical impact of these statutory changes remains to be seen. Even an incarcerated mother who retains the same lawyer will likely have little or no time to discuss her case with counsel before she appears in front of the judge for the first time and will have continuing difficulty meeting and communicating with her lawyer outside of court to prepare for trial.

ASFA's timeframes also ignore a child's right to have a relationship with his or her mother. Many children would rather reunify with their mother when she is released, even if that means remaining in foster care for a longer period of time. Children, especially very young children, are unlikely to comprehend the implications of having their relationship with their mother "terminated" or being "freed" to be adopted by someone else. Moreover, many children continue to languish in foster care even after being "freed" for adoption. Cutting children's ties to their mothers without a likely prospect of providing them with a permanent and stable home not only seems precipitous, but also contrary to the sound child welfare policy espoused by ASFA's stated goals.

Whatever their living circumstances, children of incarcerated parents have committed no crime, yet are punished by the loss of their parents and the accompanying emotional hardship, including feelings of anxiety, guilt, fear and depression. Beyond experiencing short-term damage to their well-being, children of incarcerated mothers are more likely than their peers to become involved in illegal activity, to abuse substances, and to have difficulties in school. For many who are in foster care, being "freed" for adoption does not bring relief from a troubled family situation: it simply means losing their mother forever.

The overwhelming majority of people interviewed for this report felt that visits are vital to maintaining familial relationships and reducing the trauma of separation. Also prevalent was the strong conviction that current prison conditions discourage visiting by creating undue hardships for adult visitors and children alike. Interviewees described the long distances visitors must travel to some women's facilities as expensive and exhausting, security procedures as burdensome and humiliating, and treatment by some correction officers as disrespectful. Although certain visiting facilities were singled out for praise, interviewees criticized most facilities as having few, if any, age-appropriate activities for children, limited space, and little to eat. Interview participants also described the need for more programs to assist families separated by incarceration.

On the importance of visits

Caregiver: “The best way to have a relationship is through talking. She wants to see that her mother is okay, and my daughter wants to see that my granddaughter is okay. We make the best of the situation.”

Caseworker: “Once you see the bond between the mother and the child, it becomes rewarding.”

Incarcerated mother: “Children need to see their mother. Even if it’s painful, you need to have the connection. By seeing her I could still be her mother You need to have contact with the kids all the time.”

Incarcerated mother: “I needed them to know that mommy didn’t abandon them. They needed to understand that. Mommy made a mistake . . . and I am coming back for you and I’m fighting for you.”

Child of an incarcerated mother: “[Y]ou never had enough time. Just when you were beginning to feel a connection it was time to leave, and the sense of disappointment and loss would reappear . . . the visit gave a sense of comfort to be with my mom. After not being with her and being with so many strangers it felt safe and complete.”

On visiting conditions

Caregiver: “By the time you get in [to Albion Correctional Facility], you gotta turn around and come back Right when you get in the door, it’s already time to leave. Just a hug, then back on the bus at 12:30 [p.m.]”

Child of an incarcerated mother: “I was treated just like the prisoner. Humiliated, violated and stripped [of my] dignity. After all the security points and searches it doesn’t make you even want to ever go back.”

On the need for more programs

Incarcerated mother: “Maybe if I had started seeing him in prison, he might have been through that anger by the time I was out.”

Incarcerated mother: “Me and my children could have been bonding since I was in Bayview, so that way, when I came home, it wouldn’t have been so new for me trying to reunite and interact with them.”

Recommendations for Change

The destruction of family bonds need not be an inevitable corollary to incarceration. Detailed below are criminal justice, corrections and child welfare policy reforms that will enable New York to better address the severe difficulties confronting families torn apart by incarceration. Without such fundamental reforms, New York cannot effectively reduce recidivism, rebuild families, allow individuals to become healthy, productive members of society, or interrupt the intergenerational cycle of crime and prison.

Child Welfare System

1. New York State should amend its ASFA laws to allow exceptions for incarcerated parents who lack options for long-term, non-foster care placements for their children.
2. New York State should provide a range of alternatives to long-term foster care placements or adoption that would provide permanent homes for children without irrevocably severing their relationship with their parents, including establishing a subsidized legal guardianship program.
3. New York State should initiate a series of ongoing trainings to educate all parties involved in child protective cases about the option for birth parents and adoptive parents to enter into court enforceable open adoption agreements.
4. New York City's Administration for Children's Services (ACS) and child welfare agencies in other parts of New York State should increase specialized services to all children in foster care with a parent in prison; consistently track comprehensive data about children with incarcerated parents; and ensure that foster care agencies fulfill their legally mandated duty to make diligent efforts to maintain parent-child relationships during incarceration, including facilitating family visits at least once per month.

New York State Department of Correctional Services

5. The New York State Department of Correctional Services (DOCS) should be required to gather critical data about incarcerated parents and their children.
6. DOCS' classification policy should prioritize the placement of incarcerated mothers in facilities in close proximity to their children.
7. All women's medium and minimum security correctional facilities should have daily visiting hours for children.
8. Incarcerated mothers should have increased telephone access to their children and agencies working with their children and the ability to call agencies and family members at reasonable rates.

9. Visiting environments should meet the special needs of children and be conducive to mother-child interaction.
10. Security procedures for visitors with children should be improved and standardized.
11. Correction officers assigned to process visitors and guard visiting rooms should receive special training to improve their treatment of caregivers and children.

Legal System

12. Whenever possible, women offenders with children should be sentenced to community-based alternative to incarceration programs where they can live with or near their children while serving their sentences.
13. Legal representation of incarcerated parents in child protective proceedings should be institutionalized to ensure that parents receive consistent and competent legal services.

Interagency Reforms

14. New York State and City departments of correction, child welfare agencies, and the courts must improve coordination of services for incarcerated mothers and their children. New York State should convene a task force to examine and recommend improvements to interagency coordination of services for incarcerated parents and their children, including the process for producing incarcerated parents for Family Court hearings.

New York State and City Budgets

15. New York State and City should provide state and city corrections departments with additional resources to assist incarcerated mothers with protecting their parental rights and overcoming barriers to reunification. State and city corrections departments should also strengthen and expand partnerships with private organizations that provide services to incarcerated mothers and their families.
16. New York State should allocate funds for DOCS to expand its transportation services for children and caregivers to all seven correctional facilities that house women. In addition, DOCS should overhaul the current rules for its transportation program, which seriously limit opportunities for visiting.
17. New York State should allocate at least \$1 million in Temporary Assistance to Needy Families (TANF) funds and/or other funds to programs that assist caregivers, foster care caseworkers, and children by facilitating mother-child prison and jail visits, and provide transitional services that support reunification after a mother's release.

When “Free” Means Losing Your Mother: The Collision of Child Welfare and the Incarceration of Women in New York State

Introduction

Mary lived in the Bronx with her two children, ages three and eight, before her arrest. She was charged with larceny for using her ex-boyfriend’s debit card without his consent. For months, he had refused to repay money he had borrowed from her when they were still involved. Mary was convicted and sentenced to a mandatory minimum of three years in prison, with a maximum sentence of six years. By the time she was released after serving her minimum sentence, Mary’s legal relationship to her children had been severed and she had lost the right ever to see them again.

Mary had no family living in New York, so a friend took her children when Mary was arrested. Unfortunately, the friend could not afford to continue caring for her own children and Mary’s, and six months later, Mary’s children were placed in foster care. During her trial, Mary was held in custody of the City Department of Correction (“DOC”) on Rikers Island. About the same time her children entered foster care, Mary was sentenced and sent to Bedford Hills Correctional Facility in Westchester County for one month. She was then transferred to Albion Correctional Facility near Rochester, where she spent the next two years before being transferred to a facility closer to New York City.

Once her children entered foster care, Mary was no longer able to speak with them regularly by phone because the foster family would not accept the extremely expensive collect calls Mary (like all inmates) had to make from prison. The children’s caseworker did not bring Mary’s children to see her once during her stay at Albion, although Mary was entitled to monthly visits with them by law. She never met the caseworker in person, although she occasionally received mail from her. Because the caseworker’s foster care agency also did not accept collect calls, Mary spoke with the caseworker only on the two occasions when her prison counselor agreed to place a call on her behalf. Mary wrote letters to the caseworker and to her children instead.

Notwithstanding the caseworker’s failure to fulfill her legal duty to facilitate visits between Mary and her children, the caseworker determined that the “goal” for Mary’s children should be changed from “reunification” to “adoption.” Having never witnessed any interaction between Mary and her children, the caseworker based her decision on the length of Mary’s sentence and the uncertainty around whether Mary would receive parole.

A few months after being transferred to Albion, Mary received notice of a Family Court hearing at which the judge would review the foster care agency's plan for Mary's children. Mary wrote to the judge and asked to be produced in court. Although the judge issued an order to produce her, correctional staff at Mary's facility failed to process the order correctly and, as a result, did not place Mary on the facility's court transportation list. When Mary was not produced in court, the judge adjourned the case for one month and issued another order to produce her.

This time, to Mary's relief, the facility staff processed the order appropriately and she was transported to New York City and transferred to Rikers Island to await her court date. At the hearing, Mary and her new court-appointed lawyer had five minutes to discuss Mary's case before the proceeding. Notwithstanding Mary's testimony that she had spoken with her children and their caseworker about her plans to reunify with her children after release and that she was on the waiting list for a parenting program at her correctional facility, the judge approved the foster care agency's request to change the goal for Mary's children to "adoption."

After Mary's children had been in foster care for 15 months, the agency filed a petition to terminate her parental rights. During the termination trial, Mary testified that she had tried her best to communicate with her children through letters and phone calls, that she would be released soon, and that she intended to regain custody of her children once she found a place to live and a job. The foster care caseworker testified that Mary had not maintained consistent contact with her children during her incarceration and asserted that Mary would be unable to offer her children an alternative home in a reasonable period of time. With only limited time to speak with and gather information from Mary before the trial, the lawyer assigned to represent Mary was not able to present a strong defense. At the end of the trial, based mainly on the caseworker's testimony and the length of Mary's sentence, the judge found that Mary had "failed to plan for the future of her children," granted the petition to terminate her parental rights and "freed" her children for adoption.

When her rights were terminated, Mary and her children became legal strangers. Although Mary was ultimately released on parole after serving her minimum sentence, she had already lost all rights to see or contact her children ever again. Mary now has no legal right to find out about her children's well-being, where they live, or even if they have been adopted.

Mary's children have suffered greatly since her incarceration. Her daughter has trouble staying focused in school and, because she has been teased about her mother's imprisonment, isolates herself from classmates and teachers. Mary's son, who was only three at the time of her incarceration, cries most mornings when dropped off for school and has recurring nightmares about the day his mother was arrested. Both children often feel anxious and depressed, even when around friends and other family members.

The horrifying situation presented by this scenario is by no means new or unique. Two decades ago, the New York State Council on Children and Families¹ convened an inter-agency workgroup charged with the task of reviewing and clarifying the rights and responsibilities of incarcerated mothers and the obligations of the relevant state agencies, “so that efforts on behalf of these high risk families can be more effective.”² The workgroup found that an incarcerated mother faces significant and sometimes debilitating challenges to maintaining her parental role and her family ties: idiosyncratic visiting procedures; restrictive telephone policies that limit the number of calls she can make and require her to make calls collect at exorbitant rates; the failure of foster care agencies and caregivers to comply with visiting mandates; the long distance between where she is incarcerated and where her children live, and the attendant transportation issues; unpleasant visiting areas; and a limited ability to enforce her visiting rights from prison.³ More than 20 years later, none of the Council’s sensible recommendations to address these problems has been implemented.

In the two decades since the Council’s study, the number of women incarcerated in New York State has skyrocketed and the crisis of families broken apart by incarceration has only become more acute. At year-end 1981, 762 women were incarcerated in New York State prisons and 71% were mothers.⁴ By January 1, 2005, 2,789 women were state prisoners and nearly 75% of them were mothers, an estimated two-thirds of whom lived with their minor children before going to prison.⁵

In 1999, New York State enacted a law based on the federal Adoption and Safe Families Act (“ASFA”) which drastically accelerated the timetable under which a child welfare agency must file a petition to terminate the rights of a parent with children in foster care.⁶ No exception is made for children of incarcerated parents. The median minimum sentence for women in New York — 36 months — far exceeds the minimum number of months under ASFA that a child can be in foster care before the child welfare agency must file a termination proceeding. Incarcerated parents — including incarcerated mothers whose children remain in foster care solely because they can find no alternative temporary home — now face a significantly increased risk of being separated from their children forever.

incarcerated parents — including mothers whose children remain in foster care solely because they can find no alternative temporary home — now face a significantly increased risk of being separated from their children forever

The Invisible Woman

If incarcerated women share one salient, seemingly inescapable characteristic, regardless of race, class, age or other factors, it is their invisibility. They are, quite literally, locked away — isolated, unseen, and in minimal contact with the world outside.⁷ In her last public appearance, an incarcerated woman was a criminal defendant. In prison, she is a convicted criminal. Her fellow citizens, especially those without a mother, sister, or daughter in prison, have little impetus to learn more about her. She belongs to a constituency without political influence or popularity.

Incarcerated women's isolation and stigmatization obscure the many reasons why society should care about them. The unfortunate and regrettable truth is that women in prison are among the most vulnerable and marginalized members of society — women who, in other contexts, society would profess an obligation to support and protect. They are mothers, often of young children. Most are survivors of childhood physical or sexual abuse, many of whom have also endured abusive relationships as adults. Many have been raped, many have HIV and Hepatitis C, and many are mentally ill. Most have had very little education. Many were homeless, unemployed or on public assistance before going to prison. Overwhelmingly, they are poor women of color who are in prison for committing crimes related to drug addiction, domestic violence, and poverty.

Incarceration is a largely ineffective and inhumane response to these complex social and economic problems. Even so, New York currently incarcerates approximately 6,000 women in its prisons and jails.⁸ It has the sixth largest population of incarcerated women in the United States, exceeded by Texas, California, Florida, Georgia, and Ohio.⁹ More than 27,000 women are on probation or parole in New York.¹⁰ Almost eight in ten women who entered New York's prisons in 2004 were convicted of non-violent offenses; nearly 20% of those women were convicted of drug possession only.¹¹ The majority of women in New York State incarcerated for a violent felony offense have no prior violent felony arrests or convictions.¹² More than 83% of women inmates report having an alcohol or substance abuse problem before arrest. Nevertheless, alternative to incarceration programs for women are too few in number and capacity, and prison-based treatment opportunities are severely limited.¹³

New York's Rockefeller Drug Laws, which, even after recent legislative changes, exact disproportionate and harsh sentences for the sale or possession of even small amounts of drugs, account in large part for both the dramatic increase in women's incarceration and the racial disparities among women under custody.¹⁴ When New York enacted the Rockefeller Drug Laws in 1973, only 384 women were incarcerated in New York State prisons, 102 of whom were drug offenders; by January 2004, the number of women incarcerated for drug offenses had increased by more than 850% to 973.¹⁵ Almost the entire increase in women sentenced to prison in New York from 1986 to 1995 — 91% — resulted from drug convictions.¹⁶

The racial disparities among women in prison are stark. More than 71% of women in New York's prisons are women of color: almost 48% are African American and about 24% are Latina.¹⁷ This racial stratification becomes even more skewed with respect to women under custody for drug offenses: about 82% are women of color,¹⁸ even though African American and Latina women represent roughly 30% of the female New York State population over age 18.¹⁹

This disparity does not correlate to racial differences in drug consumption — studies show that Caucasians use, sell, and buy drugs in greater numbers than people of color.²⁰ Instead, the imbalance evolves from law enforcement waging the “war on drugs” in poor urban neighborhoods of color, where drug transactions typically take place on the street, between strangers.²¹ As one author notes, “[I]n poor urban minority neighborhoods, it is easier for undercover narcotics officers to penetrate networks of friends and acquaintances than in more stable and closely knit working-class and middle-class neighborhoods. The stranger buying drugs on the urban street corner or in an alley, or overcoming local suspicions by hanging around for a few days and then buying drugs, was commonplace. Police undercover operations can succeed [in working and middle-class neighborhoods] but they take longer, cost more, and are less likely to succeed.”²²

Moreover, because the main criterion for guilt under the drug laws remains the amount of drugs in the offender's possession at the time of arrest, rather than his or her role in the transaction, the drug laws provide an incentive to law enforcement to concentrate efforts on drugs couriers — typically people who are only peripherally involved in the drug trade. Major profiteers are unlikely to carry drugs themselves. In addition, the mandatory provisions of the Rockefeller Drug Laws prohibit judges from considering otherwise significant mitigating factors that, for many women, would warrant lower sentences or diversion to alternative to prison programs. For example, women frequently occupy minor and subordinate positions in drug crimes, often become involved in criminal conduct as a result of abuse and coercion or a desire to provide for their children, and typically pose low risks to public safety. Judges are also unable to consider the important role that mothers have in caring for their children.

Compounding the effects of intensified drug law enforcement in poor, urban neighborhoods is the economic reality that poor women of color lack the resources to afford privately-funded substance abuse treatment. As a result, poor women of color are significantly more likely than middle- or upper-class Caucasian women to serve time as a result of criminal activity related to their drug abuse.

Women inmates commonly have minimal or nonexistent serious criminal histories. Of all female inmates under custody in January 2005, approximately 33% either had never been arrested or had never been convicted of any crime prior to their current offense.²³ More than half were first felony offenders.²⁴ More than 60% are under custody for

non-violent crimes, yet the median minimum sentence for women offenders in New York is 36 months and the median maximum sentence is 72 months.²⁵

About three-fourths of women in New York State prisons are mothers.²⁶ Although roughly 60% come from — and will likely return to — New York City or its suburbs, more than 40% of women prisoners are incarcerated in Albion Correctional Facility, near Rochester, more than 370 miles away from their families and homes.²⁷ More than 40% of women in prison are under age 35.²⁸ Fourteen percent are younger than 25 years old.²⁹ Almost 60% of women in state custody lack a high school diploma; more than 20% read below a 5th grade reading level, and over 40% read at an 8th grade level or below.³⁰ Many women prisoners lived in poverty before being arrested: nationally, 37% of women prisoners had an income of less than \$600 in the month prior to their arrest.³¹

Past trauma and abuse are strongly tied to women's involvement in illegal activity.³² Women drug abusers are four times more likely to have a history of being sexually assaulted than women who do not use drugs.³³ Childhood molestation is a strong indicator for later substance abuse: the National Center on Addiction and Substance Abuse has found that 70% of women in substance abuse treatment report that they had been sexually abused as children.³⁴ Girls who have been abused are at increased risk of running away, and, lacking other options, becoming further victimized through involvement in drugs or prostitution. They are also at higher risk for criminal involvement, incarceration, and mental illness.³⁵

A disturbing correlation exists between elevated rates of substance abuse and mental illness among women prisoners and the staggeringly high percentage of women prisoners who have experienced physical or sexual abuse. A 1999 study of women incarcerated at Bedford Hills Correctional Facility found that more than 80% had experienced sexual or physical abuse as children, and that more than 90% had endured sexual or physical violence in their lifetimes.³⁶ A 1996 study by New York's Division of Criminal Justice Services found that 93% of women convicted of killing sexual intimates — current or former boyfriends, girlfriends, or spouses — had been physically or sexually abused in the past.³⁷

Children Adrift and at Risk: An Unknown Number

How many children have a mother incarcerated in New York State? How many incarcerated women have minor children living in New York State? How many of those children enter foster care as a result of or at some point during their parent's incarceration? Although New York's Department of Correctional Services ("DOCS") tracks the number of living children women inmates have, it does not gather data on the age of each child, where they live, or with whom. The New York City Department of Correction (DOC) has only recently begun to document some information about inmates' children; because DOC is currently in the process of computerizing the information, however, statistics are not yet available to the public.³⁸ New York State's Office of Children and Family Services (which oversees foster care, adoption, and child protective services statewide) and New York City's Administration for Children's Services (which does the same in New York City) both neglect to document in any systematic manner the total number of children in foster care who have an incarcerated parent, whether the parent's incarceration led to the foster care placement of the children, or whether a parent's incarceration has an impact on a foster care agency's determination of whether to file a petition to terminate parental rights.³⁹

Few studies have attempted to document the number of children with incarcerated parents, and none is comprehensive. A frequently cited Bureau of Justice Statistics report on incarcerated parents, *Incarcerated Parents and Their Children*,⁴⁰ sampled only 104 mothers out of an estimated total of more than 2,300 mothers incarcerated in New York State, resulting in a fairly high margin of error.⁴¹

A recent Administration for Children's Services-commissioned study by the Vera Institute of Justice, *Hard Data on Hard Times: An Empirical Analysis of Maternal Incarceration, Foster Care, and Visitation*, provides more specific data but still has limitations. *Hard Data* found that 448 children, or just over 5.2%, who first entered New York City-based foster care in 1997 had a mother who was incarcerated for at least 30 consecutive days during the first three years of the child's foster care placement. Extrapolating from those findings, *Hard Data* estimates that more than 500 of the roughly 9,700 children entering foster care each year from 1996 to 1999 had a mother who was incarcerated for at least one month. The report notes that if similar trends held in 2003, this estimate drops to 350 children, concomitant with a decline in the total number of children entering care each year after 1999 (to 6,850 in 2003). Described by its authors as part of "the first large-scale effort to examine the prevalence of incarceration among the biological mothers of foster children," *Hard Data* remains geographically restricted to foster care entries in New York City because the Administration for Children's Services ("ACS") is a city agency. Moreover, because the cohort studied was limited to a single year, the report must make admittedly broad generalizations for subsequent years based on percentages derived from 1997 data.⁴²

more than 11,000 children have a mother incarcerated in a New York jail or prison

Because they are incomplete, the available data only loosely sketch the number of children with incarcerated mothers and their current circumstances. As previously noted, almost 75% of women in New York State correctional facilities are mothers; in 2005, they reported having more than 5,600 children.⁴³ Considering that roughly the same number of women are incarcerated in county and city jails statewide as are incarcerated in state facilities,⁴⁴ and assuming that female jail inmates are likely to have similarly-sized families as state inmates, this report estimates that more than 11,000 children have a mother incarcerated in a New York jail or prison. Nationally, 22% of all minor children with a parent in prison are younger than five years old, and 58% are younger than ten.⁴⁵

As a result of child welfare and corrections agencies' conspicuous failure to document children's current and past living circumstances in cases of parental incarceration, it is unknown exactly how many children in New York have been uprooted from their homes after their mother goes to prison, or how many were already living with relatives, or in foster care placement, before their mothers' arrest.⁴⁶ Another recent ACS-commissioned Vera Institute of Justice report, *Patterns of Criminal Conviction and Incarceration Among Mothers of Children in Foster Care in New York City*, found that incarcerated mothers with children in foster care in New York City are more likely to have been arrested, convicted and incarcerated in the year following their children's entry into foster care⁴⁷ — findings which suggest that the family was already in crisis before the mother's arrest.⁴⁸ This report also found, however, that significant percentages of mothers were arrested in the year preceding their child's placement and that most of these mothers were arrested in the month prior to placement.⁴⁹

Regardless of whether a mother's incarceration follows a child's foster care placement, or vice versa, the question of who cares for the child remains critically important. The Bureau of Justice Statistics reports that roughly 64% of mothers incarcerated in prisons nationally lived with their minor children prior to arrest.⁵⁰ Although working with a limited sample, Human Rights Watch found that 88% of fathers incarcerated in New York State reported that their children were living with their mothers, while only 20% of incarcerated mothers reported that their children were living with their fathers. More than 74% of incarcerated mothers reported that their children were living with a grandparent or other relative. Of great concern is that more than 18% of incarcerated mothers reported that their children were living in non-kinship foster care; the corresponding figure for incarcerated fathers was less than 1%.⁵¹ Applying these percentages to the total number of children with a mother in jail or prison in New York, it seems fair to estimate that almost 2,000 of those children are living in foster homes or agencies, and that just over 8,100 are living with relatives.⁵²

Although usually preferable to foster care placement, living with relatives does not necessarily eliminate a child's sense of dislocation. Relatives' financial constraints often

force children to be separated from siblings, moved from relative to relative, or placed in foster care, over time.⁵³ Most children of incarcerated mothers will live with at least two different caregivers; many will move two, three or more times.⁵⁴

Whatever their living circumstances, children of incarcerated mothers suffer from feelings of profound loss and instability. At the most fundamental level, abrupt and continued separation from one's mother is inherently traumatic for any child. The constant uncertainty that surrounds separation due to incarceration only intensifies the stress experienced by children with parents in prison.⁵⁵ Witnessing one's mother being arrested — handcuffed and taken away — is also extremely distressing, even more so if a struggle occurred.⁵⁶ Many children feel remorse and guilt for having innocently opened the front door to the police, or because they feel they should have somehow prevented the arrest. A child who did not witness the arrest may be tormented by an imagined and troubling arrest scene, fueled by ubiquitous crime dramas and “reality” television shows — or by her memory of other arrests she has witnessed in her neighborhood.⁵⁷ Many children are ashamed that their mother is in prison, or of the crime that put her there. The sudden and complete separation children experience when their mother goes to prison is often cruelly perpetuated for the duration of her incarceration: a U.S. Department of Justice report found that more than half of all mothers in state prisons nationwide have never had a visit with their children, whether the children were in foster care or not.⁵⁸

Such upheaval and loss leave children of incarcerated parents vulnerable to elevated levels of anxiety, fear, loneliness, anger, and depression.⁵⁹ They may be stigmatized and ostracized by classmates, lose self-esteem, withdraw from relationships with adults and peers, act out in school or become truant, and experience a decline in academic performance.⁶⁰ Beyond the short-term damage to their well-being and stability, they face an increased risk of becoming involved with the criminal justice system and substance abuse.⁶¹ One survey found that 41% of teenage children of incarcerated parents had been suspended from school and 31% had had run-ins with the police.⁶² It is no surprise that approximately 40% of incarcerated adults have an immediate family member who has spent time in prison.⁶³

The Increased Risks When Children Are in Foster Care

The Legal Rights and Responsibilities of Parents with Children in Foster Care

Decades ago, the United States Supreme Court recognized that a parent's right to raise his or her children is essential, fundamental, and a "basic civil right."⁶⁴ Parents' fundamental liberty interest⁶⁵ in the care and custody of their children does not "evaporate simply because they have not been model parents or have lost temporary custody of their child to the State."⁶⁶ In such circumstances, New York State law acknowledges that "the state's first obligation is to help the family with services to prevent its break-up or to reunite it if the child has already left home," where such services are consistent with the health and safety of the child.⁶⁷

As a matter of law, a mother's incarceration cannot be used as a ground to terminate her parental rights and therefore does not eviscerate her fundamental right to raise her children, even if the children are in foster care or with relatives other than the father. In 1983, New York's child welfare laws were amended to state explicitly that incarcerated parents should not be deprived of the right to consent or withhold consent to their children's adoption on the basis of incarceration alone, and that incarcerated parents maintain the same rights and responsibilities as non-incarcerated parents with respect to visiting, communicating with, and planning for the future of their children.⁶⁸

a mother's incarceration cannot be used as a ground to terminate her parental rights and therefore does not eviscerate her fundamental right to raise her children

and that incarcerated parents maintain the same rights and responsibilities as non-incarcerated parents with respect to visiting, communicating with, and planning for the future of their children.⁶⁸

Although an incarcerated mother retains her right to raise her child, countervailing policies and interests come into play when a child enters foster care.

Once the state takes responsibility for a child's care and custody, it assumes an enhanced interest in the child achieving a safe, permanent home — with the parent, if feasible, but if not, in an alternative home. An incarcerated mother is not relieved of her obligations to maintain contact with the child, and to "plan for the future" of her child, such as taking steps to provide an adequate, stable home within a reasonable period of time.⁶⁹ If she does not or cannot meet these obligations, the child welfare agency can seek a judicial determination that her child is abandoned⁷⁰ or permanently neglected,⁷¹ and file a proceeding to terminate her parental rights.

When a child welfare agency's goal for the child is to return to the parent,⁷² regardless of a parent's incarceration and absent a court order to the contrary, state law requires the agency to make "diligent efforts" to "assist, develop and encourage a meaningful relationship between the parent and child." At a minimum, child welfare agencies must consult with the parent in developing an appropriate service plan for the child; arrange for at least monthly visits between the parent and child; and regularly inform the parent of the child's progress, development and health.⁷³

New York State law also recognizes that the incarceration of a parent presents “special considerations in achieving a permanent and stable environment for a child” and mandates that the court must take into account an incarcerated parent’s specific circumstances and need for assistance when determining whether he or she has “permanently neglected” his or her child.⁷⁴ Additionally, as part of the law’s “diligent efforts” requirement, foster care agencies must provide services to assist incarcerated parents in fulfilling their legal obligations to maintain contact with and plan for the future of their children.⁷⁵ In practice, however, when the parent is incarcerated, child welfare agencies often fail to fulfill their responsibility to make these mandated “diligent efforts”⁷⁶ and courts sometimes overlook serious breaches of permanency planning requirements in the interest of expediting adoptions.⁷⁷

Without substantial assistance from the child welfare agency, an incarcerated mother — especially one without a financially stable support network — will have extreme difficulty meeting the requirements of New York’s child welfare laws. For example, even for an incarcerated parent, long-term foster care will not satisfy the law’s planning requirement.⁷⁸ In a recent, illustrative decision, an incarcerated mother’s rights to her child were terminated despite her having maintained regular contact for seven years through letters, pictures, visits and telephone calls. Notwithstanding this consistent and, by all accounts, positive interaction, the New York Family Court found, and the appellate court upheld, that termination of parental rights and adoption by the foster parent would be in the best interest of the child because the mother had “failed to offer any resource for the child other than continued foster care for as long as she remained in prison.”⁷⁹

Furthermore, while an incarcerated mother will be held to strict standards for planning for the future of and maintaining contact with her child, she has little recourse if the child welfare agency fails in its mandated responsibility to assist her with those goals. Because she is in prison, an incarcerated mother cannot meet with the caseworker of her own volition — the caseworker must come to her. Nor can she easily telephone her child’s caseworker: first, most caseworkers spend the majority of their working hours in the field or in court, not at a desk; second, in New York, inmates are permitted to make collect calls only, which cost 600% more than market rates for the general public.⁸⁰ Not surprisingly, many foster care agencies and foster parents do not accept these calls. In the rare instances where an agency does accept collect calls, an inmate can still only use the phone during specified times, and the times an inmate is permitted to use the phone do not necessarily correspond to the hours a caseworker is in the office. Inmate mothers often repeatedly call their child’s caseworker with no success.⁸¹ If a caseworker does not bring an incarcerated mother’s child to visit her at the prison, she cannot simply attend an arranged visit elsewhere as a non-incarcerated parent often can.

The critical issue is that an incarcerated mother can lose all legal rights to her children simply because she is unable to offer an alternative placement to foster care (considered

a “failure to plan”) or maintain consistent communication with her children because she is in prison — not because she has ever physically abused them.⁸² Ultimately, although the federal constitution and New York State law protect an incarcerated mother’s fundamental right to raise and have a relationship with her child, if her child is placed in foster care, those rights are significantly eroded by the competing interest in finding the child a “permanent home” within the circumscribed time frame.

Barriers to Effective Legal Redress for Incarcerated Mothers

An incarcerated mother’s ability to seek redress from the court system is also severely limited. Although she has the right to be present at Family Court proceedings involving her child, and to petition the court for relief if she is not receiving visits or if the foster care agency otherwise neglects to work with her, her concerns are unlikely to be heard if she does not appear in person. The only way for an incarcerated mother to appear in court is if the court issues an order to the correctional facility to produce her.

For an incarcerated mother to be produced in court is no easy feat. The Family Court may be unaware that the mother is incarcerated and, if she fails to appear, has no duty to ascertain if incarceration was the cause. Even when the court knows a mother is incarcerated, has taken steps to determine her location, and issues an order to produce her in the correct manner, numerous other breakdowns can — and often do — occur. The order may not reach the correctional facility in time for the inmate to be produced in court or the inmate may have been transferred to another facility by the time the order arrives — and by the time the order is forwarded to the new facility (if it reaches the facility at all), the court date may have passed or been adjourned. Even if the order reaches the facility in time, correctional staff may fail to notify the inmate of the order, clear her for transfer, or place her name on the list that designates inmates to be transported and transferred to the custody of a facility closer to the court. These all-too-common failures of correctional facilities to follow the basic steps to produce an inmate in Family Court make little sense when compared to the relative consistency with which inmates are produced on time for their criminal proceedings.

Further complicating the matter is the fact that state inmates with children in custody of New York City foster care agencies must be transferred to the temporary custody of the City and housed on Rikers Island until their Family Court appearances. Incarcerated mothers sometimes spend weeks or even months on Rikers while waiting for their children’s cases to be heard. During their time away from the state facility, they will risk losing their job placement or their place in a prison-based rehabilitation program for which there are often long waiting lists. A mother’s ability to maintain her program placement is critical as completion of certain programs, like drug treatment, may be mandated in order for an inmate to be released early or to reunify with her child after prison. Additionally, because criminal and family courts often do not coordinate

with one another, an incarcerated mother may be faced with conflicting court dates or be forced to choose between appearing in Family Court and attending a parole hearing that could determine whether she will be released.

Additionally, many incarcerated mothers do not receive adequate legal counsel for Family Court matters. Although New York statutory law provides indigent parents with the right to assigned counsel in certain Family Court proceedings from what is referred to as the 18-B panel,⁸³ generally an attorney will be initially assigned only if the parent is physically in court.⁸⁴ As previously noted, being produced in Family Court is sometimes an insurmountable hurdle for an incarcerated mother. Even if an incarcerated mother is produced and assigned counsel during one phase of her case, the representation can end with that phase. It is possible that recent statutory changes will improve this situation: New York State passed legislation, effective December 2005, designed to provide indigent parents with continuity of counsel. Whether this positive change will, in fact, translate into continuous representation for incarcerated parents for the duration of their cases remains to be seen.⁸⁵ Even an incarcerated mother who retains the same lawyer will likely have little or no time to discuss her case with counsel before she appears in front of the judge for the first time and will have continuing difficulty meeting and communicating with her lawyer outside of court to prepare for trial.⁸⁶

If an incarcerated mother is produced in Family Court and assigned counsel is not available, the case will likely be adjourned and the mother will be sent back to Rikers, or to an upstate facility, to start the process again. For many years, New York State suffered from a shortage of 18-B assigned counsel, which resulted in large part from the low rate 18-B attorneys were paid. In 2003, for the first time since 1986, the legislature raised 18-B rates.⁸⁷ Although this long-overdue raise seems to have eliminated the 18-B shortage,⁸⁸ it was not sufficient to alleviate all problems associated with representation by some 18-B attorneys. As independent practitioners, most 18-B lawyers lack access to critical institutional supports, such as social workers, paralegals, investigators and administrative staff. Because of these limitations, even the most skilled 18-B attorney may find it challenging to represent incarcerated parents effectively in complex child protective cases.⁸⁹

Furthermore, although the Family Court judge — not the child welfare agency — retains discretion over whether to “free” a child for adoption, the particular realities of child protective cases involving incarcerated parents can sometimes make it difficult for the judge to access comprehensive information and to assess whether termination is truly in the best interests of a child. As with all cases, a Family Court judge presiding over a termination trial involving an incarcerated parent must base the decision of whether to terminate rights and “free” a child for adoption on the evidence each side submits during trial. Infrequent contact between a caseworker and an incarcerated parent, and limited communication between an incarcerated parent and her lawyer

compromise an incarcerated parent's ability to present her case and, in so doing, creates an imbalance in the information on which a Family Court judge depends to determine whether termination of rights is an appropriate outcome.

For all of these reasons, the Family Court system often fails to protect incarcerated mothers' fundamental parental rights, and, in the process, does a great disservice to children with mothers in prison.

Relationships Severed: The Adoption and Safe Families Act

The difficulties facing mothers in prison and their children have only intensified since the enactment of the federal Adoption and Safe Families Act (ASFA) in 1997.⁹⁰ ASFA's putative goals are to prevent children from lingering in foster care and from being returned to unsafe homes, and to find permanent homes quickly for children who cannot be reunified with their families. Although these stated goals are laudable, in practice ASFA is sometimes a blunt instrument that causes serious damage. ASFA blindly shortens the time period that parents are given to reunify with their children before the child welfare agency must file a petition to terminate parental rights, yet mandates no new services or funds for services to assist families in crisis, and does not ensure placement in a permanent adoptive home for children who have been "freed."

ASFA forced states to conform to its mandates by amending the statute that authorizes federal reimbursement for state child welfare expenses; states that did not pass their own version of ASFA faced severe fiscal sanctions.⁹¹ New York initially resisted authorizing such a version and was granted several extensions from the federal government. At the beginning of 1999, however, New York remained out of compliance with ASFA and stood to lose millions of dollars in federal subsidies. Finally, in February 1999, New York enacted an analogue of ASFA's provisions.⁹²

The basic grounds for termination of parental rights have not changed, and New York continues to recognize that "it is generally desirable for [a] child to . . . be returned to [the child's] birth parent," and that "the state's first obligation is to help the family with services . . . to reunite it if the child has already left home."⁹³ The new statutory requirements, however, have precipitously shortened the time frame within which a foster care agency must file a petition to terminate parental rights ("TPR"). Whenever a child has been in foster care for 15 of the most recent 22 months — regardless of the child's age or attachment to his or her parent — the foster care agency is almost always required to file a petition to terminate parental rights.⁹⁴ Notably, the ASFA time frame results neither from research on child development nor on the effects of long-term foster care on children, but solely from Congressional compromise.⁹⁵

A parent whose rights are terminated loses not only custody but all legal rights to the child, including the rights to contact the child, to receive information on the child's development and well-being, to give input into important decisions in the child's life, and to seek visits with or custody of the child. Considering that the median minimum sentence for women in New York State correctional facilities is approximately 36 months, hundreds of women and their children have been put at risk of being separated forever.⁹⁶

As previously stated, the full impact of maternal incarceration on children in foster care is uncharted by available statistics. New York child welfare agencies do not track how many children in foster care have incarcerated parents. They also have not monitored

how many termination proceedings have been filed in cases where a parent is incarcerated and what grounds were used, how many proceedings actually result in termination, how many children of incarcerated parents “freed” for adoption have actually been placed in permanent homes, and, for those children who have been placed, the length of time it took for that placement to occur.

Preliminary research suggests that ASFA’s rigid requirements have had a negative effect on incarcerated parents and their children. Termination of parental rights proceedings involving incarcerated parents nationwide increased by an estimated 108% from ASFA’s enactment in 1997 to 2002. In contrast, in the five years preceding the implementation of ASFA, the number of termination proceedings involving incarcerated parents increased only by approximately 67%.⁹⁷

We do not know how many children of incarcerated mothers have already been “freed” for adoption.⁹⁸ We do know that thousands of children in New York who have been “freed” for adoption are not being adopted and continue to live in foster care. From 2000 to 2004, more than 21,000 children were freed for adoption in New York City. During that same period, just over 14,000 children were adopted; more than 7,000 were not.⁹⁹ At year-end 2003, more than 8,000 children in foster care had a goal of adoption.¹⁰⁰ Of that number, about 2,200 had been freed for adoption but not yet placed; roughly 5,600 had the goal of adoption but had not yet had parental rights terminated.¹⁰¹ Nationally, the number of children in foster care with living parents who have had their parental rights terminated increased significantly from 52,000 in 1998, just after the federal ASFA was passed, to 75,000 in 2000.¹⁰²

ASFA has three limited exceptions which a foster care agency can invoke to delay or decline filing a termination proceeding after 15 months.¹⁰³ One exception applies where the responsible agency has not provided the parent with services that are necessary to facilitate the return of the child to the parent.¹⁰⁴ This exception is unlikely to be used because, as one commentator noted, it “requires a state agency to jeopardize its federal funding by admitting that it has not done its job properly.”¹⁰⁵

Another exception applies to children placed in what is known as “kinship” foster care, in other words, children who live in foster care with relatives.¹⁰⁶ Under this exception, foster care agencies are not *required* to file a termination proceeding after 15 months, but caseworkers retain discretion to do so. Ultimately, children in kinship foster care are still subject to ASFA’s timelines and their parents can still face termination of parental rights.

Last, even where a child has been placed in non-kinship foster care for 15 out of the last 22 months, the foster care agency can decline to file a termination proceeding if it has documented a “compelling reason” why termination would not be in the “best interest of the child.”¹⁰⁷ This exception preserves some measure of a foster care

agency's discretion to evaluate the specific circumstances of a family and develop an individualized plan for that family despite the number of months a child has been in foster care.¹⁰⁸

An estimated one in five children of mothers incarcerated in New York lives in non-kinship foster care.¹⁰⁹ The compelling reason exception is critical for these families. In a statutory scheme that is otherwise based on generalized, crude timeframes, this exception provides some traction to the notion that the nature of a mother's relationship with her child is relevant to whether the state can or should legally sever that relationship.

It can be extremely difficult, however, for an incarcerated mother to demonstrate to her child's caseworker that the strength of her relationship with her child, her attempts to find a stable home for post-release reunification, and her self-improvement efforts while in prison provide a sufficiently compelling reason for the agency to refrain from filing a termination proceeding. As previously noted, an incarcerated mother faces serious impediments to maintaining contact with the outside world: she can only place expensive collect calls; is often moved from facility to facility; is unable to participate in important planning meetings with her child's caseworker; and has difficulty being produced for Family Court hearings, where she would meet her child's lawyer, caseworker and the judge.

From the caseworker's perspective, bringing a child to prison is a time-consuming and intimidating proposition. Many caseworkers have had little or no contact with incarcerated mothers and have never witnessed an interaction between the mother and her child.¹¹⁰ One study found that almost half of incarcerated mothers in New York State surveyed received no correspondence from their child's caseworker, more than two-thirds did not receive a copy of their child's case plan, and one-third were not notified of court hearings with respect to those plans.¹¹¹ Unfortunately, many caseworkers fail to exercise the discretion afforded them by the compelling reason exception, and simply file a termination proceeding and leave the decision to the judge.

Compounding these obstacles is the high turnover rate for foster care caseworkers, caused by low pay, large caseloads, and inadequate training and resources. A recent survey found more than a 40% yearly turnover rate in New York foster care agency staff.¹¹² Cases are passed from one chronically inexperienced and overburdened caseworker to another. If an incarcerated mother is fortunate enough to have been in contact with her child's caseworker, she must often begin the process of building a relationship with a new caseworker again and again.

In the wake of ASFA, it is entirely plausible that a mother sentenced to three years as a first time felony drug offender for selling \$10 worth of drugs will face the real and disturbing prospect of permanently losing all rights to her children. The longer a woman's sentence, the greater the likelihood she will lose her parental rights. This additional

punishment — particularly in cases involving incarcerated mothers whose children remain in foster care solely because they can find no alternative temporary home — shocks the conscience.

ASFA's timeframes also ignore the child's right to have a relationship with his or her mother. Many children would rather reunify with their mother when she is released, even if that means remaining in foster care for a longer period of time. Children, especially very young children, are unlikely to comprehend the implications of having their

cutting children's ties to their mothers without a likely prospect of providing them with a permanent and stable home not only seems precipitous, but also contrary to the sound child welfare policy espoused by ASFA's stated goals

relationship with their mother "terminated" or being "freed" to be adopted by someone else.¹¹³ ASFA rarely allows for consideration of either a child's age and developmental level, or the nature of the relationship between a child and his or her mother. ASFA's compelling reason exception provides the only mechanism for caseworkers to assess

such critical factors. Additionally, many children continue to languish in foster care even after being "freed" for adoption. Cutting children's ties to their mothers without a likely prospect of providing them with a permanent and stable home not only seems precipitous, but also contrary to the sound child welfare policy espoused by ASFA's stated goals.

Salvaging Families: Regular Visitation

Multiple studies have concluded that visits between incarcerated mothers and their children in foster care significantly increase the likelihood of reunification after the mother's release.¹¹⁴ Prison officials and researchers agree that strong family ties motivate inmates to participate in programs and maintain good behavior, improve inmates' state of mind, lead to easier prison management, and greatly reduce recidivism. Research on children in foster care reveals that family visits are vital to maintaining ties, bolstering children's well-being and healthy development, reducing the trauma of separation, and assisting families to reunify after a parent's release.¹¹⁵

To its credit, New York City's Administration for Children's Services has made efforts to impress upon its contracted foster care agencies the seriousness of their "legal obligations . . . to arrange and facilitate visits between foster children and their incarcerated parents."¹¹⁶ In response to what it identified as "some misunderstanding regarding these requirements," ACS' Division of Foster Care and Preventive Services issued a clarifying memorandum in 1999 unequivocally stating that "*caseworkers are required to arrange and facilitate at least monthly child-parent visits to incarcerated parents when such visits are in the child's best interest, are reasonably feasible, and are permissible by the facility.*"¹¹⁷ The memorandum further emphasizes that where the goal for the child is reunification, "*no exceptions are made on the basis of travel distance to the correctional facility.*"¹¹⁸ Even where return to the parent is not the goal, "a lengthy sentence '*alone . . . does not relieve an agency from its obligation to consider other factors in arranging for visitation,*' including the parent-child relationship prior to incarceration, the child's age and desire to visit" ¹¹⁹ Notwithstanding ACS' effort to clarify these legal requirements, caseworkers often fail to arrange monthly visits for children with mothers in prison.

Caseworkers' misunderstanding of statutory requirements is not the only plausible explanation for this failure: ACS does not provide caseworkers with adequate training, resources, or support to facilitate regular prison visits. Moreover, even though state law requires DOCS to cooperate with child welfare agencies in making "suitable arrangements" for an inmate to visit with his or her child, DOCS' policies and practices — such as frequent transfers of inmates, tiresome and humiliating security procedures, and sometimes unwelcoming treatment of visitors by correction staff — often make visiting difficult and unpleasant even for the most experienced visitor.¹²⁰ These realities, along with the courts' frequent unwillingness to hold foster care agencies and correctional facilities accountable, lead many already overworked caseworkers to disregard — either intentionally or not — their legal responsibilities to provide visits.

without visits, an incarcerated mother is simply a name in a file attached to a sentence of more than 15 months, and the likelihood that her parental rights will be terminated rises sharply

With the enactment of ASFA, visits have become even more critical for mothers with children in foster care. Visits provide the only opportunity for a caseworker to observe the interaction of an incarcerated mother and her child, and to develop a sense of the relationship's importance to the child's well-being. If visits are not taking place — if the caseworker is not bringing the child to visit — the caseworker would be hard pressed to find a “compelling reason” not to file a petition to terminate the mother's parental rights.¹²¹ Barring circumstances where a caseworker and a mother have had significant interaction prior to the mother's incarceration, without visits, an incarcerated mother is simply a name in a file attached to a sentence of more than 15 months — and the likelihood that her parental rights will be terminated rises sharply.

The Experiences of Caregivers, Caseworkers, Mothers, and Children: What Stakeholders Have to Say

The incarceration of mothers in New York State has repercussions for multiple stakeholders — caregivers, foster care caseworkers, friends or relatives who bring children to visit, and of course, the children and mothers themselves. To reflect the views of those most affected by maternal incarceration, this report includes the results of interviews with each of these groups.¹²²

The overwhelming majority of people interviewed expressed a belief that visiting in appropriate environments can maintain family integrity during a mother's incarceration and facilitate reunification upon her release. Concomitant with that view was the strong conviction that the current conditions under which visiting takes place deter visiting and create undue hardship for adult visitors and children alike. In particular, interviewees described visiting procedures as burdensome and often humiliating for visitors, and visiting areas at most of New York's prisons as inadequate. They also described the need for more programs to assist children, caregivers, caseworkers, and incarcerated mothers.¹²³

Caregivers and Other Visitors: "You'd think you're a prisoner once you get there. I didn't come up here to go behind bars."¹²⁴

Nearly all caregivers interviewed were grandmothers; others included aunts, a friend, a sibling, and a father. In a few instances, children were visiting another female relative. All visitors but one were bringing two or three children to visit. Among the group, caregivers had visited all of DOCS' female facilities for mother-child visits, although not every caregiver had visited every facility.

Interviewers asked general questions about caregivers' relationships to the children they had brought to visit, the children's ages, which facilities they had visited, and the number of times they had been to those facilities. They were asked to describe the relationship between the mother and her children, and their opinion as to the importance of visiting to that relationship. They were also asked to identify the main obstacles to visiting, articulate their experiences of the security process, give their opinions about facilities and activities for children, and share their ideas for possible improvements.

Caregivers expressed a nearly uniform view that visits are important to children's well-being and should continue to take place even when the relationship between mother and child is strained. Said one grandmother, "The best way to have a relationship is through talking. She wants to see that her mother is okay, and my daughter wants to see that my granddaughter is okay. We make the best of the situation." Said another, "I don't care what their mother [did] — they love their mother." Equally strong was the opinion that while visiting is not necessarily unhealthy or negative for children,

current visiting conditions at some facilities deter visits and undermine their success when they do take place. Some caregivers went so far as to say that certain correctional facilities intentionally make visiting difficult because “they want to discourage you from coming.”

Caregivers consistently objected to security processing delays that take away significant time from visits. Although some visitors described waiting as little as 10 to 15 minutes, most described waits of 45 minutes to two hours. In addition, because Albion and Taconic Correctional Facilities have no indoor waiting area for visitors, some visitors described having to stand outside “in all kinds of weather” while waiting to be processed. One caregiver described a visit when she waited outside the facility for three hours in the rain because security was only allowing five families at a time in the visiting room. “After that, I decided not to go back.”

Visitors also objected to having to wait for the mother to be brought to the visiting room after already enduring security delays, sometimes for well over an hour. One caregiver noted that she often met families on the bus from other states, and that they all shared the same problem: “By the time you get in, you gotta turn around and come back Right when you get in the door, it’s already time to leave. Just a hug, then back on the bus at 12:30 [p.m].” Some commented that even if they arrive early for visits, delays at

“By the time you get in, you gotta turn around and come back Right when you get in the door, it’s already time to leave.

Just a hug, then back on the bus at 12:30 [p.m].”

should not be sent so far away.” All stated that the eight-hour bus ride was extremely long and uncomfortable, and some commented that bus drivers keep the bus extremely cold to stay awake for the overnight drive and play movies inappropriate for children.

security run into the 11:00 a.m. count, when inmates must stay in their cellblocks or dormitories until all inmates have been counted. This process can take from one-half hour to more than an hour, depending on the facility, and thus significantly shortens the already limited time most prisons allot for visiting.¹²⁵

Caregivers who brought children from New York City to visit Albion (near Rochester) found the experience exhausting and aggravating. Said one caregiver, “Mothers should not be sent so far away.” All stated that the eight-hour bus ride was extremely long and uncomfortable, and some commented that bus drivers keep the bus extremely cold to stay awake for the overnight drive and play movies inappropriate for children.

With dismaying consistency, caregivers described correction officers, particularly those at security, treating visitors with considerable disrespect. “The correction officers treat you like a prisoner.” “Kids shouldn’t have to feel like they are prisoners also.” “They are nasty and disrespectful.” “Sometimes they try to humiliate people.” “They are nasty and treat people like criminals.” “They look at me like I’m a criminal or an animal.” “They are very, very disrespectful. They take their time calling your visit down and they act as if you yourself [are] a prisoner.” “It would be alright if you weren’t treated like a prisoner.” Caregivers also criticized officers for insisting that young children stand in the security line without moving, often for very long

periods of time, or that they remain seated at a table in the visiting room for the entire visit. These visitors pointed out that such expectations for young children are unrealistic and counter-productive. A handful of caregivers did say that some correction officers at security or in the visiting room are pleasant or helpful, or simply that they left visitors alone.

A related concern was the lack of child-friendly activities or games at many facilities. Many caregivers pointed out that young children are not capable of sitting still for an entire visit and having a lengthy conversation with their mother. Children need age-appropriate activities or they become restless, particularly after a long trip and a sometimes longer wait. As one caregiver explained, "There is no chance to be a kid." Many commented that the visiting space itself was too confined, and that the outdoor areas where children can play are often in disrepair.

Several caregivers pointed out that limited visiting hours at some facilities, particularly at medium and minimum security prisons which permit visits only on weekends, further restricted opportunities for visiting.¹²⁶ Finally, some commented that vending machines in the visiting rooms (which provide the only available food because visitors cannot bring in food) are often out of stock or sell only stale and costly items.

Overall, caregivers identified cost, distance, an unpleasant security process, inadequate visiting areas, and having to wait outside as the main obstacles to visiting. A few also found that other responsibilities (to children, work, other family members, or schools) interfered with visits. Two caregivers said that having to bring children into a prison environment was an obstacle to visiting; two others stated that a difficult or unhealthy relationship with the child's mother was an issue. Notably, even the caregivers who expressed these misgivings were interviewed en route to visiting an incarcerated mother with her children.

Caseworkers: "We dread these cases."¹²⁷

Almost all the caseworkers interviewed for this report had worked in foster care for two years or more; the range was nine months to 15 years. Combined, they had handled approximately 30 cases involving incarcerated parents. They were asked about their own and their colleagues' outlook on working with incarcerated parents; the differences and challenges compared to cases where incarceration is not a factor; ASFA's impact, if any, upon how a caseworker handles a case with an incarcerated parent; issues surrounding permanency planning; their position on the importance of mother-child visits; and their recommendations for improvement.

Caseworkers described their own and their colleagues' outlook on working with incarcerated parents as generally negative. A caseworker's initial reaction to receiving a new case with an incarcerated parent is that the case will "take much more time," will be

“more work,” and that the case is “probably not a reunification.” Caseworkers stated that cases involving incarcerated parents often elicit “a negative feeling” and are much more difficult to manage than other cases. “It’s harder to plan and harder to make visits happen.” One caseworker communicated that “dread” was the feeling associated with these cases. Another commented that the first thing that comes to mind is that the parent has a drug problem. However, another caseworker recognized that “the parent still has rights and the caseworker still has to work with them.”

When asked what particular difficulties children of incarcerated parents face, caseworkers identified the embarrassment of having an incarcerated parent; infrequent visits; anger because of their parent’s choices; being cut off from family; not being able to see their mother when they would like; having to communicate through letters; difficult emotions when incarcerated parents do not want them to visit; and the painful emotions of saying goodbye at the end of a visit. One caseworker felt that children of incarcerated parents faced the same issues as other children in foster care.

With respect to the impact of ASFA on their work with incarcerated parents, caseworkers commented most often on ASFA’s accelerated timeline for finding permanent placement. “Cases go to TPR [termination of parental rights] while the parent is incarcerated. It’s harder to reunify.” One caseworker said that ASFA forces caseworkers to change the goal from “reunification” to “adoption” because of the timeline. Another, however, remarked that ASFA has exceptions so that “incarceration does not equal TPR; if the foster care agency is strong on training, caseworkers know this.”

Caseworkers typically communicated with incarcerated parents by letter, by leaving messages with a prison counselor when possible,¹²⁸ and occasionally through visits or seeing a parent in court. Only one caseworker interviewed said that she accepts collect phone calls from incarcerated parents. All caseworkers believed that incarcerated mothers were informed of their rights and responsibilities; some thought that “counselors,” presumably prison-based counselors, inform the inmates.¹²⁹

“Incarceration does not equal termination of parental rights. If the foster care agency is strong on training, caseworkers know this.”

When any child goes into foster care, the foster care agency is required to develop a service plan designed to help the family address the reasons for the child’s placement. Where the goal for the child is to return to his or her parent, the plan must include identification of the services necessary for the child to return home and the development of an individualized visiting plan for the family.¹³⁰ Every six months, the agency must hold a case conference, called a service plan review (“SPR”). During an SPR, the foster care agency reviews the steps the parent must take to reunify with his or her child and determines whether the child’s “permanency goal” should be to return to the parent, to be placed with a relative, to remain in foster care until he or she can live as an independent adult,

or to be adopted. A permanency goal of “adoption” is a critical step toward an agency’s ultimate decision to file a termination of parental rights proceeding.

Notwithstanding the paramount importance of these meetings to determine the child’s future, case conferences can be held in the parent’s absence. This practice is particularly damaging for incarcerated parents: DOCS does not permit parents to be produced for SPRs at foster care agencies and ACS rarely conducts SPRs at correctional facilities or takes advantage of the opportunities to teleconference or video-conference these meetings. Not surprisingly, caseworkers generally reported that incarcerated parents were not involved in their SPRs. Two caseworkers said they mailed a completed SPR to a parent in prison; one had an incarcerated father attend by speakerphone.

“Once you see the bond between the mother and the child, it becomes rewarding.”

In terms of case outcomes involving incarcerated parents, caseworkers reported that most of their cases were ongoing. Parents in several cases were facing long-term incarceration. Two caseworkers mentioned cases where the parent had voluntarily surrendered parental rights.¹³¹

Some caseworkers perceived that their colleagues generally held negative attitudes about mother-child visiting in prison, either because they believe children should not be exposed to prison, or because caseworkers themselves feel humiliated by the security process. They opined that some caseworkers held the more moderate view that although visiting is not good for all children or all families, it can be beneficial for some. Interestingly, only one caseworker stated that she herself had negative views about visiting. Several had positive experiences with visiting. “Once you see the bond between the mother and the child, it becomes rewarding.” Another said, “I have no problem with it.” Some said that unless the relationship is negative, visiting should take place.

Several caseworkers said they had heard of a so-called “50-mile” rule and erroneously thought that the rule relieved them of their obligation to facilitate visits when the parent was incarcerated more than 50 miles away. Despite ACS’ attempts to dispel the myth of the “50-mile” rule (such as a 1999 memorandum stating that “*no exceptions [to monthly prison visits] are made on the basis of travel distance to the correctional facility*”),¹³² some caseworkers reported they first learned that the rule did not exist while being interviewed for this report. One said she had heard about the “rule” but did not believe it, and took children to visit regardless.

Caseworkers suggested that they could be better supported if the visiting process to prisons was expedited and if they received more training on visiting prisons. One suggested visit escorts for caseworkers. Several suggested the expansion of programs that assist caseworkers with visiting.¹³³ They expressed that children in foster care whose parents are incarcerated could be better supported if the frequency and length of visits were

increased, and if caseworkers ensured that mothers and children were having “real interaction.” Two caseworkers suggested creating support groups for older children coping with parental incarceration.

Incarcerated Mothers: “You took my freedom, but you didn’t take my love for my kids.”¹³⁴

The formerly incarcerated mothers interviewed ranged in age from 17 to 48 years old during their incarceration, with the majority having been incarcerated during their thirties. The shortest length of incarceration reported was eight months; most mothers had been incarcerated for three or four years, with one mother having been incarcerated for five years.

Most mothers had two or three children at the time of their incarceration, ranging in age from infants to 11 years old, although three had five children or more ranging in age from infants to teenagers. Nearly half were pregnant at the time of their incarceration and gave birth while incarcerated. Some were enrolled in prison-based nursery programs, where they were permitted to keep their child with them at the facility until the child was 12 to 18 months old.¹³⁵ Overall, children’s placement during their mother’s incarceration varied. Some were in foster care; most were with relatives.

Notably, at the time of the interview, each woman was enrolled in a program for formerly incarcerated mothers designed to facilitate post-release family reunification by providing housing and other supportive services.¹³⁶ In some ways, their enrollment in one of these programs means the mothers interviewed were atypical. Few women have the opportunity to take advantage of these programs as only a handful exist. Some mothers interviewed had received enhanced visiting services from the programs in which they or their children were enrolled while they were incarcerated. Many openly articulated their need for help and believed the assistance they received from their respective programs distinguished them from other inmates who did not have access to the same services.

Even with this added assistance, most mothers interviewed said they still faced daunting obstacles to visitation during their incarceration because they were not enrolled in a program either until after their release or until several months or years into their incarceration. Moreover, for mothers with children in foster care, ASFA’s timelines still applied (or apply) to them. Some of the mothers interviewed still had not regained custody of their children; some had already had their parental rights terminated. Finally, all the mothers interviewed experienced the emotional difficulties of being separated from their children and the struggles associated with parenting from prison.

Largely because the status of their family relationships prior to and at the time of their incarceration differed considerably, the individual experiences of incarcerated mothers were varied. Some women had voluntarily placed children in foster care or with rela-

tives prior to their incarceration; others had children removed from their care by the state. Still others had multiple children who were split between foster care and relatives after the mother became incarcerated. Some had children who were initially placed in foster care but later lived with relatives — or the reverse, if the family placement became unworkable. Each of these scenarios presented slightly different permutations on the issues incarcerated mothers face with respect to visiting. Nevertheless, several common themes emerged from the interviews.

Mothers kept in contact with their children through phone calls, mail, and visits, although each type of contact was erratic. In general, mothers reported that while incarcerated on Rikers Island, the New York City jail, they could speak to their children by telephone frequently because inmates pay for calls out of a prison account rather than having to call collect (which is the case at all state prison facilities, where most mothers interviewed spent the majority of their incarceration). Most mothers said that while they spoke to their children daily or several times per week at Rikers, they spoke with them monthly or bi-monthly from state facilities because of the exorbitant cost of collect calls. Some said that caregivers, both family and foster parents, would refuse collect calls entirely, so that they were unable to call unless a correctional counselor placed a call for them. One noted that it was extremely difficult to get in touch with a foster care caseworker except through prison clergy.

Most mothers interviewed were transferred between facilities several times during their incarceration, which had considerable impact upon their ability to visit with or otherwise contact their children. Some mothers noted that they received more visits on Rikers Island or at Bayview Correctional Facility, which are in New York City (the former located between Queens and the Bronx, the latter a state prison in Manhattan), than they had in upstate facilities. Not surprisingly, mothers who had been incarcerated at Albion Correctional Facility rarely saw their children. “Albion was the worst because you’re an hour past Buffalo and an hour to Canada. So the commute alone is outrageous.” Said another mother who had two children with relatives and one in foster care, “When I was in Albion [for two years], my kids never went up there.” One mother related that she saw her daughter once in three and a half years while incarcerated at Albion. When she saw her daughter for the first time after being transferred downstate to Taconic Correctional Facility in Westchester, it was difficult: “She was big and she was a baby the last time I saw her.”

Mothers with children in foster care rarely received visits from their children unless family members brought the children. Caseworkers and foster parents generally did not bring children to visit.

Location was not the only factor affecting frequency of visits. For children in kinship care, if family ties had already been compromised or severed due to prolonged difficulties related to a mother’s struggle to function and manage daily life (for example, as a result of substance abuse), regular visitation was more likely to be jeopardized. Some family

members refused to bring the child into a prison environment regardless of whether the child had expressed a desire to visit. “I didn’t see [my daughter] at all during the eight months because her father refused to bring her to the jail.” One mother commented that she did not see her children because she did not want them to see her in prison.

Many of the interviewed mothers’ children moved at least once or more during their mother’s incarceration. Most frequently, these moves were between foster homes or from living with relatives into foster care. “[My daughter] had to move a year before I came home because it didn’t work out in my sister’s house. My niece was abusing my daughter so they removed her. So she stayed a year in foster care. [My son] was put in a psychiatric ward for kids. He was there three months and was abused by other kids. From there he [was placed in a foster home] and there [he] was completely in the street So he got removed from that house.” Two mothers who received visits from their children in foster care described their intense distress at seeing their children poorly cared for: “When the agency used to take him to see me, I said, ‘Why is my son so skinny?’ And they finally removed him from that house;” “I saw [my son] four times the first year of his life and the times I did see him he was filthy, he was dirty, I thought he was autistic. He showed no emotion. He was very distant.”

Prison security procedures also ranked high on the list of obstacles to visitation. Mothers expressed strong reactions to the security search routine they endured before and after visits. Protocols were described as an humiliating and offensive experience, sorely in need of amendment and improvement. As one mother commented, “They would dismantle you [so that] by the time you came back you feel like you [were] in a fight instead of on a visit.” Some expressed their distress at having to take off bras, undo hairstyles, remove dentures, and the like. They equally expressed anguish over their children and family members being subjected to long and dehumanizing security procedures, and to being treated “like criminals.”

“Albion was the worst because you’re an hour past Buffalo and an hour to Canada. So the commute alone is outrageous.”

Another recurring concern for incarcerated mothers involved the lack of an appropriate setting for family visitation. The environment and circumstances surrounding visits varied considerably depending on the prison but were most commonly described as hostile, uninviting, and not conducive to constructive family reunions. Issues were numerous and included the confined quarters where visits with children take place; the unreasonable expectations placed on children during visits (including the restriction of movement and long waits); a lack of activities and toys, particularly for young, active children, as well as too few activities for mothers and children to engage in together; the absence at several facilities of an outdoor space in which children could play (particularly during mild weather); empty food vending machines; and long security delays.

Despite the numerous difficulties associated with visiting — emotional and otherwise — mothers overwhelmingly emphasized that regular visitation was extremely important or imperative for a number of reasons: maintaining and nurturing relationships; assisting children to grasp and process their mother's absence; and preparing for and easing the post-incarceration reunification experience. “It’s a bad idea not to visit. Children need to see their mother. Even if it’s painful, you need to have the connection. By seeing her I could still be her mother You need to have contact with the kids all the time.” “It’s very important for kids to know what you are doing and where you are. [You can’t] suddenly disappear and then pop up again out of nowhere. They need to see you in prison so they understand why you are away and why they cannot be with you.” “When you start on the inside, you build your relationship ahead of time — before you can come out.” “I needed them to know that mommy didn’t abandon them. They needed to understand that. Mommy made a mistake . . . and I am coming back for you and I’m fighting for you.”

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Additionally, mothers reported that the lack of family visits has detrimental effects on post-release reunification, both for parents and their children. “[My daughter] is already the type of kid . . . [who] doesn’t let things bother her a lot. [Not seeing her] reinforced her shutting things down.” “Maybe if I had started seeing him in prison, he might have been through that anger by the time I was out.” “During the time we couldn’t see each other, I was still writing them, and talking to them on the phone, but a void came in between us My kids were suffering just as much being out there without me.” “Think about the kids and the mothers. You want nobody to judge that woman; she made a mistake, she’s paying. Who are [they] to step between a mother and child relationship? What [they’re] doing is more harm to these kids. They’re getting angry, they don’t care about school, and they become like a bomb ready to explode.” “Me and my children could have been bonding since I was in Bayview, so that way, when I came home, it wouldn’t have been so new for me trying to reunite and interact with them.”

Mothers also felt that sharing the experience of family visiting with other incarcerated mothers permitted them to explore unfolding problems related to family reunification with other women struggling with similar difficulties. Mothers emphasized the value of a support network, particularly structured groups run by a facilitator, that allowed them to prepare for the challenges that release and family reunification can present.¹³⁷ “It’s difficult coming out. When you start on the inside, you can sense ahead of time what they’re going through, and then you have support around you.”

Mothers were also asked questions about their experiences with the legal system and their encounters with assigned Family Court attorneys. Some mothers with children in foster care reported never having been produced for Family Court; some said their

parental rights had been terminated while they were incarcerated. Some mothers who were produced for court affirmed that they had little or no time to discuss their cases with assigned counsel and felt that they had not received adequate legal assistance. "When we got to the courts, my lawyer was nowhere to be seen . . . [Then she] just came in, did not read my case, had my folder, [and] she asked me in five minutes to 'tell her about my case.' And I said, 'It's not going to take five minutes. My case is complicated.' The lawyers are just overworked or they don't give a damn." One formerly incarcerated mother who was still pursuing the return of her children said of her assigned counsel, "My attorney . . . has like 500 cases and half the time he doesn't even remember. When he comes I have to really refresh his memory until he says, 'Oh, that case.' We go in there and we're not even prepared."

Children of Incarcerated Mothers: "You never had enough time."¹³⁸

Children interviewed ranged in age from 11 to 15 years old when their mothers were incarcerated, and from 14 to 28 when interviewed. The length of maternal incarceration spanned from 11 months to 12 years. They were asked who cared for them while their mother was incarcerated and for how long, which facilities they had visited, and how they had communicated with their mother while she was incarcerated. They were also asked to identify the main obstacles to visiting, their experience of the security process and visiting generally, whether there were activities for children, and whether they thought visiting helped them maintain a relationship with their mother.

Relatives had cared for some of the children interviewed, others had spent time in foster care, and some had experienced both. Most communicated with their mother by phone, typically twice per month, although one had no phone contact in the year his mother had been incarcerated, and another had spoken with his mother only three times in two years. Most communicated by mail as well.

Although two children said they visited their mother twice a month, most only visited a handful of times during their mother's incarceration, regardless of whether they were

"I was treated just like the prisoner. Humiliated, violated and stripped [of my] dignity. After all the security points and searches it doesn't make you even want to ever go back."

with relatives or in foster care. One child in foster care whose mother was incarcerated at Albion had visited only once in a year. Another who had spent time in foster care recalled visiting her mother four times in 12 years. Yet another related that she saw her mother every few months while living with relatives.

Distance was an obstacle to visiting for all children interviewed; high travel expenses and difficulties in going through the security process were also common issues. All expressed that the prison environment was a deterrent to

visiting; some explained that this was specifically because of “hassles” and delays encountered at security. Some expressed that their relationship with their mother made visiting difficult; others said that the visits were too short to establish a connection.

Children of incarcerated mothers were split on their perceptions of the security process and correction officer treatment. Two described very brief waits at security (up to 20 minutes) and felt officers at security and in the visiting room treated them “fine” or “well.” Significantly, these two children were particularly fortunate in that both had visited their mothers as part of the Osborne Association’s Family Ties program, which coordinates and expedites visits for children to Albion Correctional Facility, as well as accompanying them during the visit (for one child, that had been his only visit).¹³⁹

“Just when you were beginning to feel a connection it was time to leave . . . the visit gave a sense of comfort to be with my mom. After not being with her and being with so many strangers, it felt safe and complete.”

Others described the security process as extremely unpleasant, similar to caregivers’ experiences. In addition to reporting waits of up to two hours to be processed, they felt mistreated by officers at security and by some visiting room officers. “I was treated just like the prisoner. Humiliated, violated and stripped [of my] dignity. After all the security points and searches it doesn’t make you even want to ever go back.” “They always made you feel like you had to pay the time also.” Others commented that officers were often inconsistent with security procedures, which increased the stress associated with visits. Some found that the process got easier once the security officers became familiar with them over time: “At first they were strict, but eventually they were really friendly;” “[once] they knew us it was okay.” Most children expressed that officers in the visiting room generally “don’t bother [you],” although one child said visiting room officers were “mean, with no respect.” Children were also displeased with long waits during the inmate count.

In the children’s opinion, the adequacy of visiting room size varied by facility, as did whether there were appropriate activities for children. Bedford Hills Correctional Facility was singled out as being a notable exception to this problem.¹⁴⁰ One child pointed out that even at facilities that have activities for younger children, few or none are offered for older children.

Although answers varied as to whether visits helped children maintain a relationship with their mother, the children consistently expressed that the *option* to visit is critical for all children and should not be restricted or denied. At the same time, they felt that no child should be forced to visit. Children also emphasized the importance of beginning visits soon after a parent has been incarcerated. One child, after expressing the view that visits should begin without delay, commented: “I spent three years without contact while being with my relatives. If [visiting] was implemented at an earlier

stage it would have helped [the relationship] a lot.” Others described mixed feelings about whether visiting helped maintain their relationship. “No, because you never had enough time. Just when you were beginning to feel a connection it was time to leave, and the sense of disappointment and loss would reappear. Yes, because the visit gave a sense of comfort to be with my mom. After not being with her and being with so many strangers, it felt safe and complete.”

Recommendations for Change

The social, emotional and economic disruption of families is one of the most overlooked and damaging collateral consequences of incarceration. A vast increase in the number of women incarcerated in New York over the past three decades has left thousands of children — innocent of any crime — separated from their primary caregivers. Each year, hundreds of children in foster care have mothers who are incarcerated in New York State.

Because of changes in New York's child welfare policies during the latter half of the 1990s, many children will be separated from their incarcerated mothers permanently, even though the vast majority of these cases do not involve physical abuse, and many arise merely because the mother has no alternative to foster care as a temporary home for her children. Being "freed" for adoption does not guarantee a child placement in a permanent and stable home, and many "freed" children continue to languish in foster care even after their relationship with their parents has been legally severed. New York State communities do not experience this disruption of the social fabric equally: the majority of women inmates and their children come from poor urban communities of color.

Limited visiting and family reunification services, inconsistent and humiliating visiting policies and procedures, inadequate legal representation in Family Court, and insufficient coordination of services provided by city and state corrections departments, child welfare agencies, and the courts guarantee that separation, trauma and fractured relationships will remain a defining legacy of female imprisonment.

Destroying family bonds need not be an inevitable corollary to incarceration. Detailed below are criminal justice, corrections and child welfare policy reforms that will enable New York to address more effectively the serious problems facing families separated by incarceration. Amending New York's ASFA laws, providing alternatives to long-term foster care placement or adoption, expanding visiting and family reunification services, and increasing the number of women diverted to community-based correctional alternatives would go a long way toward ameliorating the harsh consequences of maternal incarceration.

Without such fundamental reforms, New York cannot effectively reduce recidivism, rebuild families, enable individuals to become healthy, productive members of society, or interrupt the intergenerational cycle of crime and prison.

Child Welfare System

1. **New York State should amend its ASFA laws to allow exceptions for incarcerated parents who lack options for long-term, non-foster care placements for their children.**

New York's ASFA laws should be amended to be more responsive to the particular circumstances of incarcerated parents, particularly in light of the lengthy sentences many inmates serve. Other states' ASFA laws lessen ASFA's negative impact: Nebraska and New Mexico exclude incarcerated parents from ASFA's time frame if the only reason for filing a termination petition is because a parent is incarcerated;¹⁴¹ Colorado makes an exception if a child has been in foster care for longer than the prescribed 15-month period for circumstances beyond the parent's control, such as incarceration for a reasonable period of time.¹⁴²

Providing an exception to ASFA's time frame for incarcerated parents would empower foster care agencies to meet the special challenges of families involved in the criminal justice system. In appropriate circumstances, caseworkers would have more time to arrange for consistent visiting at correctional facilities and help maintain regular contact between children and their incarcerated parents. Such an exception would not preclude a caseworker from filing a termination petition after 15 months if the caseworker deemed it appropriate. Rather, the exception would allow a caseworker to avoid prematurely filing a termination before he or she has had an adequate opportunity to evaluate the parent's expected release date and compliance with the service plan, to assess the parent-child bond, and to facilitate family reunification.

This modification would assist caseworkers in their effort to make sound, meaningful permanency decisions in cases involving incarcerated parents and their children, and would lessen the risk incarcerated parents face of losing rights to their children forever.

2. **New York State should provide a range of alternatives to long-term foster care placement or adoption that would provide permanent homes for children without irrevocably severing their relationship with their parents, including establishing a subsidized legal guardianship program.**

Subsidized legal guardianship programs supply caretakers (either relatives or close family friends) with the funds and legal authority to care permanently for children who live (or will live) with them. Unlike foster care — meant to be a *temporary* living situation — subsidized guardianship programs provide a *permanent* placement option for children who cannot be reunified with their biological parents within ASFA's prescribed timeline.

In circumstances where an incarcerated mother is unable to find a permanent non-foster care placement within ASFA's timeframe, subsidized guardianship can provide an alternative to "freeing" the child for adoption and placing him or her in an unfamiliar adoptive home, or forcing an adoptive parent-child relationship with grandparents or other family members. Additionally, in circumstances where a surrogate caretaker cannot afford to care (or continue caring) for a child, guardianship programs allow caretakers to receive subsidies outside of foster care — which can either shorten a child's stay in foster care or prevent foster care placement altogether. Because it can provide a permanent alternative to both foster care and adoption, subsidized legal guardianship is consistent with ASFA's goal of finding permanent homes quickly for children who cannot be reunified with their biological parents.

Most children with incarcerated parents have experienced considerable emotional hardship and disruption in their lives. In appropriate circumstances, living with relatives or close family friends can provide children with a greater sense of security and stability and often is preferable to living with strangers, even if those strangers are trained to be foster parents.¹⁴³

Thirty-four states and the District of Columbia have used federal funds and state tax monies to establish subsidized guardianship programs to expand permanency options for children who cannot be reunified with their birth parents. Because states can decide to allot equivalent subsidies to legal guardians, adoptive parents, and foster care agencies, guardianship programs will not necessarily place extra financial burden on the state or taxpayers.¹⁴⁴ New York should follow the example of other states and implement a subsidized guardianship program to allow more children the option of staying permanently with extended family members and friends without irreversibly cutting ties to their biological parents or increasing child welfare expenses.¹⁴⁵

3. New York State should initiate a series of ongoing trainings to educate all parties involved in child protective cases about the option for birth parents and adoptive parents to enter into court enforceable open adoption agreements.

An open adoption agreement allows a child and his or her birth parent to maintain an ongoing relationship even after the child has been legally adopted by another person. Under such an agreement, the biological and adoptive parents can decide on the degree of "openness" in the relationship, such as letter writing, phone calls, sharing of information, personal visits, and/or other forms of contact. Studies have shown that open adoption can have numerous positive effects: a child can live in a stable and permanent home while preserving emotional ties to his or her birth parents; biological parents can continue to play a role in their child's life; and adoptive parents can build relationships with birth parents and facilitate their adopted child's understanding of his or her family history.¹⁴⁶

In New York, parents facing termination of rights can opt for what is referred to as a “conditional surrender” — essentially an open adoption agreement — which allows a parent to surrender all rights to his or her child with certain conditions. While conditional surrender agreements can be beneficial to all parties involved, only agreements that are recognized by the court allow a biological parent legal recourse if an adoptive parent fails to comply with the agreement’s terms. Until recently, such “court enforceable” agreements were not authorized in New York State.¹⁴⁷ The New York State Legislature recently passed legislation, effective December 2005, to give biological parents more clearly defined legal rights to enforce the conditions contained in a surrender agreement after adoption.¹⁴⁸ Although this legislation could be of significant benefit to parents, it is still too early to tell how the standards contained in the amendment will be applied in cases involving conditional surrender agreements.

Court enforceable open adoption agreements can effectively meet the particular needs of each family and accommodate the best interests of the child, while allowing biological and adoptive parents recourse if either party does not abide by the terms of the agreement.¹⁴⁹ New York State should conduct ongoing educational trainings for lawyers, law guardians, judges, foster care caseworkers, birth parents and adoptive parents about the option — and potential benefits — of entering into a court enforceable open adoption/conditional surrender agreement.

- 4. New York City’s Administration for Children’s Services (ACS) and child welfare agencies in other parts of New York State should increase specialized services to all children in foster care with a parent in prison; consistently track comprehensive data about children with incarcerated parents; and ensure that foster care agencies fulfill their legally mandated duty to make diligent efforts to maintain parent-child relationships during incarceration, including facilitating family visits at least once per month.**

Parental incarceration affects a considerable percentage of children in foster care each year. Because most, if not all, caseworkers will encounter this issue in the course of their work, ACS and child welfare agencies in other parts of New York State should incorporate information on working with children of incarcerated parents into their core caseworker training. Caseworkers and supervisors should receive training on navigating the criminal justice system, prison visiting procedures, the barriers to parenting faced by incarcerated mothers and fathers, and incarcerated parents’ legal rights, including the right to at least monthly visits from their children in foster care (when the permanency plan for the child is to return to the parent and absent a court order to the contrary). Additional supervision and assistance should also be provided to these caseworkers.¹⁵⁰

In order to identify which children and caseworkers need support in this area, child

welfare agencies must track which children under their care have a parent in prison. As parents frequently become incarcerated after their children enter foster care, it is insufficient for child welfare agencies to gather data on parental incarceration only when children are first placed. Instead, these agencies should develop a mechanism to track parental status throughout a child's placement. In addition to tracking individual cases, child welfare agencies should consistently gather data on the total numbers of children living in foster care with an incarcerated parent. ACS recently upgraded their computer tracking system to allow caseworkers to note the address of a child's parent, including whether the parent is incarcerated. Because this system does not have the capability to aggregate data, ACS does not have statistics on the total numbers of children living in foster care in New York City with an incarcerated parent.¹⁵¹ Without systemic data, the scope of incarceration's effects on children, families, and communities in New York State cannot be properly analyzed and addressed.

ACS and child welfare agencies in other parts of the state should also gather other relevant data about children in foster care with an incarcerated parent, such as what role incarceration played in the foster care placement of the child; how often visits have been provided; how many termination proceedings have been filed in cases where a parent is incarcerated and the grounds for and outcomes of those proceedings; how often caseworkers invoke ASFA's exceptions to delay or decline filing a termination proceeding; the length of time between foster care placement, the filing of a proceeding and termination of rights; and the permanency outcomes for children of incarcerated parents who are "freed" for adoption.

In 2000, ACS launched the Children of Incarcerated Parents Program ("CHIPP") — a significant step in recognizing the special needs of children with a parent in prison. CHIPP is a unique program which provides much-needed services, including facilitating foster care visits and case conferences at city, state and federal correctional facilities within the tri-state area and providing technical assistance for caseworkers handling cases that involve an incarcerated parent.¹⁵² CHIPP does not have sufficient resources, however, to provide extra assistance, training and follow-up for every caseworker, foster parent and child, or to help track and monitor each case where a parent is incarcerated. To ensure that all children in foster care with incarcerated parents are provided with the necessary services, ACS should expand CHIPP and increase the program's ability to serve as a central resource for caseworkers managing children with incarcerated parents and to work more extensively with ACS-contracted child welfare agencies.

In addition to launching CHIPP, ACS has recently taken another positive step: the agency now facilitates a parenting class for certain mothers incarcerated on Rikers Island.¹⁵³ Given the large number of mothers serving sentences on Rikers, and the constant influx of new inmates each day (many of whom are parents), ACS should

expand this program to ensure that all inmate mothers have access to the information offered. ACS should also replicate this program for mothers incarcerated in the New York State prison system.

Additionally, ACS and child welfare agencies in other parts of New York State should take proactive steps to ensure that all agencies meet their legal obligation to facilitate visits between incarcerated parents and their children.¹⁵⁴

New York State Department of Correctional Services

5. The New York State Department of Correctional Services (DOCS) should be required to gather critical data about incarcerated parents and their children.

DOCS must gather comprehensive information about the number, age and placement of incarcerated parents' children, whether they live in New York State, and the current status of an incarcerated mother's or father's parental rights. Implementation of effective policies and the appropriate allocation of resources is not viable in the absence of an accurate measure of the problems to be addressed.

6. DOCS' classification policy should prioritize the placement of incarcerated mothers in facilities in close proximity to their children.

Albion Correctional Facility, the largest women's facility in the New York State prison system, is inordinately far from New York City, where many children of incarcerated mothers live. This distance unduly restricts and frequently prevents any face-to-face contact between a mother incarcerated at Albion and her children. For children in foster care, it virtually guarantees that foster parents and caseworkers will not bring the children to visit on a regular basis. Additionally, a woman confined at Albion encounters more difficulties in being produced for Family Court. Women from upstate counties who are incarcerated in downstate facilities face the same obstacles in reverse. When DOCS processes new female inmates, it should determine whether an inmate has children and where they live, and assign a classification that prioritizes placement, whenever possible, at a facility near the children.

7. All women's medium and minimum security correctional facilities should have daily visiting hours for children.

While Bedford Hills Correctional Facility, New York State's only maximum security facility for women, permits visits every day, all minimum and medium security facilities for women allow visits on weekends only — a practice that significantly limits opportunities for visiting.¹⁵⁵ Designated foster care visiting times at most facilities are even more restricted, sometimes limited to one day per week, or to a few hours

over several days.¹⁵⁶ In addition, while DOCS does not require paperwork from visitors before they come to the facility on regular visiting days, on non-regular days, visitors are required to apply for “gate clearance” prior to their visit — an often time-consuming and difficult process which varies from facility to facility.¹⁵⁷

Inevitably, caregivers and foster care caseworkers have limitations on the times during which they can facilitate visits and are often forced to make last minute plans when minor children are involved. These realities conflict with the rigid requirements of current prison visiting rules. Authorizing daily visiting hours at minimum and medium security women’s prisons — and assigning sufficient correction staff to monitor visits during these hours — would not only remove the need for visitors to receive prior gate clearance, it would also better accommodate the schedules of caregivers and caseworkers and the children in their care. Until visiting days are expanded to include all week and weekend days, however, medium and minimum security facilities should dispense with the practice of requiring prior gate clearance for children visiting parents on non-regular visiting days.

8. Incarcerated mothers should have increased telephone access to their children and agencies working with their children and the ability to call agencies and family members at reasonable rates.

The telephone is no less than a lifeline for incarcerated mothers — one through which they can contact their children, their children’s guardians, foster care agencies, schools, and therapists, and remain involved in their children’s lives. Incarcerated individuals in New York State, however, can only place collect calls, which cost 600% more than market rates for the general public.¹⁵⁸ Many service providers and family members will not or cannot accept the charges. Incarcerated mothers should have access to free telephone services, on a supervised basis, so that they can establish and maintain contact with their children and their children’s caretakers and service providers. Until incarcerated parents are offered free telephone services, state funds should be used to subsidize foster care agencies, foster parents and caregivers for the cost of collect calls. When a collect call to those involved in the care and custody of children is not feasible, incarcerated parents should have the option of paying for telephone calls out of their personal accounts at reasonable rates — a system similar to those currently used by the New York City Department of Correction and many federal prisons.¹⁵⁹

9. Visiting environments should meet the special needs of children and be conducive to mother-child interaction.

Most visiting facilities at women’s prisons do not address the unique needs of children, who cannot be expected to remain seated for the duration of a visit without activities, toys, or appropriate food. Bedford Hills Correctional Facility is an excep-

tion, providing a separate children's center with enough space for comfortable mother-child interaction as well as child-friendly books and toys. While some other women's facilities may have designated children's areas adjacent to their visiting rooms, these rooms are typically too cramped to permit mothers and children to be in the area together, and may contain reading material and games ill-suited for children of various ages. Each female correctional facility should provide a comfortable space for parent-child interaction, age-appropriate toys and books, and structured activities in which mothers and children can engage together. Outdoor areas for children to play in during mild weather should also be maintained.

In addition, because DOCS does not allow visitors to bring their own refreshments into state prisons, vending machines should be kept stocked with fresh and nutritious food so that children and caregivers can eat and drink during a visit.

10. Security procedures for visitors with children should be improved and standardized.

Visitors, particularly those bringing children, should not have to endure long waits (often outside regardless of weather conditions), humiliating security practices such as being forced to remove under-wire bras, and the inconsistent application of security procedures. Procedures should be streamlined to minimize delays; additional staff should be assigned to process visitors on busy visiting days such as Mother's Day and other holidays (which facilities can easily anticipate); appropriate indoor waiting areas for visitors should be created; and visiting rules should be applied consistently. Where a change in security practice must be implemented, such changes should be clearly posted in the facility and child welfare agencies should be notified in a timely fashion. Whenever possible, security staff at front gates and in the visiting room should be assigned to those posts consistently so they can become familiar with caregivers and children.

11. Correction officers assigned to process visitors and guard visiting rooms should receive special training to improve their treatment of caregivers and children.

Caregivers and children of incarcerated mothers repeatedly described being treated by some correction officers in a humiliating manner — which some visitors believed was intended to discourage them from returning for future visits. Others related that officers' inappropriate expectations of young children's behavior caused unnecessary tension during or a premature termination of visits. Some interviewees described receiving better treatment from more experienced correction officers who had, over time, become familiar with the visiting process and the visitors themselves. Correction officers assigned to posts with a high level of visitor contact should be trained by relevant child welfare and community organizations, and experienced fellow correction officers, to identify and eliminate whatever biases

they may bring to their interaction with families of incarcerated people. Officers should also receive training in child development so that they can respond appropriately to children in a visiting room setting.

Legal System

12. Whenever possible, women offenders with children should be sentenced to community-based alternative to incarceration programs where they can live with or near their children while serving their sentences.

Women offenders are particularly appropriate for diversion to alternative to incarceration programs, including drug treatment: many have been convicted of non-violent or “victimless” crimes, and the majority of those who are incarcerated for a violent felony offense have no prior violent felony arrests or convictions. A mother’s placement in a community-based corrections program as opposed to prison may prevent her children from entering or staying in foster care. Even if a mother cannot live with her children while she is in a program, her placement within the community will simplify visiting, make possible her attendance at foster care agency conferences and Family Court proceedings, provide a more hospitable visiting environment, and ease the reunification process when she is released.

13. Legal representation of incarcerated parents in child protective proceedings should be institutionalized to ensure that parents receive consistent and competent legal services.

Incarcerated parents often face untenable obstacles to consistent quality legal representation. They encounter significant barriers to being produced for Family Court — especially if they are unrepresented — and generally cannot be assigned counsel until they appear. In addition, incarcerated parents are sometimes assigned different counsel for each phase of their Family Court case. This inconsistency — which, as previously noted, may be eliminated because of recent legislation — is particularly troubling considering that incarcerated parents usually have little or no time to consult with their lawyer before proceedings commence.

Furthermore, although legal services agencies support law guardians representing children in termination proceedings, and ACS supports lawyers representing the foster care agency, lawyers representing incarcerated parents are usually independent practitioners with access to few, if any, institutional supports. Without adequate resources and support, independent lawyers are often unable to provide effective counsel in complex child protective cases that involve numerous participants (an incarcerated parent, child, caregiver, foster care agency, caseworker, and corrections department) throughout each stage of the case. To avoid putting incarcerated parent

defendants at an unfair disadvantage — and to decrease the possibility of unnecessary terminations — representation should be institutionalized to ensure that attorneys for parents have sufficient resources to conduct investigations, employ social workers, maintain legal support staff, and incorporate an interdisciplinary approach to their defense efforts.

Interagency Reforms

- 14. New York State and City departments of correction, child welfare agencies, and the courts must improve coordination of services for incarcerated mothers and their children. New York State should convene a task force to examine and recommend improvements to interagency coordination of services for incarcerated parents and their children, including the process for producing incarcerated parents for Family Court hearings.**

When corrections departments, child welfare agencies, and the courts communicate poorly and fail to coordinate efforts, incarcerated mothers and their children are harmed. Corrections and child welfare agencies must collaborate to improve visiting procedures for foster care caseworkers and caregivers bringing children to visit prisons. They must also seek ways to facilitate the participation of incarcerated mothers in agency permanency planning for their children, whether by phone, teleconference, or by holding these meetings at the facility where a mother is incarcerated or at a more mutually convenient facility. Corrections departments, child welfare agencies, and the courts must also coordinate efforts to ensure that incarcerated mothers are notified of and produced for relevant Family Court proceedings, and that Criminal and Family Court dates and mandates (such as parole hearings and participation in prison-based programs) do not conflict.

New York State and City Budgets

- 15. New York State and City should provide state and city corrections departments with additional resources to assist incarcerated mothers with protecting their parental rights and overcoming barriers to reunification. State and city corrections departments should also strengthen and expand partnerships with private organizations that provide services to incarcerated mothers and their families.**

15a. New York State Department of Correctional Services

Correction counselors at women's facilities have hundreds of inmates on their caseloads and are not specially trained in child welfare issues. Moreover, facilitating family communication and reunification is not part of their mandate. Prison counselors, however, are ideally positioned to serve as the point of contact between incarcerated mothers,

their families, child welfare agencies, and the courts. New York State should allocate additional resources to allow DOCS to hire specialized counselors to work exclusively on child welfare issues. These counselors would: identify upon an inmate's admission to a facility whether she has children in foster care and for how long; contact relevant foster care agencies, lawyers, judges, and family members; help facilitate visitation; provide incarcerated mothers with phone access to foster care agencies or caregivers; assure that incarcerated mothers are informed of their rights and responsibilities, as well as all agency and Family Court proceedings; and provide supportive services to incarcerated mothers, including individual and group counseling and assistance with transitional planning. Hiring specialized counselors would also help DOCS to comply with New York State law which requires correctional facilities to cooperate with child welfare agencies in arranging visits between inmates and their children.¹⁶⁰

To further expand the services offered to assist inmate mothers with child welfare issues, DOCS should increase partnerships with non-profit agencies that provide services for incarcerated parents. Such agencies include the Women's Prison Association's Incarcerated Mothers Law Project (IMLP) and Volunteers of Legal Service (VOLS), two non-profit organizations that collaborate to conduct educational trainings and provide *pro bono* legal counsel to mothers incarcerated on Rikers Island and at Bayview and Taconic correctional facilities,¹⁶¹ and Hour Children, a non-profit organization that provides family reunification, counseling, and parenting programs for mothers at Taconic, among other services.¹⁶²

15b. New York City Department of Correction

The New York City Department of Correction (DOC) has recently taken steps to bolster its services for inmate mothers. For example, DOC has revised its inmate orientation handbook to include information on the rights and responsibilities of parents with pending child custody cases and, in collaboration with DOC, ACS recently started parenting classes for certain inmate mothers.¹⁶³ New York City should allocate increased resources to allow DOC to expand its ongoing programs and provide additional services to meet the needs of all mothers — both those with children in foster care and those with children living in private arrangements — in its custody.

16. New York State should allocate funds for DOCS to expand its transportation services for children and caregivers to all seven correctional facilities that house women. In addition, DOCS should overhaul the current rules for its transportation program, which seriously limit opportunities for visiting.

The cost of private transportation, particularly to upstate prison facilities, is often prohibitive for low-income families.¹⁶⁴ Cost should not prevent children from visiting their mothers in prison. DOCS offers only extremely limited bus services for families of incarcerated mothers. Albion Correctional Facility is currently the only

women's prison to which DOCS sends buses from New York City.¹⁶⁵ DOCS takes an estimated six months to process an inmate's application and issue tickets, and, after the initial application, an inmate is allowed only two tickets (which includes minor children) every four to six months. Moreover, an inmate must use her tickets when they are issued — she cannot amass tickets and use them all at once.¹⁶⁶ Funding to this program should be increased to allow DOCS to provide free transportation to each of New York State's female correctional facilities for children and their caregivers at least once per month.

17. New York State should allocate at least \$1 million in Temporary Assistance to Needy Families (“TANF”) funds and/or other funds to programs that assist caregivers, foster care caseworkers, and children by facilitating mother-child prison and jail visits, and provide transitional services that support reunification after a mother's release.

A handful of excellent programs in New York provide visiting assistance to caregivers, caseworkers, and children with incarcerated mothers, as well as reunification services upon a mother's release. These programs include: ACS' Children of Incarcerated Parents Program which, among other services, facilitates foster care visits and case conferences weekly on Rikers Island and several times a week to state and federal correctional facilities;¹⁶⁷ the Osborne Association's Family Ties Program,¹⁶⁸ which facilitates visits between children living in New York City and their mothers incarcerated at Albion Correctional Facility near Rochester and, in collaboration with local community organizations, offers prison-based parenting services and reunification services upon release; Hour Children,¹⁶⁹ which operates multiple residences in Queens at which formerly incarcerated mothers can reunite with their children, as well as many other services, including visiting; the Women's Prison Association,¹⁷⁰ which has several programs that assist currently and formerly incarcerated mothers and their children, including Sarah Powell Huntington House, a residence that serves women with criminal justice histories who are homeless and either have custody of their children or have a goal of family reunification in the near future; and Edwin Gould Services for Children's Incarcerated Mothers Program,¹⁷¹ which aims to prevent foster care placement of children affected by a mother's incarceration through a variety of services, including support services for grandparents raising young children and intensive counseling services for children and other family members. As effective as these programs are, they are too few in number and are only able to serve a limited number of incarcerated women and their families.

The state should increase funding to these and other similar programs using TANF dollars and/or other funds. In 1996, the federal “Personal Responsibility and Work Opportunity Reconciliation Act” ended individual entitlement to public assistance

benefits and instituted block grants to states, called TANF.¹⁷² States now have greater flexibility both in structuring eligibility requirements and in funding a wide variety of employment and training activities, supportive services, and benefits with TANF funds. New York has taken advantage of this greater flexibility by using TANF to fund a variety of programs, including alternative to incarceration programs.

The U.S. Department of Health and Human Services' *Helping Families Achieve Self-Sufficiency: A Guide to Funding Services for Children and Families Through the TANF Program*, states that TANF funds can be used for parenting skills training, activities to promote parental access and visitation, and job placement and training services for non-custodial parents.¹⁷³ While incarcerated parents are not eligible for TANF assistance during their incarceration, they are eligible for TANF-funded services if their children are receiving TANF, as are formerly incarcerated parents of TANF children. To fulfill TANF's stated goal of providing "assistance to needy families so that children may be cared for in their own homes or in the homes of relatives," New York State should allocate TANF funds for visiting and reunification programs that help mothers maintain ties with their children during incarceration and reunite with their children after release.¹⁷⁴

ENDNOTES

- ¹ Created in 1977 and charged with the task of “acting as a neutral body to coordinate the State Health, Education and Human Services Systems to ensure that all children and families in New York State have the opportunity to reach their potential,” the New York State Council on Children and Families’ “vision” is “to facilitate the development of State and Local service systems that are coordinated, strength based, prevention oriented, and responsive to the needs of children and families.” New York State’s Division of Criminal Justice Services (which, among other responsibilities, gathers and analyzes crime data in New York State) and the Office of Children and Family Services (which oversees child welfare agencies statewide) are member agencies of the Council. See <http://www.ccf.state.ny.us> (visited 1/11/06).
- ² *Incarcerated Mothers and Their Children*, (New York State Council on Children and Families, April 1982), at 2.
- ³ *Id.* at 18-20.
- ⁴ *Id.* at 2-3.
- ⁵ Christopher J. Mumola, *Incarcerated Parents and Their Children* (Bureau of Justice Statistics, U.S. Department of Justice, August 2000) (hereinafter *Incarcerated Parents*). This Bureau of Justice Statistics report estimates that over 64% of women in state prisons lived with their children prior to incarceration. *Collateral Casualties: Children of Incarcerated Drug Offenders in New York* (Human Rights Watch, 2002) (hereinafter *Collateral Casualties*). Separately analyzing the New York data from *Incarcerated Parents*, Human Rights Watch reported that nearly 54% of female inmates in New York lived with their children before arrest. However, *Collateral Casualties* was based on a very small sample of only 104 out of an estimated total of 2,369 women in New York State prisons in 2000. Tracy L. Snell and Danielle C. Morton, *Women in Prison, Survey of State Inmates, 1991* (Bureau of Justice Statistics, U.S. Department of Justice, 1991). *Hub System: Profile of Inmate Population Under Custody on January 1, 2005* (State of New York Department of Correctional Services, 2005) (hereinafter *DOCS Jan 2005 Hub Report*), at 3 and 17.
- ⁶ Public Law 105-89, codified at 42 U.S.C. §§ 670–679a.
- ⁷ Prisoners’ isolation is well illustrated by the name of the “New York Mothers of the Disappeared” campaign, organized by the William Moses Kunstler Fund for Racial Justice. See <http://www.kunstler.org/projects.html> (visited 1/11/06).
- ⁸ *DOCS Jan 2005 Hub Report*, note 5. This report counts 2,789 women under custody of New York State prisons. At mid-year 1999, New York reported 3,293 women in custody of local jails. James J. Stephan, *Census of Jails, 1999* (Bureau of Justice Statistics, U.S. Department of Justice, August 2001), at 22. Since 1990, the adult female jail population has grown 7% annually, compared to 4.2% for men. Paige M. Harrison and Jennifer C. Karberg, *Prison and Jail Inmates at Midyear 2004* (Bureau of Justice Statistics, U.S. Department of Justice, April 2005), at 8. Absent an exact number for jail inmates, and taking into consideration the average increase in the female jail population nationally, this figure assumes that at a minimum, the female jail population has remained steady since 1999.
- ⁹ Allen J. Beck and Paige M. Harrison, *Prisoners in 2004* (Bureau of Justice Statistics, U.S. Department of Justice, November 2004), at 5. New York State has five correctional facilities that house women only: Bedford Hills Correctional Facility (maximum security), located in Westchester County; Taconic (medium security), also in Westchester and across the road from Bedford; Albion (medium security), located upstate near Rochester, in Orleans County; Bayview (medium security), located in New York City; and Beacon (minimum security), located in Dutchess County. Women are also incarcerated at two facilities that also house men in separate units: Lakeview Shock Incarceration Correctional Facility (minimum security) in Chautauqua County, near the Canadian border, and Willard Drug Treatment Center, in Seneca County.
- ¹⁰ At year-end 2004, there were 22,971 women on probation in New York State. Letter from New York State Department of Probation and Correctional Alternatives, November 4, 2005 (on file at the Women in Prison Project). In 2002, there were 4,190 women on parole in New York State. Figure derived from Camille Graham Camp and George M. Camp, *The 2002 Corrections Yearbook* (Criminal Justice Institute, Inc.), at 186-7.

- ¹¹ *Preliminary Data Tables Year 2004 Court Commitments* (State of New York Department of Correctional Services), at 17. See also *Undercustody Population, Crime by Sex* (New York State Department of Correctional Services, January 1, 2004, on file at the Women in Prison Project). Non-violent property offenses include forgery, grand larceny, stolen property, driving while intoxicated, contempt, and burglary in the third degree (entering or remaining unlawfully in a building with intent to commit a crime therein). See also Miriam Ehrensaft, Ajay Khashu, Timothy Ross and Mark Wamsley, *Patterns of Criminal Conviction and Incarceration Among Mothers of Children in Foster Care in New York City* (Vera Institute of Justice and Administration for Children's Services, December 2003), at 11 (hereinafter *Patterns of Criminal Conviction*), which studied the arrest, conviction and incarceration rates of mothers whose children entered foster care in New York City in 1991 and 1996. *Patterns of Criminal Conviction* reports that nearly 80% of mothers who had ever been convicted of a crime were convicted of larceny/theft, prostitution, or drug offenses.
- ¹² Twenty-one percent of women sentenced to New York State prison in 2004 for a violent offense had at least one prior violent felony conviction. Thirty-nine percent had at least one prior violent felony arrest. Figures derived from Computerized Criminal History System statistics, New York State Department of Criminal Justice Services (on file at the Women in Prison Project).
- ¹³ Figures derived from *DOCS Jan 2005 Hub Report*, note 5, at 55. See also E. Michele Staley, *Female Offenders: 2001-2002* (State of New York Department of Correctional Services, June 2003). By comparison, the Substance Abuse and Mental Health Services Administration (SAMHSA) of the federal Department of Health and Human Services reports that 1.5% of the female population nationally can be classified with illicit drug dependence or abuse. *Substance Dependence, Abuse and Treatment: Findings from the 2000 National Household Survey on Drug Abuse* (Department of Health and Human Services, SAMHSA Office of Applied Studies, 2002), Section 2.3. In February 2001, Albion Correctional Facility, the largest women's prison in New York, which currently houses more than 40% of all female state prisoners, had a waiting list of more than 600 women for its 220 treatment slots.
- ¹⁴ Recent amendments to New York's drug laws, which took effect on January 13, 2005, have reduced the length of some but not all mandatory minimum prison sentences and increased the weight requirements for some narcotics possession offenses. Although these changes are a small step in the right direction, a judge still cannot take into consideration mitigating factors — such as an individual's role in the drug transaction or history of addiction — when sentencing drug offenders. See N.Y. Penal Law §§ 70.70–70.71 & 220.00–220.65.
- ¹⁵ Letter from State of New York Department of Correctional Services Director of Public Information, May 15, 2001 (on file at the Women in Prison Project); 2005 figures derived from *DOCS Jan 2005 Hub Report*, note 5, at 28.
- ¹⁶ Marc Mauer, et al., *Gender and Justice: Women, Drugs, and Sentencing Policy* (The Sentencing Project, 1999), at 3.
- ¹⁷ Figures derived from *DOCS Jan 2005 Hub Report*, note 5, at 8.
- ¹⁸ *Drug Offense by Race/Ethnicity; Women Under DOCS' Custody on 10-29-05* (State of New York Department of Correctional Services, on file at the Women in Prison Project).
- ¹⁹ About 16% are African American and 14% are Latina. Figures derived from *2000 Census of Population and Housing, Age by Sex by Race and Hisp/Latino Ethnicity (Including Median Age by Sex)*, New York State Data Center, Section 3, at 1 and 2. See <http://www.nylovesbiz.com/nysdc/census2000/Section3Profiles/Standard/sf1s3nystate.pdf> (visited 1/11/06).
- ²⁰ See *Collateral Casualties*, note 5, at 4. *Punishment and Prejudice: Racial Disparities in the War on Drugs* (Human Rights Watch, May 2000) (hereinafter *Punishment and Prejudice*). See also *2001 National Household Survey on Drug Abuse: Volume I, Summary of National Findings* (Department of Health and Human Services, SAMHSA Office of Applied Studies).

- ²¹ See *Punishment and Prejudice*, note 20, Section VII, at 3. “Although crack was the least used of all illicit drugs in the U.S., and although more whites used illicit drugs than blacks, the ‘war on drugs’ has been targeted most notoriously at the possession and sale of crack cocaine by blacks. Crack cocaine in black neighborhoods became a lightning rod for a complicated and deep-rooted set of racial, class, political, social, and moral dynamics Tactical considerations also encouraged the concentration of anti-drug resources in disadvantaged minority neighborhoods and the consequent disproportionate number of black drug offender arrests. Police departments point to the number of arrests as a measure of effectiveness The circumstances of life and the public nature of drug transactions in low income urban neighborhoods make arrests far easier there than in other neighborhoods. In poor black neighborhoods, drug transactions are more likely to be conducted on the streets, in public, and between strangers, whereas in white neighborhoods — working class through upper class — drugs are more likely to be sold indoors, in bars, clubs, and private homes.”
- ²² *Id.* Section VII, at 3 (quoting Michael Tonry, *Malign Neglect: Race, Crime, and Punishment in America*, New York: Oxford University Press, 1995).
- ²³ Figures derived from *DOCS Jan 2005 Hub Report*, note 5, at 35.
- ²⁴ *Id.* As of January 1, 2004, approximately 56% of women under custody were first-time felony offenders.
- ²⁵ More than 60% figure derived from *DOCS Jan 2005 Hub Report*, note 5, at 28. Median minimum sentence figure from *Descriptive Statistics of Women Under DOCS’ Custody on 10-29-05* (State of New York Department of Correctional Services, on file at the Women in Prison Project). Median maximum sentence figure derived from *Men and Women Undercustody: 1987-2001* (State of New York Department of Correctional Services, 2004), at 35 and 44. Before changes to New York’s Rockefeller Drug Laws were enacted in January 2005, the sentencing structure in New York State included mainly indeterminate sentences for non-violent offenses that have a minimum and maximum sentence (for example, 15 years to life) and determinate sentences for violent offenses that have a single, flat sentence (for example, 5 years). Thirty-six months is the *median* of the minimum indeterminate sentences and the determinate sentences together. The *average* minimum sentence for women offenders in New York State is approximately 65 months — because this number includes the longest sentences, including sentences of life without parole, the *average* minimum sentence is higher than the *median* minimum sentence. Recent changes to the Rockefeller Drug Laws have significantly altered New York State’s sentencing structure for non-violent offenses. Under the revised statute, all drug offenses carry only determinate sentences. See note 14. Women drug offenders are sentenced from an average minimum of 39 months to an average maximum of 96 months. See *Female Offenders*, note 13, at 10.
- ²⁶ Figures derived from *DOCS Jan 2005 Hub Report*, note 5, at 17.
- ²⁷ *Id.* at 3 and 10. As of January 1, 2005, 52% of women in New York State prisons were from New York City; an additional 9.6% came from downstate suburbs.
- ²⁸ *Id.* at 5.
- ²⁹ *Id.*
- ³⁰ *Id.*
- ³¹ Lawrence A. Greenfield and Tracy L. Snell, *Women Offenders* (Bureau of Justice Statistics, U.S. Department of Justice, December 1999) (rev. 10/3/00), at 8.
- ³² See Beth E. Richie, “Exploring the Link Between Violence Against Women and Women’s Involvement in Illegal Activity,” in *Research on Women and Girls in the Justice System: Plenary Papers of the 1999 Conference on Criminal Justice Research and Evaluation* (National Institute of Justice, September 2000) (hereinafter *Research on Women and Girls*).
- ³³ *Substance Abuse and the American Woman* (National Center on Addiction and Substance Abuse, June 1996), at 23.
- ³⁴ *Id.* at 4. Compared to only 12% for men.

- ³⁵ See Cathy Spatz Widom, "Childhood Victimization and the Derailment of Girls and Women to the Criminal Justice System," in *Research on Women and Girls*, note 32. See also Elaine Lord, "Prison Careers of Mentally Ill Women," in *Acting Out: Maladaptive Behavior in Confinement* (American Psychological Association, Washington, D.C. 2002), at 385.
- ³⁶ Angela Browne, et al., *Prevalence and Severity of Lifetime Physical and Sexual Victimization Among Incarcerated Women* (International Journal of Law & Psychiatry 22 (3-4), 1999).
- ³⁷ *Homicide by Women* (New York State Division of Criminal Justice Services, June 1996), at 8.
- ³⁸ Information DOC currently collects via paper documents includes the number of children an inmate has, whether the inmate has custody of those children, and if the children are in foster care. Telephone interview with New York City Department of Correction Deputy Commissioner for Programs and Discharge Planning Kathleen Coughlin (January 6, 2006).
- ³⁹ See *infra* text accompanying note 151. See also *Patterns of Criminal Conviction*, note 11, at 22 and 26. This December 2003 Vera Institute of Justice report analyzed data which suggests that, each year, several hundred children who enter New York City's foster care system have a mother who either is or will be in prison or jail at some point during their foster care stay. Although the report did not analyze whether the mother's incarceration directly led to the foster care placement of the children, it found that where the mother's incarceration overlapped with the child's foster care stay, approximately 11% of those mothers were incarcerated in the year immediately preceding the child's placement in foster care. Interestingly, in most cases where maternal incarceration overlapped with a child's foster care placement, the mother became incarcerated in the year immediately following the child's placement. The report hypothesizes that in many of these cases, "the children were removed at a time when the mother's substance abuse and other criminal activity had increased and she was no longer able to care for the children. The downward spiral then continued after the child's placement." This pattern suggests that child welfare has the potential to improve prospects for family reunification in these cases by assisting the mother before she further descends into a criminal lifestyle.
- ⁴⁰ *Incarcerated Parents*, note 5.
- ⁴¹ See *Collateral Casualties*, note 5, at 13. *Incarcerated Parents* was based in part on data from New York; *Collateral Casualties* separately analyzes the New York data.
- ⁴² Ajay Khashu, Timothy Ross and Mark Wamsley, *Hard Data on Hard Times: An Empirical Analysis of Maternal Incarceration, Foster Care, and Visitation* (Vera Institute of Justice and Administration for Children's Services, August 2004). *Hard Times* examined a cohort of children who entered foster care in fiscal year 1997, which spanned from June 30, 1996 through July 1, 1997. 2003 projected statistics are for fiscal year 2003 (July 1, 2002 to June 30, 2003). See *Hard Times* at 4-6.
- ⁴³ *Number of Children for Women Under DOCS Custody on 10-29-05* (State of New York Department of Correctional Services, on file at the Women in Prison Project). See also *DOCS Jan 2005 Hub Report*, note 5, at 17. Ages of these children, or where they reside, are not available.
- ⁴⁴ See note 8.
- ⁴⁵ *Incarcerated Parents*, note 5, at 2. No accurate New York-specific data exist because state corrections agencies collect no information on inmates' children beyond how many children inmates report having. Similarly, New York child welfare agencies collect no specific statistics on children of incarcerated parents.
- ⁴⁶ See *Patterns of Criminal Conviction*, note 11, at 19 and 22. This report analyzed patterns of arrest and incarceration among mothers of children who entered New York City's foster care system in 1991 and 1996. The report estimates that 1,376 children who entered foster care in New York City in 1991 and 1,532 in 1996 had a mother who was incarcerated at some point during their stay. Thirty-nine percent of children entering foster care in 1991 and 35% of children entering in 1996 had a mother who had been arrested and convicted at some point in the child's life.

- ⁴⁷ *Id.* at 22. In cases where the mother's incarceration overlapped with the child's foster care stay, 18% of the 1991 study mothers were sentenced after the placement, as opposed to 11% before. In 1996, 14% were sentenced after compared to 10% before.
- ⁴⁸ *Id.* See also "Gentler Justice, Family Treatment Court," in *Families in Limbo: Crisis in Family Court*, (Child Welfare Watch, Winter 1999), at 12. Supporting this conclusion is the fact that a majority of petitions filed to remove a child from a home and place him or her in foster care involve allegations of parental substance abuse. Community-based drug treatment programs are a more appropriate response than prison for many women with substance abuse problems in that they allow a mother to recover while increasing a family's chances to stay connected and stable. See also *Collateral Casualties*, note 5. See also *Crossing the Bridge: An Evaluation of the Drug Treatment Alternative-To-Prison (DTAP) Program, A CASA White Paper* (National Center on Addiction and Substance Abuse, March 2003).
- ⁴⁹ *Patterns of Criminal Conviction*, note 11, at 19. Of children in both cohorts whose mother had ever been arrested, 11% of children in the 1991 cohort and 19% of children in the 1996 cohort had a mother who had been arrested and convicted in the year preceding their foster care placement. As the authors of the report acknowledge, this data cannot test whether a mother's incarceration directly led to the foster care placement of her children.
- ⁵⁰ *Incarcerated Parents*, note 5, at 4. Forty-six percent of mothers in state prisons, compared to about 15% of fathers, were the only parent living with their children in the month before their arrest. Thirty-one percent of mothers, compared to 4% of fathers, were living alone with their children prior to arrest.
- ⁵¹ Fifty-one percent of incarcerated mothers reported that their children were living with a grandparent and 23% reported that their children were living with other relatives. The Bureau of Justice Statistics' data analyzed in *Collateral Casualties* does not specify whether incarcerated parents reported that their children were living in kinship or non-kinship foster care. It seems accurate to assume, however, that the category of "foster home/agency" refers to non-kinship foster care only. *Collateral Casualties*, note 5, at 6. See also *Incarcerated Parents*, note 5, at 3. Nearly 17% of incarcerated women report having been in foster care themselves as children. *Women in Prison*, note 5, at 5.
- ⁵² Undoubtedly, a percentage of the children of incarcerated mothers are adults. Bureau of Justice Statistics' studies from the early 1990s indicate that from six to 11% of the children of women in prison and jail, respectively, are adults. See *Women in Jail, 1989* (Bureau of Justice Statistics, U.S. Department of Justice, March 1992). See also *Women in Prison*, note 5. Nationally, 70% of women held in local jails, and 65% of women in prison, have minor children. See also *Women Offenders*, note 31, at 7.
- ⁵³ Although no New York-specific data exist, an Arkansas study found that 29% of children of incarcerated mothers had been separated from brothers and sisters. Susan Phillips and Barbara Bloom, "In Whose Best Interest? The Impact of Changing Public Policy on Relatives Caring for Children with Incarcerated Parents," in *Child Welfare: Special Issue, Children with Parents in Prison* (Child Welfare League of America, Sept.-Oct. 1998), at 535. A California study found that 50% of children live apart from siblings, and that a mother's incarceration causes up to one-quarter of these separations. Denise Johnston, "Effects of Parental Incarceration," in *Children of Incarcerated Parents* (Gabel and Johnston, eds., New York: Lexington Books, 1995).
- ⁵⁴ *Id.*, Denise Johnston, "The Care and Placement of Prisoners' Children," Gabel and Johnston, at 109. See also *Child Welfare Outcomes 2000: Annual Report* (U.S. Department of Health and Human Services, 2003), at IV-235. Under the federal ASFA law, all states must supply data to the U.S. Department of Health and Human Services (HHS), which then reports to Congress on states' performance on seven national child welfare outcomes. New York's data for the year 2000 indicate that 24% of children in foster care for 12 to 24 months move three or more times and 33% in care for 24 to 36 months do so. Those percentages increase to 40% for children in care for three to four years, and 55% for children in care four years or more. These numbers cover all children in foster care, not just children of incarcerated parents, and do not include the number of times a child may have moved before entering foster care, or a child's move from living with family into foster care.

- ⁵⁵ See Lois W. Wright, Ph.D. and Cynthia Seymour, JD presented by Peter Breen, M.S.W. “Effects of Parental Incarceration on Children and Families,” and Rosemary Sarri, Ph.D. “Children of Incarcerated Mothers,” in *What About Me? Children with Incarcerated Parents Michigan Family Impact Seminars*, Briefing Report No. 2002-1, Edited by Eileen Trzcinski, Deborah Satyanathan, M.S.W., Lynda Ferro, M.S.W. (School of Social Work, Wayne State University, March 2002). See also *The Study of the Needs of Children Whose Parents Are Incarcerated*, House Document No. 32 (Virginia Commission on Youth, 1993).
- ⁵⁶ *Id.*, Virginia Commission on Youth, at 13. Gabel and Johnston report that one in five children witness their mother’s arrest and that half of the children who are present at the time of their mother’s arrest are between the ages of 3 and 7, and are in their mother’s sole care. Gabel and Johnston, note 54, at 105. See also *What Happens to Children?* (Child Welfare League of America). See <http://www.cwla.org/programs/incarcerated/whathappens.htm> (visited 1/11/06). See also Ross Parke and K. Alison Clarke-Stewart, *Effects of Parental Incarceration on Young Children*, papers prepared for the “From Prison to Home” Conference, January 30-31, 2002, hosted by U.S. Department of Health and Human Services (hereinafter *From Prison to Home*).
- ⁵⁷ See note 56. See also Adela Beckerman, “Charting a Course: Meeting the Challenge of Permanency Planning for Children with Incarcerated Mothers,” in *Child Welfare: Special Issue, Children with Parents in Prison* (Child Welfare League of America, Sept.-Oct. 1998), at 517 and 518.
- ⁵⁸ *Incarcerated Parents*, note 5, at 5.
- ⁵⁹ See Virginia Commission on Youth, note 55, at 13-17. See also note 56 and note 57. See also *How Can I Help? Working with Children of Incarcerated Parents*, Vol. 1 (The Osborne Association, 1993). See also Barbara Bloom and David Steinhart, *Why Punish the Children?* (National Council on Crime and Delinquency, January 1993), at 32.
- ⁶⁰ Gabel and Johnston, note 53, at 66-84. See note 55 and note 56. See also Cynthia Seymour, “Children with Parents in Prison: Child Welfare Policy, Program, and Practice Issues,” in *Child Welfare: Special Issue, Children with Parents in Prison* (Child Welfare League of America, Sept.-Oct. 1998), at 472.
- ⁶¹ *Id.*, Gabel and Johnston, note 53, at 80-82. See also Eric Brenner, *Fathers in Prison: A Review of the Data* (National Center on Fathers and Families, 1998), at 2. See also *Background Paper*, prepared for *From Prison to Home*, note 56, at xi-xvi. See also J. Mark Eddy and John B. Reid, *The Antisocial Behavior of the Adolescent Children of Incarcerated Parents: A Development Perspective*, papers prepared for *From Prison to Home*, note 56, at 21-23.
- ⁶² *Children of Incarcerated Parents*, Commission on Youth Document (Virginia Commission on Youth, 2002), at 11.
- ⁶³ *Women in Prison*, note 5, at 5. Forty-seven percent of female and 37% of male prisoners reported having had an immediate family member in prison.
- ⁶⁴ See, e.g., *Meyer v. Nebraska*, 262 U.S. 390, 399 (1923); *Skinner v. Oklahoma*, 316 U.S. 535, 541 (1942).
- ⁶⁵ Fundamental liberties are those interests that are “implicit in the concept of ordered liberty” such that “neither liberty nor justice would exist if [they] were sacrificed.” *Palko v. Connecticut*, 302 U.S. 319, 325, 326 (1937). Supreme Court Justice John Marshall Harlan identified fundamental liberties as those liberties that demonstrate “respect for the teachings of history [and] solid recognition of the basic values that underlie our society.” *Moore v. East Cleveland*, 431 U.S. 494, 503, 97 S.Ct. 1932, 52 L.Ed.2d 531 (1977) (citing *Griswold v. Connecticut*, 381 U.S. 479, 501 (1965)).
- ⁶⁶ *Santosky v. Kramer*, 455 U.S. 745, 753 (1982).
- ⁶⁷ N.Y. Soc. Serv. L. § 384-b(1)(a)(iii).
- ⁶⁸ 1983 N.Y. Laws ch. 911, §§ 1(i)(ii)(iii)&(iv), eff. Jan. 1, 1984. Prior to 1983, state law explicitly permitted a child to be adopted without an incarcerated parent’s consent.

- ⁶⁹ N.Y. Soc. Serv. L. §§ 384-b(7)(a)&(7)(c).
- ⁷⁰ A child is “abandoned” if his or her parent “evinces an intent to forego his or her parental rights and obligations by . . . fail[ing] to visit the child and communicate with the child or agency, although able to do so and not prevented or discouraged from doing so by the agency.” N.Y. Soc. Serv. L. § 384-b(5)(a).
- ⁷¹ A child is “permanently neglected” where his or her parent has failed for more than a year to “substantially and continuously or repeatedly to maintain contact with or plan for the future of the child, although physically and financially able to do so.” N.Y. Soc. Serv. L. § 384-b(7)(a).
- ⁷² N.Y. Soc. Serv. L. § 384-b(1)(a)(ii). New York State law acknowledges that “it is generally desirable for the child to remain with or be returned to the birth parent . . . unless the best interests of the child would be endangered.”
- ⁷³ N.Y. Soc. Serv. L. § 384-b(7)(f); 18 N.Y.C.R.R. §§ 430.12(c)(2)&(d)(1).
- ⁷⁴ 1983 N.Y. Laws ch. 911, § 1, eff. Jan. 1, 1984.
- ⁷⁵ N.Y. Soc. Serv. L. § 384-b(7)(f).
- ⁷⁶ New York State correctional policies and practices — such as limited visiting hours, restrictive telephone policies, lengthy visitor security procedures, unfriendly visiting environments, and sometimes disrespectful security staff — often make it even more difficult for foster care caseworkers to fulfill their legal responsibilities in meeting permanency planning requirements.
- ⁷⁷ See, e.g., *In the Matter of the Application of Seaman’s Society for Children and Families for the Custody and Guardianship of Jonathan R. v. Tanya and Michael R.*, 2005 WL 1118108 (N.Y. Fam. Ct. April 12, 2005). In *Jonathan R.*, the Court found that the foster care agency had fulfilled its “diligent efforts” requirement notwithstanding the fact that the agency had failed to facilitate legally mandated visits to the correctional facility in which the father was incarcerated. “Regardless of whether the Respondent Father was housed fifty miles away or not does not absolve the Agency’s duty to facilitate visitation. This Court is troubled by the Agency’s lack of efforts to facilitate visitation. Nevertheless, this Court does find that the Agency did satisfy the requirement of diligent efforts.”
- ⁷⁸ See *In re Gregory B.*, 74 N.Y.2d 77 (N.Y. 1989). In *Gregory B.*, the Court of Appeals rejected incarcerated fathers’ argument that their parental rights could not be terminated merely because they had no relative to care for their children during their incarceration, where the only offered alternative was continued, long-term foster care.
- ⁷⁹ See *In re Ida Jessica H.*, 733 N.Y.S.2d 426 (1st Dep’t 2001).
- ⁸⁰ See *Collateral Casualties*, note 5, at 10. See also <http://www.ccr-ny.org/v2/reports/report.asp?ObjID=0z90mxpZk5&Content=452> (visited 1/11/06).
- ⁸¹ See Martha L. Raimon, *Barriers to Achieving Justice for Incarcerated Parents*, 70 *Fordham Law Rev.* 243 (2001).
- ⁸² See N.Y. Soc. Serv. L. §§ 384-b(8)(a)(i)(ii)(iii)&(iv) for definition of “severely abused” child. See N.Y. Soc. Serv. L. §§ 384-b(8)(b)(i)(ii)&(iii) for definition of “repeatedly abused” child.
- ⁸³ Family Court Act § 262(a)(iv). New York State reimburses private attorneys on the 18-B panel for representing indigent defendants. See N.Y. County Law § 18-B.
- ⁸⁴ A small number of indigent parents are represented by attorneys that they have retained from legal services organizations.
- ⁸⁵ Family Court Act § 1090(b), effective December 21, 2005. See also *Testimony of The Legal Aid Society on the Effects of Incarceration on Families*, May 30, 2000 (prepared by The Legal Aid Society of New York’s Prisoners’ Rights Project).

- ⁸⁶ Because all phone calls from New York State prisons must be made collect at exorbitant rates, an incarcerated mother's ability to communicate with her lawyer also depends on the willingness of the attorney to accept expensive collect calls. *Id. Testimony of The Legal Aid Society on the Effects of Incarceration on Families*. See also "Separation Anxiety, Parent Lawyer at a Loss," in *Families in Limbo: Crisis in Family Court*, (Child Welfare Watch, Winter 1999). See also Raimon, note 81.
- ⁸⁷ 18-B attorney rates were raised from \$40 per hour for in-court work and \$25 per hour for out-of-court work to \$75 per hour for both in- and out-of-court work. See Marea L. Beeman and James Downing, The Spangenberg Group, *Rates of Compensation Paid to Court-Appointed Counsel in Non-Capital Felony Cases at Trial: A State-by-State Overview*, prepared for The American Bar Association Bar Information Program (August 2003), at 7.
- ⁸⁸ Telephone interview with Harriet Weinberger, Esq., Law Guardian Director, New York State Appellate Division Second Department (October 17, 2005), and telephone interview with Jane Schreiber, Esq., Law Guardian Director, New York State Appellate Division First Department (October 20, 2005).
- ⁸⁹ Some observers bluntly criticize the inadequate representation some 18-B lawyers provide. See generally *Nicholson v. Williams*, 203 F. Supp. 2d 153, 253-54 (E.D.N.Y. 2002) (Weinstein, J.) ("The 18-B attorney system as now organized and financed holds out the promise to a . . . mother that she will be properly represented by a competent attorney when she seeks to retain or obtain the return of her children . . . seized by ACS. It then cruelly supplies attorneys who cannot, and do not, properly represent her. They do not investigate. They do not consult with their client. They are not available for consultation. Their very existence delays hearings and proper prompt resolution of cases in Family Court, resulting in unnecessary separation of mothers and children and in unnecessarily prolonging those separations. The result is a practice and policy by the State and City of New York violating the substantive and procedural constitutional rights of many . . . mothers and their children.")
- ⁹⁰ See note 6.
- ⁹¹ Although domestic relations, including child welfare, fall within the province of the state (and not federal) government, Washington routinely influences state policy by predicating federal contributions to state programs on state law's conformance with federal objectives. Conditioning federal highway money on states raising their speed limits is a classic example.
- ⁹² Codified in sections of New York State's Social Services and Domestic Relations Law, and Family Court Act.
- ⁹³ N.Y. Soc. Serv. L. §§ 384-b(1)(a)(ii)&(iii).
- ⁹⁴ N.Y. Soc. Serv. L. § 384-b(3)(l)(i). There are exceptions to this stringent requirement, discussed further in this report.
- ⁹⁵ The original bill as introduced would have required the filing of a termination proceeding at 18 months; an amendment proposed shortening the time frame to 12 months. See Celeste Pagano, *Recent Legislation: Adoption and Foster Care*, 36 Harvard J. Legis. 242, 246 (1999).
- ⁹⁶ See note 25.
- ⁹⁷ Philip M. Genty, Columbia Law School Clinical Professor of Law (published research forthcoming, statistics on file with author). See also Philip M. Genty, "Twelfth Annual Symposium on Contemporary Urban Challenges: Damage to Family Relationships as a Collateral Consequence of Parental Incarceration," 30 Fordham Urb. L.J. 1671 (July 2003). The article reports preliminary statistics on termination of parental rights proceedings involving incarcerated parents derived from a search on the Lexis database. The author indicates that the cases found in the search had not yet been reviewed in detail at the time of the article's publication. After conducting this review, the author determined that the statistics cited should be revised downward. The statistics cited in this report (67% and 108%) are the downwardly revised figures.
- ⁹⁸ *Patterns of Criminal Convictions*, note 11, at 25.

- ⁹⁹ *ACS Update Annual Report 2004, Five Year Trend*. See http://www.nyc.gov/html/acs/downloads/pdf/stats_update_5year.pdf (visited 1/11/06).
- ¹⁰⁰ *2003 Monitoring and Analysis Profiles with Selected Trend Data: 1999 – 2003*, New York State Office of Children and Family Services, Office of Strategic Planning and Policy Development, Bureau of Management Information (August 2004), at 22.
- ¹⁰¹ *Id.* at 23.
- ¹⁰² U.S. Department of Health and Human Services, Administration for Children and Families, *The AFCARS Report* (Interim FY 1998 Estimates as of April 2000 (3)) and *The AFCARS Report* (Interim FY 2000 Estimates as of August 2002 (7)).
- ¹⁰³ Only a foster care agency can invoke these exceptions to decline from filing a TPR; an incarcerated parent or his or her lawyer cannot use the exceptions either as a defense or to delay or prohibit an agency from filing a termination proceeding.
- ¹⁰⁴ N.Y. Soc. Serv. L. § 384-b(3)(l)(i)(C).
- ¹⁰⁵ Philip M. Genty, *Incarcerated Parents and the Adoption and Safe Families Act: A Challenge for Correctional Services Providers*, in *The ICCA Journal on Community Corrections* (November 2001), at 43.
- ¹⁰⁶ N.Y. Soc. Serv. L. § 384-b(3)(l)(i)(A).
- ¹⁰⁷ N.Y. Soc. Serv. L. § 384-b(3)(l)(i)(B).
- ¹⁰⁸ Within limits. Long-term foster care will not satisfy the requirement that a parent “plan for the future of the child.”
- ¹⁰⁹ See note 51.
- ¹¹⁰ See *Incarcerated Parents*, note 5, at 5. See also *Collateral Casualties*, note 5, at 8.
- ¹¹¹ Beckerman, note 57, at 515.
- ¹¹² The Council of Family and Child Caring Agencies, *2002 Budget Briefing Paper: Stop the Staffing Crisis in New York's Foster Care Programs*.
- ¹¹³ See Johnston, note 53.
- ¹¹⁴ See Beckerman, note 57, at 518.
- ¹¹⁵ See Mary Ellen White, Eric Albers, and Christina Bitonti, “Factors in Length of Foster Care: Worker Activities and Parent-Child Visitation,” *Journal of Sociology and Social Welfare*, Vol. XXIII, No. 2 (June, 1996), at 75–84. See Inger P. Davis, John Landsverk, Rae Newton, and Williams Ganger, “Parental Visiting and Foster Care Reunification,” *Children and Youth Services Review*, Vol. 18, Nos. 4/5 (1996), at 363–382. See Judge Leonard P. Edwards, “Judicial Oversight of Parental Visitation in Family Reunification Cases,” *Juvenile and Family Court Journal* (Summer 2003).
- ¹¹⁶ Memorandum from Lisa Parrish, Deputy Commissioner, ACS Foster Care and Preventive Services, to Executive Directors, Foster Care Agencies, “Clarification of Child Visits with Incarcerated Birth Parents,” dated November 11, 1999. The memorandum references and attaches a much earlier administrative directive on the same subject, “Termination of Parental Rights of Incarcerated Parents,” OCFS Administrative Directive 85 ADM-42, dated September 3, 1985. ACS provides direct foster care services to some children in foster care, but most children are placed in and receive foster care services from non-profit agencies under contract with ACS.
- ¹¹⁷ *Id.* Additional emphasis in original.
- ¹¹⁸ *Id.* In this memo, ACS attempts to dispel what is commonly referred to as the “50-mile rule,” a remarkably persistent yet fictitious exception to caseworkers’ obligations to arrange visitation at correctional facilities. It clarifies that a distance of more than 75 miles to a prison merely triggers a different reimbursement mechanism for visit-related expenses, but in no way relieves the foster care agency of

the obligations to arrange visits (50 miles apparently being a throwback to an earlier distinction for reimbursement purposes). Yet some caseworkers continue to use the so-called “50-mile rule” to justify refusing to visit facilities beyond a 50-mile radius from New York City, to the great detriment of incarcerated mothers. Of the five women’s state prisons, both Albion and Beacon Correctional Facilities are well beyond that radius; Bedford Hills and Taconic Correctional Facilities are just within it. Bayview Correctional Facility is located in New York City, as is Rikers’ Island, the New York City jail. Lakeview Shock Incarceration Correctional Facility, which houses both male and female inmates, is nearly 450 miles away, next to the Canadian border. Willard Drug Treatment Center, which also houses men and women, is 250 miles away from New York. Some of the caseworkers we surveyed said they first learned that the 50-mile rule does not exist while being interviewed for this report.

¹¹⁹ *Id.* In addition, ACS has also issued a guide for caseworkers entitled *No Time to Lose: A Handbook for Child Welfare Professionals Working with Children and Their Incarcerated Parents*, developed by its Children of Incarcerated Parents Program (CHIPP). The guide explains how to navigate the criminal justice system, outlines how to plan for permanency with incarcerated parents, describes procedures for visits, offers tips for talking to children about their parent’s incarceration, and provides a guide of visiting procedures at each women’s facility.

¹²⁰ N.Y. Correct. § 619.

¹²¹ Moreover, the caseworker’s failure to bring the child to visit is in itself a fairly strong indicator of his or her stance on reunification of the family.

¹²² The Women in Prison Project also sought to interview correction officers and prison administrators, including superintendents of New York State’s women’s facilities. The respective superintendents of each facility either refused those requests or simply declined to respond. *See, e.g.*, Letter from then-Superintendent of Albion Correctional Facility Anginell Andrews, dated September 25, 2002 (on file at the Women in Prison Project).

¹²³ Women in Prison Project staff and members of the Incarcerated Mothers Committee of the Coalition for Women Prisoners conducted these interviews. Because the number of participants in each group interviewed was small, the data reflected in this report does not represent a statistically significant sample. In many areas, participants’ responses suggest the need for further and broader research by relevant agencies.

¹²⁴ One focus group was conducted with grandmothers receiving support services from the Incarcerated Mothers Program at Edwin Gould Services for Children. Individual interviews were also conducted with visitors to the Children’s Center at Taconic Correctional Facility. In total, 18 grandparents or other caregivers were interviewed.

¹²⁵ Albion allows visiting on Saturdays, Sundays and public holidays from 8:00 a.m. – 2:30 p.m. Telephone interview with Senior Guidance Counselor, Guidance Unit at Albion Correctional Facility (August 16, 2005). Bayview allows visiting on Saturdays, Sundays and public holidays from 8:00 a.m. – 3:00 p.m. Telephone interview with Counselor, Guidance Unit at Bayview Correctional Facility (August 16, 2005). Taconic allows visiting on Saturdays and Sundays from 8:30 a.m. – 3:00 p.m., and foster care visits on Thursdays from 8:30 a.m. – 3:30 p.m. Telephone interviews with Secretary and Counselor, Guidance Unit at Taconic Correctional Facility (August 16, 2005). Bedford Hills allows visiting every day from 8:30 a.m. – 3:30 p.m. Telephone interview with Counselor, Guidance Unit at Bedford Hills Correctional Facility (August 16, 2005). Beacon allows visiting on Saturdays, Sundays, and public holidays from 8:30 a.m. – 3:00 p.m. Telephone interview with Corrections Counselor, Guidance Unit at Beacon Correctional Facility (August 16, 2005). Willard Drug Treatment allows visiting on Saturdays and Sundays from 9:00 a.m. – 3:00 p.m. Telephone interview with Secretary, Parole Office at Willard Drug Treatment Facility (August 16, 2005). Lakeview Shock allows visiting for Annex inmates on Saturdays and Sundays, Platoon inmates on a Saturday or Sunday from 9:00 a.m. – 3:00 p.m., and reception and disciplinary confinement inmates on Saturdays. Telephone interview with Keyboard Specialist, Guidance Unit at Lakeview Shock Incarceration Correctional Facility (August 16, 2005).

¹²⁶ *Id.*

¹²⁷ Anonymous phone interviews were conducted with foster care caseworkers from ACS-contracted agencies. Seven caseworkers in total were interviewed.

¹²⁸ A prison counselor has hundreds of inmates on his or her “caseload” and meets with an inmate approximately every three months depending on the facility.

¹²⁹ This scenario is unlikely because prison counselors are not trained in child welfare law.

¹³⁰ In certain cases, a child welfare agency may ask the court to find that “reasonable efforts” by the agency to return the child to his or her biological parents are not required. Such instances include cases where a parent has been convicted of subjecting his or her child to “severe” or “repeated” abuse; has voluntarily committed a violent crime against his or her child’s sibling; or has previously had parental rights to his or her child’s sibling involuntarily terminated. Family Court Act § 1039-b. “Section 1039-b was enacted in 1999 as part of New York’s implementation of the Federal Adoption and Safe Families Act (ASFA). The intent is to fast-track possible termination of parental rights in cases involving extreme forms of abuse. The goal is achieved by dispensing with the traditional and often time consuming requirement that the child care agency (public or private) employ diligent efforts to rehabilitate the parent, with the intent of family reunification.” Merril Sobie, “Practice Commentaries” for McKinney’s Family Court Act § 1039-b (2003).

¹³¹ See *infra* text accompanying notes 146 and 147. In exchange for voluntary surrender, parents can specify who will adopt the child and retain certain rights, such as the right to have contact with the child after adoption.

¹³² See note 118 for information about the so-called “50-mile” rule.

¹³³ Many referred specifically to CHIPP. See note 119.

¹³⁴ In-person individual interviews were conducted with 14 formerly incarcerated mothers.

¹³⁵ The New York State prison system has two nursery programs that allow incarcerated mothers to keep their infants with them for up to 18 months: one at Bedford Hills Correctional Facility, in New York’s Westchester County, which has the capacity to house 26 mothers and infants, and another at Taconic Correctional Facility, also in Westchester County, which has the capacity to house 17 mothers and infants. *Profile and Three Year Follow-up of Bedford Hills and Taconic Nursery Programs: 1997 and 1998* (State of New York Department of Correctional Services, 2002).

¹³⁶ Mothers interviewed were living either at Women’s Prison Association’s (WPA) Sarah Powell Huntington House or at one of Hour Children’s several residences for formerly incarcerated women with children. Some WPA clients had reunified with their children at Huntington House at the time of the interview; others were waiting to regain custody from foster parents or relatives. Almost all mothers at Hour Children had been enrolled in its programs during their incarceration, and Hour Children had taken custody of their children prior to the mother’s release. Upon release, the mother and child had reunified and were living together.

¹³⁷ See Kathy Boudin, “Lessons From a Mother’s Program in Prison: A Psycho-social Approach Supports Women and Their Children,” *Women and Therapy*, Vol. 21, No. 1 (The Haworth Press, Inc., 1998), at 103-125. (Simultaneously published in *Breaking the Rules: Women in Prison and Feminist Therapy*, Judy Harden and Marcia Hill, eds. (The Haworth Press, Inc., 1998), at 103-125.)

¹³⁸ The smallest group interviewed for this report was children of incarcerated mothers. Out of concern that discussing their mothers’ current incarceration might cause emotional distress to younger children, only adults whose mothers had been incarcerated when they were children and teenagers with currently incarcerated mothers were interviewed. In total, five children of incarcerated mothers were interviewed.

¹³⁹ See http://www.osborneny.org/Family_Ties.htm (visited 1/11/06).

¹⁴⁰ This may be due, in part, to the existence of the Children’s Center at Bedford Hills Correctional

Facility which offers services to incarcerated mothers, including parenting classes and workshops, visiting services, and a visiting area for inmate mothers and their children. See Kate Stone Lombardi, *Parenting Behind Bars*, N.Y. Times, April 11, 2004. See also http://www.sowingseeds.tv/ep12_roulet.jsp (visited 1/11/06).

¹⁴¹ Neb. Rev. Stat. § 43-292.02 (2)(b) and N.M. Stat. Ann. 1978, § 32A-4-28(d).

¹⁴² Colo. Rev. Stat. § 19-3-604(2)(k)(IV).

¹⁴³ See Edwards note 115.

¹⁴⁴ Further, because families with subsidized guardianship arrangements have little to no ongoing foster care agency involvement, it is likely that subsidized guardianship programs would save the state money.

¹⁴⁵ See J. Creasie Finney Hairston, *Prisoners and Families: Parenting Issues During Incarceration*, papers prepared for *From Prison to Home*, note 56, at 45. See also Bloom, note 59, at 33. See also *Expanding Permanency Options for Children: A Guide to Subsidized Guardianship Programs* (Children's Defense Fund and Cornerstone Consulting Group, 2003). See also *Subsidized Kinship Guardianship: It's Time* (Federation of Protestant Welfare Agencies, Inc., April 2002). See also Glenda Rothberg, "Special Issue on Adoptions Introduction," 39 *Fam. & Conciliation Courts Rev.* 19 (January 2001).

¹⁴⁶ *Id.*, Rothberg. See Marianne Berry, "Risks and Benefits of Open Adoption," *The Future of Children, Adoption*, Vol. 3 No. 1 (Spring 1993). See also Cross-Borough Collaboration, *The Basics: Adoption in New York State* (2002).

¹⁴⁷ See N.Y. Soc. Serv. L. §§ 383-c 2, 3(b)&5(b)&(c), pre-2005 amendments.

¹⁴⁸ N.Y. Soc. Serv. L. §§ 383-c 2, 3(b)&5(b)&(c); N.Y. Soc. Serv. L. § 384(2)(b); N.Y. Dom. Rel. § 112-b; Fam. Ct. Act § 1055(a), effective December 21, 2005. Massachusetts and California also offer adoptive and birth parents the option of entering into court enforceable open adoption agreements. Mass. Gen. Laws Ann. 210 § 6(c) and Cal. Fam. Code § 8616.5 (West 2005).

¹⁴⁹ See Rothberg, note 145. See Amy L. Doherty, *A Look at Open Adoption*, 11 *J. Contemp. Legal Issues* 591 (2000). See Tammy M. Somogye, *Opening Minds to Open Adoption*, 45 *U. Kan. L. Rev.* 619 (March 1997).

¹⁵⁰ See Philip Genty, "Permanency Planning in the Context of Parental Incarceration: Legal Issues and Recommendations," in *Child Welfare: Special Issue, Children with Parents in Prison* (Child Welfare League of America, Sept.-Oct. 1998), at 556 and 557.

¹⁵¹ Telephone interview, Acting Chief of Staff to Executive Deputy Commissioner of the Administration for Children's Services Stephanie Gendell (January 9, 2006).

¹⁵² See *Out of Sight, NOT Out of Mind: Important Information for Incarcerated Parents Whose Children Are in Foster Care* (New York City Administration for Children's Services' Children of Incarcerated Parents Program, February 2005).

¹⁵³ See note 151.

¹⁵⁴ ACS has recently created an Office of Family Visiting focused on maintaining and strengthening family relationships between children in foster care and their parents. Authors of this report note ACS' recognition of the importance of visiting and hope that this new office will help reinforce ACS' commitment to fulfilling their legal obligation to facilitate meaningful visits between incarcerated parents and their children in foster care.

¹⁵⁵ Visiting hours and practices vary at each New York State women's correctional facility. For example, inmates at Albion with last names in the A-L category are allowed visitors on Saturday, while M-Z are allowed visitors on Sunday; these groups switch visiting days every other weekend. Visiting hours at Albion are from 8:00 a.m. to 2:30 p.m. Telephone interview with Senior Guidance Counselor, Guidance Unit at Albion Correctional Facility (August 16, 2005). At Taconic Correctional Facility, all inmates are allowed visitors on both Saturday and Sunday and visiting hours last from 8:30 a.m. to 2:30 p.m. Telephone interview with Secretary of Guidance Unit at Taconic Correctional Facility (August 16, 2005).

Most inmates at Lakeview Shock are only permitted visits one day every other weekend. In addition, the inmate count typically takes place during visiting hours. Telephone interview with Keyboard Specialist, Guidance Unit at Lakeview Shock Incarceration Correctional Facility (August 16, 2005).

¹⁵⁶ For example, Taconic permits foster care visits on Thursdays only, between 8:30 a.m. and 3:30 p.m. Telephone interview with Counselor, Guidance Unit at Taconic Correctional Facility (August 16, 2005).

¹⁵⁷ Telephone interviews with Sergeant in the Watch Commander's Office, Bayview Correctional Facility; Senior Counselor in the Guidance Office, Taconic Correctional Facility; Program Administrator, Beacon Correctional Facility; officials in the Office of the Deputy of Programs, Albion Correctional Facility; Deputy Superintendent, Willard Drug Treatment Center; and Keyboard Specialist in the Guidance Unit, Lakeview Shock Incarceration Correctional Facility (August 17, 2005).

¹⁵⁸ See Raimon, note 81.

¹⁵⁹ See Nancy G. La Vigne "Rational Choice and Inmate Disputes Over Phone Use on Rikers Island," *Crime Prevention Studies*, Volume 3, ed. Ronald V. Clarke (1994). See Telephone Regulations for Inmates, Program Statement 5264.07, U.S. Department of Justice, Federal Bureau of Prisons (corrected copy February 4, 2002).

¹⁶⁰ See note 120.

¹⁶¹ See <http://www.volsprobono.org/rtf1.cfm?pagename=VOLS%20Programs#mothers> (visited 1/11/06).

¹⁶² See <http://www.hourchildren.org> (visited 1/11/06).

¹⁶³ This section of the handbook was drafted by the Women in Prison Project and members of the Coalition for Women Prisoners' Incarcerated Mothers Committee. DOC expects the revised handbook to be released in Spring 2006. *New York City Department of Correction Inmate Handbook*, under revision as of January 12, 2006, at 13 and 14 (on file at Women in Prison Project).

¹⁶⁴ For example, Operation Prison Gap, a frequently used — and relatively inexpensive — bus service that transports families of inmates upstate charges \$55 per adult and \$30 per child for travel to Albion. A trip to Lakeview Shock Incarceration Correctional Facility costs \$65 for adults and \$35 for children. A round-trip Metro North peak ticket for one adult and one child to Bedford Hills, New York, where Taconic and Bedford Hills Correctional Facilities are located, costs \$46, plus the cost of a taxi to and from the facility, which can cost from \$5 to \$10 each way.

¹⁶⁵ DOCS also sends buses to Bedford Hills Correctional Facility and Taconic Correctional Facility that pick-up from Buffalo, Rochester, Syracuse and Albany. Telephone interview with State of New York Department of Correctional Services' Ministerial Services Department (January 10, 2006).

¹⁶⁶ Telephone interview with State of New York Department of Correctional Services' Ministerial Services Department (August 8, 2005).

¹⁶⁷ See note 152.

¹⁶⁸ See note 139.

¹⁶⁹ See note 162.

¹⁷⁰ See <http://www.wpaonline.org> (visited 1/11/06).

¹⁷¹ See <http://www.egscf.org> (visited 1/11/06).

¹⁷² 42 U.S.C.A. § 616.

¹⁷³ *Helping Families Achieve Self-Sufficiency: A Guide to Funding Services for Children and Families Through the TANF Program* (Department of Health and Human Services, Administration for Children and Families, Office of Family Assistance, December 1999), at 11.

¹⁷⁴ 42 U.S.C.A. § 601.

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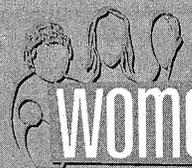
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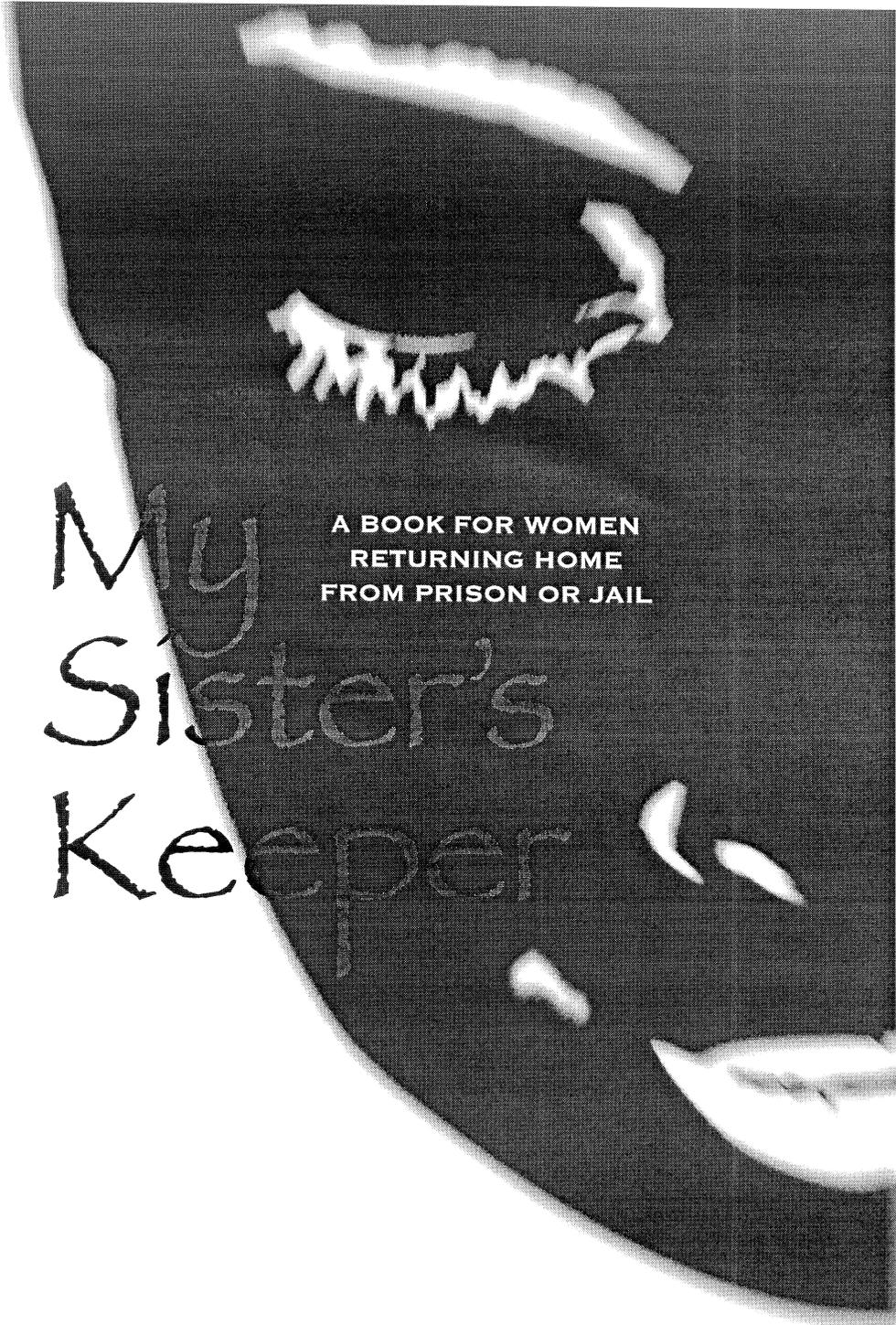
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women in prison project
Correctional Association of New York



My
Sister's
Keeper

A BOOK FOR WOMEN
RETURNING HOME
FROM PRISON OR JAIL

COALITION FOR WOMEN PRISONERS

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The symbols at the beginning of each chapter are called Adinkra symbols. They are cultural symbols of the Akan people of Ghana, West Africa. Each symbol is associated with a specific proverb, saying or experience. Template Source: Jean MacDonald, Well-Tempered Web Design, www.welltempered.net/adinkra.

*If I am successful,
we are all successful.
I cannot remain silent
when there are things
that need to be said.
It is our obligation
to reach, teach and
touch lives. We owe
it to ourselves,
and each other.*

Patricia “Rocky” Zimmerman

This book is for women who are returning home from prison or jail. The words are those of women who have been right where you are now. It is our hope that their experiences and guidance will encourage you to stay strong as you cope with the challenges of reclaiming your life.

How to Use This Book

Introduction by Women On The Rise Telling HerStory

This book is meant to give you guidance from women who have been right where you are—facing the same experiences and challenges. The voices in this book are from many different types of women who are at various stages—the beginning, middle or end—of returning home. There is a person in this book who had the same thoughts that you are having right now. Read on and you will find that she was able to successfully work through her ideas and realize that there is hope.

This book is for women who want to define themselves as opposed to being defined by others. From your first day in prison or jail to the time you return home, you are on a journey. No matter how you identify yourself, many of the issues that you face on this journey are the same. You have to know how to navigate various systems and communicate effectively. Just because you have to accept something does not mean that you cannot change things. Some things are just a step to the next level.

We want the words in this book to help you grow and achieve your dreams. The most important thing that you must keep in mind when you return home is that you must be patient, flexible, and tolerant. These qualities often come when you begin to trust others and realize that others can teach you things. Trust will help you realize your own self worth and abilities.

Being open is really important. We all share values and a sense of the right way and wrong way of doing things. This is a foundation that is always with us, even if we strayed from it for a while. The key to creating

positive structure in our lives is rooted in the inner strength we have. No matter where you go in life, there will be guidelines. We must learn what they are, deal with them, and figure out how we can live a fulfilling life. Once we reconnect with ourselves, we can stop running, begin to face our fears, and be able to say what we do not know.

There are many formerly incarcerated people who found a way to get a job, get housing, reunite with their children and accept who they are and who they can be. They know that life is not perfect and that we are not perfect. It is okay to mess up. This is a learning experience. It helps you to grow. Trust yourself and if you have to fake it until you make it, do so. Sometimes you will have to give up a lot of things that you think are right for you at the moment to get to what is truly right for you in the end.

To find your way out of negative thinking and doing, you will have to listen to other people and see what other people who are successful are doing. Doing the same thing and expecting something different just doesn't work. This can lead to hopelessness. Instead, try to do things a different way. Keep it simple. Simplicity will help you to build structure in your life.

Trust yourself and if you have to fake it until you make it, do so. Sometimes you will have to give up a lot of things that you think are right for you at the moment to get what is truly right for you in the end.

While you are reading this book, we would like you to really think about what is being said. Look at the common themes in women's experiences. There is no one answer. In this book, women explain the reality of their lives and the self-awareness they have gained. Use these voices to help you think, observe and make choices. Recognize that you always have a choice about what to do. No matter what you are going through, there is a solution.

There will always be hills and mountains, but you can make your return home a successful one. When you hit rough spots, reach out for help. Also remember, though, that no one can do it for you. You must do the footwork. Establish relationships and use them as a means of moving forward and staying hopeful. When women trust and rely on each other, we are a powerful force.

Read this book with an open mind. If you cannot do that, then read it for the words on the page. If you grasp even one point or thought that gets you to think, that is a start to finding your place and claiming your right to being an active participant in your life.

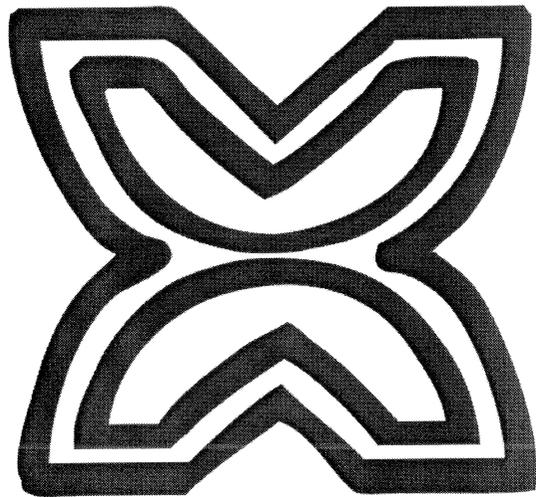
Peace and blessings,

Tina Reynolds, Co-Chair
Denise Dunkley, Co-Chair
Women on the Rise Telling HerStory (WORTH)

Women on the Rise Telling HerStory (WORTH) is an association of empowered women seeking to transform the lives of women affected by incarceration through mentoring, mutual support, leadership, public education and policy advocacy.

Coming Home

We have the right
to a new beginning.



freedom

**“The first couple of weeks—excitement, freedom.
Then you realize life is about everyday things.”**

Being home from prison or jail, you may feel many things at the same time: excited to finally be free; worried about how you will be received; anxious about getting things right; confused about what is “normal;” and surprised at how much hard work it takes to survive and maintain yourself. Here is what women have to say about coming home.

Feelings about coming home

- ◆ *The different times I came home, I had the same mentality. I have done four state bids. I wanted to do the same thing each time. But this last time I wanted a change. I was tired of being incarcerated. I was tired of being 48 years old with younger people telling me what to do.*
- ◆ *Small things were hard, for example, crossing the street. The cars were going by so fast, the light was changing, and people were everywhere. It was very overwhelming. It was terrifying. I froze and I had an anxiety attack. I had to call my mom. It's so different when you have been away for so long. You need someone who can be with you, like a buddy, who can help when you freeze.*
- ◆ *My first few days were hectic and I felt overwhelmed. A little bit of anxiety and it triggered a desire for drugs. I also had “gate fever”. I wish someone had let me know that it would get better and the cravings to use drugs would pass. I was used to sleeping a lot in Bedford Hills to cope, but I could not do this in the community.*
- ◆ *When it's your first time in jail, home is a fantasy. Getting out is the focus, not what to do once you are out. It's just, “I can't wait to get out.” A lot of people relapse two days before they leave a program. It's not a fantasy, it's a cold world, but there is help, resources, you just have to do the work.*

◆ *My family was mad at me, so they weren't going to help me. I wish someone had told me how to get some food and where to go and counseling for anger issues. I needed someone to let me know that I'm going through a different phase in my life; that I'm no longer in jail and I don't have to act like I am; that I don't need to fight for everything, be angry and aggressive. I wish someone told me that everything is not going to go my way and that I can't control people.*

Lorraine

When I first came home the most important thing to me was my healthcare. I was diagnosed with high blood pressure and I had been on medication for two years. My biggest fear was how to get my medicine. The medical staff at Bayview and Taconic had ingrained in me the importance of taking my meds. When I left Bayview, it was with two weeks worth of pills and prescriptions that I had to get filled. I was scared to sleep; scared of having a stroke. I had never been on public assistance, so I did not know anything about waiting to get on Medicaid. Finally, a peer, an old-timer, told me to go to the emergency room and sit there until they gave me my medication. That's what I did, even though I really didn't have the luxury of time to sit in the emergency room. I had to maintain my parole stipulations and go to groups.

When I was released, I had to throw all of the plans that I made for coming home out of the window. I thought that I could get Section 8 [subsidized housing] within six months of release. I applied while inside. I was not aware that I could be denied because of my felony conviction. I later learned that I could appeal my Section 8 denial and state a case for myself. I did not know the housing situation in New York City was so bleak, even worse for someone with a felony. The only solid piece of information incorporated into my plan was about a college initiative. I corresponded with them while I was at Taconic and they told me how to connect with them once I was discharged. I did what they said and they were able to help get me enrolled in college after I was discharged.

My addiction to drugs happened late in life. I was 31. I had used powder cocaine recreationally. I introduced myself to crack and it won. I ended up at Rikers Island twice. I was sentenced to a state bid because I received an alternative to incarceration program that I left eight months into the program – it was a 24 month program. Then I ran for five years without being picked up. When I finally was picked up, the district

attorney was adamant about me not getting another program. I received the sentence that I was to receive if I did not complete the mandated program—four and one-half to nine years.

Prison woke me up to what I had done to my life. I got committed to four and one-half to nine and I was determined to have something good come out of it. Inside, I went to a lot of volunteer programs to stay away from the negativity on the unit. Volunteers give you books and you work on yourself and you don't even know it. When you go to transitional services, volunteers come in to help. Ask questions: "How recent is this information?" "Do you know anyone who has used this information?" "Do you know the directors' names?" Talk to the civilian volunteers. They are the best resource because they have the most recent information. The people who work inside just get the information sent to them and disseminate it. Ask the volunteers.

My first parole officer was cool. The next one was not. She was trying to be too many things and requiring things of me beyond my stipulations. I was a full-time student at John Jay College of Criminal Justice. I

I have a network.
When I left Bayview I
bought a phone, started
dialing numbers and
talking to people. Talk
about it. Use your words.
You can't pick up if you
are on the phone.
That's my recovery.

was working at a fast food place. She wanted me to go to additional groups even though I had graduated from a drug program. She wanted me to pay for tickets and attend plays, purchase books out of my pocket for her book club, and bring my family to parole events. She eventually did something that I felt was inappropriate, so a friend of mine and I complained and eventually wrote to Albany. My

mother always said, "Everyone has a boss." I challenged this positively and got results, not just for me, but for a whole bunch of women.

Initially, everyone back home welcomed me with open arms, but they were watching me out of the corner of their eyes. A big issue for me was finding my role in the family again with my mother and brother after being separated for so long. When I was using drugs over a 14 year period, they were together, so they had a tighter bond. My mother needed to protect herself. She did not know if I would act up or act out

or if she would wake up in the middle of night to ID me in the morgue. So do not set yourself up by expecting everything to be perfect. Realize and accept that you have hurt your family and they will protect their feelings by waiting and watching. My first Christmas home, I saw how my brother and mother interacted and felt left out. I had graduated from a drug program and felt they were going to believe in me, but they were unsure, so they waited to see how I would do. They were just being cautious because they were used to me being gone and they knew the type of things I was involved in. We have to remember to *remember*.

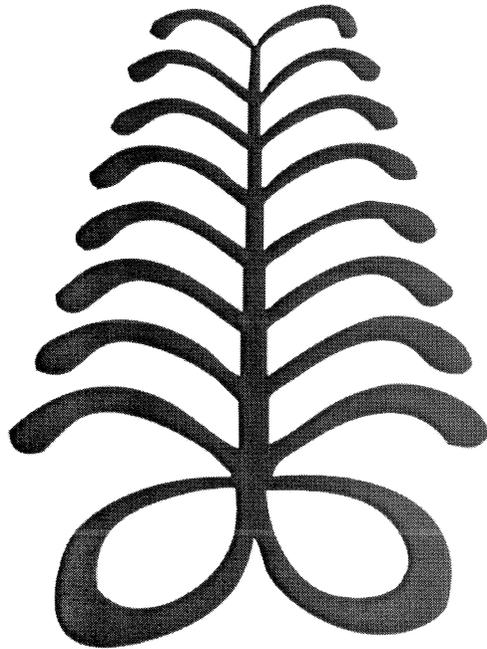
Most of the information that I gathered came from my peers. I come from a strong civil rights background. My parents were activists. I saw a lot of things in prison that were not correct. I am so peer-centered. I reach out to my sisters. My peer group from my transitional housing program is awesome. I get so much from my peers. Anytime we find out anything, like I can't get financial aid, a friend says let's go look for scholarships. Now my peers are professionals. I always said that I'm going to stick with the winners.

I have a network. When I left Bayview I bought a phone and started dialing numbers and talking to people. Talk about it. Use your words. You can't pick up if you are on the phone. That's my recovery. I've got enough minutes to call anybody that I need to call. And use your groups. I learned this in treatment. It's what they call a "prior concept." I knew what groups were for and how to use them.

Today, all I do is reentry work. I can't keep information unless I give it away. Getting what you want depends on what you need. I say to women, address what you neglected when you were inside. If you are MICA [Mentally Ill and Chemically Addicted], address your psyche first. Find what you feel good about doing. Heal yourself. My philosophies are "just for today" and "I made a mistake, but I'm not a mistake." I make the choice not to get high, not to use. Today, I can hear the smile in my mother's voice. I'm a wife, daughter, sister and a real friend. I'm not a part of the system anymore. Just for today, I focus on what's going on today. The only thing I see far ahead is term papers! By the grace of God, I am alive. Stick with positive people when you are incarcerated. Remember that the chip on your shoulder will get you caught up in more stuff. If you have a discharge date, then you are coming home. Therefore, prepare yourself to reenter.

Getting the Basics

We have the right to support.



resourcefulness

The early days and weeks home from prison or jail are often about survival and obtaining the basics: safe shelter, food, clothes, medicine, money, transportation to make appointments, and for many, drug and alcohol treatment to stay clean and sober. Here is what women have to say about obtaining services.

Finding a place to stay

- ◆ *My priorities were housing and money to get back and forth to the different appointments. I wasn't able to go to my family. They didn't trust me; they were not going to let me in their house. So I used to the point where I had to go to the hospital for mental issues. I was lucky because of my caseworker. I went to the Department of Social Services, but they made me wait 45 days. I started going from place to place until I got into a housing program. I wish there was someone I could have talked to in jail about transitional housing. Thank god for the women in the housing program.*
- ◆ *I've only been out three weeks from an upstate program. I had an apartment with my husband and he just lost it because he was using drugs. I got fed up and they put me in a shelter. I would tell others to look for proper housing first and then deal with the rest of the stuff later. If you don't have housing, you don't have anything.*
- ◆ *I didn't have any housing. My family didn't care and I was basically on my own. At first I tried to move in with my brother, but all he wanted to do was use me. Really, God helped me. He put me in the right place at the right time. I met this landlord, he had a small room available and I explained my family situation and he gave me the room... Once that was taken care of, I could take care of other things.*
- ◆ *I needed a place to stay, transportation to group meetings, clothing, shoes and personal items. I went to a program and they gave me a voucher to Ladies of Charity [upstate]. I also had gone to a half-way house. They helped me get on Medicaid and assistance. They made me wait 45 days. For food, I had the half-way house.*

Employment

**“This is an open and competitive market—
you have to make yourself employable.
That’s the only way.”**

- ◆ *When I was first released from prison I got a job. I started at \$4.25 an hour and I left at \$21 an hour. I had no work history and I learned on the job. It was a help desk for all HRA [Human Resources Administration] locations. You’ll get minimum wage but at least you get experience. Now I work on Wall Street. It’s a not-for-profit. You get out what you put in. Someone will notice your hard work and you will get a reference. Or go for training—there are lots of places. But this is an open and competitive market—you have to make yourself employable. That’s the only way. I’ve been incarcerated; that didn’t stop me. Put in your footwork. I didn’t have experience, so I got some connections. You can’t just stay stuck. You have to create a variety of skills and more opportunities. When they try to look at what you’ve done, you can sell yourself. And here I sit now as a secretary-receptionist. Even if you don’t like it, get a variety of skills because you have two strikes against you. First, you’re a woman. Second, you’ve been incarcerated.*
- ◆ *I went to several agencies, but no one called me for six weeks and that was the timeframe I had to get a job ‘cause I’m on work release. So I took a job at McDonald’s. Now places are calling me, so I’m trying to get out of McDonald’s.*
- ◆ *In a funny way in New York they are more forgiving. I tried the South but was treated like dirt and I came back. You’re being judged. It’s discouraging. They will think differently depending on the crime that was committed. If you were in for drugs, they think, “Do we have to hide the petty cash?” I learned a long time ago, go with the flow. I went to every prison agency and I found a job. I am bilingual. I had to wake up, because someone else walked in my path.*

Transportation, clothing & personal hygiene

- ◆ *My priority was remaining drug free and complying with court-mandated treatment. I wish someone had told me about transportation options for treatment. Outpatient counseling would not help with transportation. I relapsed because I could not get transportation to the meetings. I was too embarrassed to say that I could not come up with bus fare. The second time around I made different choices. I went to a house that provided transportation. I wasn’t afraid to ask anymore. I would want people coming out to take a minute and consider the issue of transportation to get to where they need to go for meetings because in most cases transportation may not be provided.*
- ◆ *My priority was shelter, food, and clothing and getting hair products because my hair was a mess. I did not want anyone to see me. I went straight to rehab. Transportation was okay. The rehab place where I was at only had white women hair products, not black women products. If you’re worrying about your hair, you’re not worrying about what you’re there for.*

Health Care

- ◆ *Get all possible medical issues checked out while inside because it takes a very long time for Medicaid coverage to kick in upon your release. I wish someone had given me a list of good doctors because most of the ones I have encountered have not been very good.*
- ◆ *When I left I had prescriptions and a temporary Medicaid card. I had a certain time to get a primary care physician. Then I went to welfare and applied for Medicaid, food stamps and cash assistance.*
- ◆ *I went straight to rehab. They took care of some of my health issues. I wish someone told me to be honest with the doctors because if you can’t be honest or you’re too embarrassed, you can’t get the help that you need.*

- ◆ *I had asthma, epilepsy, arthritis and needed a hearing aid. The second shelter had a nurse practitioner. He referred me to St. Vincent's [Hospital] to take care of my problems. I had no medication. I felt they did well regarding my papers for SSI [Supplemental Security Income]. I wish someone referred me where to go for medical attention.*
- ◆ *I wish someone told me about the free clinics as opposed to waiting for Medicaid. I needed help getting mental health meds. I had to go to the emergency room to get my meds. They gave me five days worth. I kept going back when I ran out.*
- ◆ *My head was not feeling right. I was suicidal. I went to crisis services and drug court. It was most helpful to know that I was not going crazy, that I just needed help. I would recommend that women get a full physical and mental health check.*
- ◆ *My husband was insured. When we separated, he dropped me. My husband used Medicaid as a form of control. If I didn't do what he wanted the way he wanted, I had no other choice. And I'm asthmatic. If I got an attack, I could only go to a city hospital. And after they stabilize an emergency they discharge you with prescriptions. But how can you fill the prescriptions without Medicaid?*
- ◆ *I got counseling while inside and it was helpful in addressing my issues. I wanted to continue seeing someone upon my release. I went to Bellevue and asked to speak to a counselor and psychiatrist. I wish I had been told about domestic violence programs. I heard about them while inside but never got a referral. Also, there should be information about where to go for help with all types of abuse.*

HIV/AIDS

“A lot of people are now incarcerated with HIV, but they don't want to say anything. I got tired of stuffing it. I wondered if people would continue to be my friends, but they stuck with me. Now I have better friends than before. If you get down in here, to the demons, it's better.”

- ◆ *When I found out I was HIV positive, this changed me. It was hard for me. At first, I told my sister I had cancer, but she knew I was lying. I found out when I was incarcerated. This was in 1990. In 1994, I had cancer of the uterus. I wanted to die at one time. I had friends in jail that helped me. They took me under their wing. A lot of people are now incarcerated with HIV, but they don't want to say anything. I got tired of stuffing it. I wondered if people would continue to be my friends, but they stuck with me. Now I have better friends than before. If you get down in here, to the demons, it's better.*
- ◆ *I did my own independent research about my medical care while inside. A lot of doctors don't care or are not up on the latest HIV treatment.*
- ◆ *I just found out that I'm a diabetic. When I was in jail, they didn't tell me. And I'm HIV positive. That's bad. I wish I had had counseling. Diabetes is bad. You need to get counseling to deal with it. In jail they don't tell you nothing, just that you have a medical problem and its name. You need to get the information—how to treat it, what you need to do.*

Substance abuse treatment

“Everything went into place when the addiction stopped. My biggest problem was the addiction.”

- ◆ *I had to go back to the apartment where all of the drama was before my arrest until they found me somewhere different. I was in a shelter. I had an addiction problem when I came out. I went back to the apartment, had a heart attack and went to the shelter. Everything went into place when the addiction stopped. My biggest problem was the addiction.*
 - ◆ *My mother carried me until I went to rehab. I wish I would've went bed to bed, you know, go from jail to rehab. I still had a problem. I knew I needed rehab. I knew that drugs were going to come back in my life. It couldn't wait. I had too much freedom when I came out. My free will took me where I wanted to go.*
 - ◆ *I didn't have any friends. They were all active drug addicts. I just had people in programs. My family rejected me. I've been at my program and never got a personal letter. I'm not allowed to go to my parent's home, even now that I am in recovery.*
-

Carole

Over a 10 year period, I was arrested five or six times and I've done three bids at Rikers. The first time I was arrested was in 1982. I was on welfare and working at the same time. I was being slick and they found out. I was young. I had a daughter. I had no money and I was afraid of being broke. They charged me with welfare fraud and I received probation. Every time I did jail time, it was due to my drug addiction. My first time at Rikers was in 1988 for a robbery and I did 40 days. Inside, I didn't know what help to ask for. I just wanted to go home. I was new to the system. I didn't know anybody and I didn't get to know anybody. I didn't ask anybody anything. I went back to Rikers again four months later. In the beginning, I would fight and cry. I was scared. They were offering me a lot of time. People would say to me, "Just do your time. Stop crying." I didn't know my rights so I took a one year plea for a five dollar crime. I did eight months. My last bid was in 1997 for a sale.

During the 1988 stay at Rikers, I was pregnant. When I got arrested, I was high, pregnant, and homeless. Gratefully, the baby was born clean. They interviewed me to be in the mother/daughter program before I left for the hospital. I had my daughter on December 23rd. On Christmas Day, the officer stationed to me was worried that she was going to have to spend Christmas at the hospital. So when the doctor said I was ready to leave the hospital, she took my baby from me and passed her to the nurse. She said, "I got my own family." I was hysterical. When they asked her how she could do this, she said, "If she really wanted a baby, she wouldn't be here." It was so traumatic. I was still crying at court a few weeks later.

The women in jail all had problems. We all had children and were on drugs. My social skills were totally warped from living on the streets too long. I couldn't get along with anybody. I had trauma triggered by

rapes, beatings, molestation and abuse and I didn't want to talk about it. I couldn't because emotionally I wasn't ready. Sometimes women do have information and they've got networks, but it is easier to do jail time than treatment due to the fact that after living for no one but yourself for however long you were addicted, it's really hard to go somewhere where someone is constantly telling you what to do. In jail they lay down the rules when you get there and everything is pretty much the same from day to day. In a program they force you to think and feel and sometimes thinking and feeling is too painful, so most women say they'd rather just do the time. I've often heard women say, "I can do time lying on my back. Fuck a program." Emotionally, we just aren't ready.

The turning point for me was being tired. In the beginning of my addiction, my family was there. By the end, they were sick of me—in and out of jail, rehab, detox. I'd had my third child in addiction and my family was tired. I was sick of staying with people, then being evicted and being back on the street. I started trying to get into treatment again. I would pack a bag and then say, "Just one more hit." I would plan to go the next morning, but then just sleep in from the previous night's episode of using. Then I was arrested for a sale. When a judge offered me three

The last time I had left a program, I used immediately. This time my counselor told me to go to a meeting, tell them I was just coming home from treatment and to get phone numbers. So I went to a meeting. I raised my hand, told them my name and said that I was just coming home so I could get phone numbers.

and one-half to seven for ten dollars of crack, I started to fight for my life. My son was two months old. I told the judge I had a bad childhood and that I needed treatment. I was tired of being beaten and raped in the streets. He said everybody says this and would not give me a program. Later in jail, I saw an article in the *Daily News* about women in prison who are in for non-violent crimes related to addiction. Most of the women had been abused and their children were being taken away from them. I copied the article and wrote the judge and the district attorney a two-page letter saying this is my story. I told them how drugs gave me

relief from my pain: my parents had left me; I lived with my grandma; my grandfather was always drinking; my cousin molested me; I was pregnant at 14 and I never could get over it. After that letter, they said I could have a program.

My final experience coming home from jail was difficult. I had lived in the streets and been addicted to drugs for at least 10 years. I didn't know how to do anything. My social skills were rusty. There was a technology boom and I didn't know how to use a computer. I needed education. I knew how to stop using drugs. I just didn't know how to stay stopped. I remember standing on the wall shaking. I was about to be released from a program to go home. My counselor asked me what was wrong and I told her I was scared to go home. The last time I had left a program, I used immediately. This time my counselor told me to go to a meeting, tell them I was just coming home from treatment and to get phone numbers. So I went to a meeting. I raised my hand, told them my name and said that I was just coming home so I could get phone numbers. I had low self-esteem and I thought no one was going to call me. Why would anyone help me? They never have before. But I tried it and as I was walking out someone said, "You have to get numbers." They gave me a booklet of numbers to call because I didn't have a phone. This worked. I started to call people and they called me to ask how I was doing or to go to a meeting with me or to go get something to eat.

My program found me a bed for a week. Then I stayed with my brother and then with a woman's program for a month; and then I went to a shelter for two years. I didn't go to a shelter until I knew I could stay clean. I was finally stable. I was in day treatment at a program. I did technology training. I got VESID [Vocational and Educational Services for Individuals with Disabilities] to pay for me to start college and I was in therapy. In order to stay clean and sober when dealing with past trauma, I believe women have to be in therapy.

It's really hard. It takes spiritual enlightenment. It's a higher power, spiritual enlightenment, being traumatized, and being tired enough. Each woman gets to a breaking point. I can't say what it will be for everyone. Once you are there, you can't go back. Even if you fall, you will pull yourself up stronger. I think it's true for everyone in recovery, unless they die from a relapse. That is the hard part about not being able to stay clean. You sometimes forget you stopped using. It's just such a habit. A friend would knock on the door and offer me a hit and I'd take it and

get high. Then I'd remember I had quit and ask myself, "How'd this happen?"

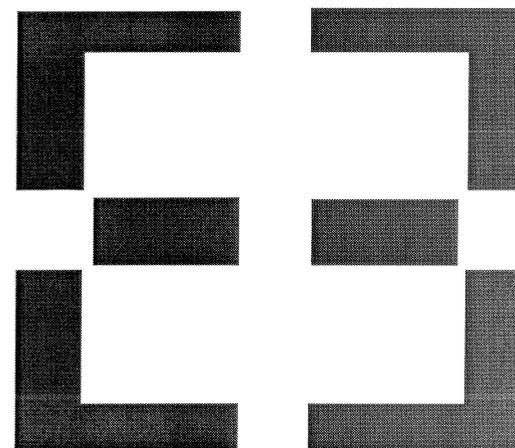
Today I am a member of the Coalition for Women Prisoners. I got involved in the Coalition after speaking at a conference on a panel with one of the Coalition's coordinators. I speak about my experience with the criminal justice system and ACS [New York City Administration for Children's Services]. I work on two of the Coalition's committees, the Reentry Committee and the Incarcerated Mothers Committee. I'm also a member of WORTH [Women on the Rise Telling HerStory]. I've gone back to Rikers to talk to women. I saw women I knew and women I didn't know but who identified with my story. I even saw a woman I used to use with. She had tried to get clean, but she had old charges that she never took care of and they picked her up on an old warrant. She really wanted to get clean.

During the interview for my last treatment program, I was asked when I started using. I said in 1984. Then I realized it was 1997 and I just started crying. This was how I spent the last 13 years. My child was four years old. She's now 17. Her childhood is gone.

You have to be your own strength and realize that your life is going by. Keep trying no matter what.

Parole

We have the right
to be treated
as women
with potential.



support

“I have been on parole, probation, on violations, whatever... It’s not easy. You have to adjust yourself. It’s what you put into it.”

Each woman has a different experience with parole—some good, some not so good. Communication and attitude are two of the most important things to keep in mind. All relationships are a two-way street, including your relationship with your parole officer. It helps if you show parole that you are serious and motivated. Here is what women have to say about parole.

Knowing what to expect from parole

- ◆ *My relationship with parole was nothing like I expected. Originally I had eight years left, but I got released on good time after three years. We had very good supervisors over my parole officer at that time and that made it much better. We had a women’s focus group every Tuesday—women from different walks of life, in different places in their reentry. It was a good place for networking and to find things out. Sometimes, if a parole officer feels that she isn’t being supported by her superiors, she stops caring. That was not the case with mine.*
- ◆ *I have been on parole, probation, on violations, whatever.... It’s not easy. You have to adjust yourself. It’s what you put into it. A lot of times I didn’t want to report. The support I got was good as far as women go. My motivation showed them that they should work with me. If I showed poorly, then they wouldn’t work with me.*
- ◆ *My parole officer, the guy was cool, but the woman was religious. She didn’t respect me being gay. She didn’t call me by my preferred name.*

Reporting

- ◆ *Parole is an extension of restricted life. Do what you have to do, to do what you want to do. You always have rights, but don’t cause a lot of problems and do the program requirements you have been mandated to do.*
- ◆ *I had three different parole officers and I can’t say anything bad about them. It was what I expected. I knew the drill. Be honest from the get go. Don’t talk to them like they are stupid, like when they ask you to pee in a cup, you say I can’t pee right now or I wasn’t drinking I was eating fruit.*
- ◆ *I have been on parole before and it’s different now. Two different parole officers can run things differently. I say stay on a straight line and do what you have to do. It will work out. I wish that someone had told me that sometimes it will be difficult, but it would get better.*
- ◆ *Do what you have to do. Report. Make sure you report. If you get out in the evening, go early the next morning. If you get out on the weekend, make it a point to get there early Monday morning.*

Communicating with your parole officer

- ◆ *Parole was easier than I thought it would be. All of my parole officers have been fantastic. Keep clean urine and get a job and housing if you can. Communicate with your parole officer and be truthful.*
- ◆ *Listen to what the parole officers say. Don’t be afraid to share your fears. My fear was going back to those neighborhoods where the worst part of my life was. He said stay away from people, places, and things. I was fearful of parole at first. I heard they will violate you first thing, but it wasn’t like that.*
- ◆ *My current parole officer is beautiful. Actually I never had a bad parole officer. I’ve always been blessed with good parole officers. Do what you have to do. Don’t try to be slick and they will work with you. Make sure you pay your bill [parole fee]. You could get*

this fee waived. Be honest about everything you can do. Abide by your curfew. Do the same with your probation stipulations.

Knowing your parole rights

- ◆ *If you want to get your parole officer switched, you can when you have a conflict of interest. You can write to the supervisor and call the Division of Parole. You must get the parole officer supervisor's name and number. This is a general thing just in case the parole officer is not there.*
 - ◆ *I wish I was told that that you always have a right to ask to speak to your parole officer's supervisor. Many people get intimidated because they don't want to be violated.*
 - ◆ *Definitely use the mechanism of parole for your benefit. If you feel boxed in, don't be afraid to take it to a higher place. It won't fall on deaf ears. Take it to your organization. Parole doesn't have to be seen as another form of discipline.*
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Views from Women with Experience on Rikers Island

Jacqueline

I was in jail three times. Right now I'm in school at the Borough of Manhattan Community College. My major is writing. I have an 11 year old daughter. Her father died before she was nine weeks old. Life taking a turn for the worst.

The first time I went to jail it was at Rikers as a juvenile at age 17 for assaulting another chick. I brutally cut her face. After two weeks at Rikers, I beat the case at grand jury. The second time I did jail time was when I was about 22 years old. I tried to open a \$10,000 credit card and went in for credit card fraud. That was in another state on New Year's Eve, so you know where I spent that night. My cousin finally bailed me out. My daughter was about two years old at the time. The third time, seven years later, I had to do six months on Rikers Island and five years probation for a drug charge. That was my first felony. I was bailed out and tried to fight my case, but I realized I could not get away with no jail time, so I took a six month plea and ran with it.

My arrests span over a long period of time—15 years. My reason for going back and forth to jail was lack of money. I was single and taking care of my daughter. It was hard to get a good job, especially the types of jobs I felt I was smart enough to do or be taught to do. For a lot of women, it's drugs. There are a lot of women on Rikers who couldn't wait to get out of there and go back and use—to get their next hit. I'm

not going to say I don't have an addiction. I have abused weed and liquor.

When I was arrested the third time, I was bailed out immediately, so I had two months before going back into Rikers. I spent two months knowing I was going to jail. I had to tie loose ends, cutting off the gas, buying my daughter school clothing and supplies. I had to talk to my daughter and explain. She had been through a lot since her father was gone. I was the only one she had and I couldn't stand on my two feet. She was making a woman out of me, just the look of disappointment on her face. I had to explain to her daycare that I was going away, going to Puerto Rico to take care of my grandmother. They knew I was lying. I had to tell my daughter to lie. I sent my daughter to my friend in Massachusetts for a while. Then she stayed with my boyfriend and my mother. My daughter is my life. Without my daughter I am nothing.

When I got to Rikers, I didn't want anyone to visit me for the four months, but my daughter and best friends came. My daughter was eight years old but she sat in my lap holding onto me and laying on my bosom like a baby. It broke my heart. I couldn't be strong for her. I couldn't hold my tears. She broke everyone's heart who worked in the visiting area. Because I worked in the visiting area, they let me have a longer

There were counselors
and groups, like NA,
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You name it, they were
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visit, three hours instead of the one hour. Seeing her go through that was too much. When I got back home and spoke to her teacher, the teacher said that my daughter was much better in school. When I was gone, she was a bad student, mean to the teacher and to her classmates. Four months was an eternity to my daughter. She made me promise never to go away again.

In retrospect, I felt like there was help at Rikers. I saw a flier for the RIDE [Rikers Island Discharge Enhancement] program. There was an officer who told me a little more about it. One week after asking about the program, instead of being housed, they sent me to the trailers. In

RIDE there was discipline, organization, and structure. We woke up at 5:00 a.m. and were assigned chores. They soon realized I was tidy so I got other jobs, including a job in the bubble. There were counselors and groups, like NA, AA, coming through. You name it, they were there. The groups were all voluntary. I sat through almost every one. I did see a counselor once a week. I could have turned it down, but I needed to get away and talk to someone who didn't treat me like an inmate and who had on regular clothes—someone who was actually there for my well-being and hopefully cared.

During my last bid on Rikers, I knew I wanted to do something different. When I saw that RIDE poster, it was a bit misleading because the woman on the poster had a uniform, so I thought it was about a job off the Island. The resources in RIDE were scarce, so I can only imagine the resources on the rest of the Island.

Women envied me, thought I was a good girl. People were nice to me. I did get help, referrals to outside services. People would come in from colleges. But there was no school at the jail. GED programs were only available for juveniles. You could wax floors and do buffing, but I was not trying to go home and be a janitor.

I think it was my lack of experience with jobs, lack of job skills, lack of money, and discrimination that led me to go to jail. People don't want to teach you or let you acquire skills. I went back to school after I got fired from my job because I was taking my daughter to a different neighborhood to get her into a better school. It was a strain getting to work on time. After being a medical assistant for three years, I got fired. I had self-esteem, abuse and trust issues. After my first semester I had no money, so I started holding drugs. It was either school or a full-time job and the job was a dead-end job. I wanted to give my daughter more.

With respect to returning home from jail, I needed help getting reconnected and counseling for my child. I had to live in a shelter for one year and three days. Right now I have help. I'm scared all of the time that something will happen and I could lose my housing.

I would say to women on Rikers Island, stay out of trouble. I had a mean fighting streak. This girl had a problem with me and I ended up getting in a fight and spending 20 days in the box. That was an experience in itself. So to deal with Rikers, stay focused on doing the time without

trouble. It complicates things. When I faced adversity, I thought about how I had promised my eight year old daughter that I would be home.

In the dorms at Rikers, meetings were held in the middle of the room, so even if you did not sit through a meeting, you couldn't avoid it either. You still heard people's testimonials. They were amazing. I thought my life was over—a felony on my record was so scary to me. Also, it bothered me to see people leave Rikers and come right back. People would leave happy, they had gained weight and the officers would say, "Oh they'll be back." And they did come back looking dirty and skinny from drug abuse.

This may sound weird, but jail was a time for me to look at my life. I started to welcome being alone. I'm grateful that I went through that—the box. Other women at Rikers in the box were going insane. They needed attention. But I welcomed the box, except for their screaming. I read books, something I had never done at home. I had never been sober for that long—four months. I thought about the things I could have accomplished over the last 13 years.

I used to get so drunk because I didn't care. I lost everything because I was molested. When I went to jail, I felt like I was the only one molested, the only one whose baby's father was dead. But I wasn't. It was the norm of the women there. My best friend went through similar things. Just recently she got off heroin. It's a different experience for everyone. People do things out of habit, even things they don't want to do. Like I would be sitting with friends who are smoking and I would tell them I'm not smoking; then a blunt is passed to me and I take a hit and once I'm high, I remember I didn't want to smoke. You can be broke, with no food, but someone always comes with drugs.

I've actually been back to Rikers to speak to women there. The woman who helped me get in school invited me to go speak. I saw people I had seen when I was there. One woman broke my heart. She looked at me and said, "Don't I know you?" I said, "Yes, I was just here." She just started crying. I told the women to use the resources. If you can do jail over and over again, you can do anything. You just have to want it bad enough. No judge can help you with your kids. Do whatever you have to do. If you have to go to shelters, do it. Reach out to people. All of the counselors in jail are not bullshitting. Network. Get information.

Marion

I had been arrested three times and served one bid on Rikers Island. Once was enough for me. As women serving time on Rikers Island, we often don't know what to ask for because we are so out of touch with ourselves. We don't know about resources and most importantly we don't trust others and lack confidence in ourselves. We don't believe our lives can change, but we can stop the cycle. Women who have no choices and don't get offered other options will most likely return to jail because they go right back to what they came from. That's what I saw during my eight months on the Island: women who returned to the same situations, went back to the 'hood or to abusive relationships, or to cop drugs and wound up locked up again.

When we are locked up, the desperation of that situation and the loss of freedom makes us hasty in our decisions. All we want do is get out. We either feel, "I won't do it again" or "I can't wait to get back to the block." This mentality has to change. I saw jail as an opportunity, a second chance. I always acknowledge that getting arrested saved me from myself when I couldn't help myself and I have not looked back. I have more compassion for my fellow man and I have changed the way I think and what I do because of the jail experience.

We need to re-humanize the discussions for women in jail and help people get back to their roots, to being born, to appreciating themselves and the fact that life is a temporary spot here on earth. It was not meant in the divine order for us to be here suffering in a bad place. We must believe that we have the power to change our lives. Yes, pain is inevitable, but suffering is totally optional. We are not victims of society's ills. We are powerful people. We can change our lives; better our families; our communities, and the world, one person at a time, starting with me.

Women should ask themselves, “What do I want? What does success mean to me? What would make me happy?” Many of us never took a good look at ourselves. We fall into a caretaking mold, always worrying about others and just doing what we have to do. I believe that it is critical to teach women to search for information about what affects them and then do real work in that area. I am always looking for information. Folks must become involved in a cause for others as well as themselves. Many of us who are involved in helping others are doing okay since our release from jail. I have found out what makes me complete and brings a real feeling of satisfaction: it is the fact that I can give selflessly. I believe in good karma and I have seen clear evidence in my life and situations around me that what goes around comes back around.

There is a definite difference between women who are serving time on the Island and those serving time upstate. Women on Rikers Island need more discharge planning and resources. There should be a guide for women to review prior to meeting with counselors at Rikers so women can see what help is out there and choose what might work best along with help from the counselor. The counselor does not just *know* what each one of us needs and there is not enough time to tell our whole story, so we need to take time out to focus on ourselves. After all, what do we have in jail but time? I suggest that women use that time wisely. It could change your life. Come to the table with information and be persistent, that makes people work harder because they see our passion. We are in a vulnerable state in jail—beaten down and disgusted. We’ve got to believe that there is a better way.

I have been home for three years. There are so many resources for women and women with children. We just have to tap in. Do research and follow up out here in the world. I am still finding new information and I thought I was informed. Women who have been successful at changing our lives have a responsibility to give back to those women who are struggling with self-identification and loving themselves. Be a mentor, a sponsor, and build relationships and friendships. Share your knowledge and your experiences as to what worked for you. This is

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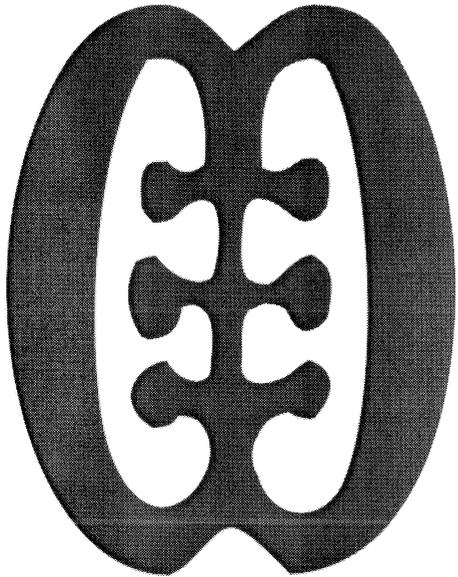
critical to anybody’s success, especially those of us who have done time. Many of us did not have positive role models or healthy relationships in our lives before we got locked up. We need to learn how to build them. I promote volunteer work in whatever field a person wants to work in as a good way to get a job. Educational opportunities, workforce programs and financial planning are critical for women coming home from jail. Don’t give up. You owe it to yourself.

Suggestions from women on Rikers Island

- ◆ *Plan to do a program. It can be outpatient and you can do it forever. And work. And be connected with somebody.*
 - ◆ *Meet people, create new social circles. NA groups kept me clean and opened other doors. You must have patience to make change. It will not happen overnight.*
 - ◆ *Be on top of your game. If you have a tough parole officer you know you have to follow all of the rules. If you have a curfew, you know you need to be home. If you don’t follow the rules, you know what happens.*
 - ◆ *Women should express to the parole officer when they have individualized needs. Talk to your parole officer and counselor.*
 - ◆ *I had no plan and a lot of anxiety and confusion. I was always in and out of Rikers – skid bids. I wouldn’t ask for help. I wouldn’t know what to ask for. Then after the tenth time at Rikers I heard of a women’s program in New York City and what they offer. Most of the information I got was inside from other inmates.... I trusted the information enough that it planted a seed in my head. If a woman comes to me who has been where I’ve been, I trust it.*
-

Relationships

We have the right
to be in healthy
relationships.



interdependence

“Be real with yourself about relationships that you have. Is that a good, healing relationship and can it benefit you?”

Reconnecting with your family and friends can be a hard test. No one can tell you how to deal with your family and friends. Expect that you will have to spend time earning their trust again. Expect that there are some things that you might have to just accept and then move on. To help family and friends understand what you are going through, you will need to be patient and help them understand about your experiences in prison and about what you are going through now. Here is what women have to say about reconnecting with people after prison.

About family and friends

- ◆ *Be real with yourself about relationships that you have. Is that a good, healing relationship and can it benefit you? Not every relationship is positive. If it is negative, you don't need that. If it was a bad situation before, stay away.*
- ◆ *When I got locked up, I didn't expect my sister to do much, but she took my son. I thank her every time we talk. It was not easy for her having an extra mouth to feed and working. When I got home, she said, "I hope you learned your lesson." She accepted me and my baby with opened arms. My advice is to think about your family and not just about yourself. You hurt others too.*
- ◆ *I knew that they were keeping a close eye on me to see if I was going to resort back to my old behavior. You should give your family the time to heal from the damage that you have caused and also to let them see that a new way of life is possible if you are willing to apply yourself.*
- ◆ *I get positive feedback from NA and my job. They trust me with keys and tools. They know my whole situation. They use my situation as inspiration. It is nice to know people will give me a second chance even when my family won't.*

- ◆ *I had to kick my family to the curb. My mother accepted me okay, but said, "When are you gonna leave?" She made an issue of the plate I used because I'm living with HIV. Another brother saw me as a crack head. My mom said, "I don't understand why you can't stop using drugs." A parole officer didn't like my brother and took it out on me. I had to wait 45 days for social services, even though I'm HIV positive. Also, my kids wondered when I went out, whether I was coming back. NA and AA meetings, I was going to them, but I stopped because they were stressful. Eventually I left upstate and came to New York City. This is what the girls inside told me that I should do. I stayed with a cousin; found a clinic. At first I didn't understand groups. A social worker found me another transitional housing place.*
- ◆ *My mother, my children...there is no relationship. It's weird. I got high for 20 years. In their eyes it was just a matter of time before "the bitch goes back." In my mother's mind, it was "How long is she gonna stay out?" Family can be fucked up even when you do the right thing. If they guilt trip you, you are better off staying away until you get yourself straight.*
- ◆ *Cold, closed doors. I am treated as the only convict, spreading a disease into the family. My advice is to go at your own pace, so you are comfortable. I wish I knew it was going to be a hard test.*
- ◆ *I was used to living off my husband. I was co-dependant. He was controlling. He started drinking beer, calling me a bitch, treating me wrong. We fought, we argued, we separated and now I'm fighting for my children. Is it going to be hard? Hell yeah. On drugs, I worked real hard at tearing up my life. There is no snow today that will stop me from getting what I need. Find your purpose.*
- ◆ *Most of my friends were my get high buddies. Now we don't have a lot in common. It's very lonely. To deal, I take weekend passes and stay with my son or his ex-wife. My closest friend right now is 81 years old. She is my former daughter-in-law's mother. I talk to her a lot about anything. She's lived a rich life. We keep promising that we will go to Atlantic City together. I'm limited in terms of family or friends. They have passed away or are not in New York.*

Being open

- ◆ *My advice to people is to be open because we put them [family and friends] through a lot. They may not receive us the way we want because the trust is not there. Be open to not getting instant gratification. Sure, they are going to watch you. In time, they will see what you are doing.*
- ◆ *Be patient, open, and accept criticism. Also, don't worry when people start to take bets about how long it will take you to re-offend.*
- ◆ *Allow your family to have an opinion, just don't let it lead your decision-making.*
- ◆ *I realized that I don't have to stay with the same people who hurt me, so I can try new things. Get some help. You don't have to be alone with the same old friends and doing the same old things you've always done. Try something new.*
- ◆ *Expect family to be cautious. My family has taken so much. Be with friends, but stand your ground. Friends are still going to do what they do—the same thing. This is not going away. Stand up for what you want to do.*
- ◆ *Expect lots of distrust. My mother still does not speak to me. Coming home, I was told that I have to work to earn trust, but I found no one would welcome me. I need to rebuild relationships. I have patience, but no high hopes. High hopes could lead to destructive behavior.*

Tina

My priorities when I first got home were to not get high and to focus on my baby. My transition process was different this time compared to the other times I was released. My son, whom I had in prison, was with me. This time was definitely different. I felt very afraid that if I was not careful, I would have a slip, so my priority was to keep away from people and places of the past—stay away from the block.

In the past, I was very hard-headed so one of my resolves was to seek out positive people who could guide me. I was told while I was inside to make AA meetings and that I would find people who had successfully stayed away from a drink and a drug one day at a time. While making meetings I began to let other people suggest to me how to stay sober. I chose specific people by watching them. This time, I knew that how I did things in the past was not the right response for now. So I was determined to watch people. I would ask how much time they had, if they had kids, and if they also had felt something in line with how I felt—the shame, the guilt, etc. Those whom I observed who had come through the other side, I would ask them specific questions.

The only way that I could get to a new place was thinking it, imagining it, because I brought along a lot of ideals from my experiences, like lack of trust and shame, so the structure helped. In the beginning, I had to have blinders on, just go from one place to the next, then get home. I had to build structure and stay within it. Slowly, I could incorporate the simple things. I would make sure that I didn't do things that I would regret. I would ask people from my outpatient program and AA for suggestions. I depended on those rules to maintain myself. I began to learn these rules while in prison with my son. I had to attend groups and see a psychiatrist. I began to build a point of reference that I would be able to rely on.

I had no clue about intimacy and relationships. My relationships in the past had been one-sided. When I thought I was ready for a relationship about four months after I had been home, I found myself involved in the same abusive relationship as I had been in when I was using drugs. The person I was before I went to prison was choosing partners for me. I had only been told not to get into relationships. There was only one person I would have listened to, a counselor at the prison, but that person didn't tell me anything about that. I didn't hear it from others. When the shit broke loose, I realized I had to stop seeing the same type of person I was used to being with when I lived a destructive lifestyle.

I was pregnant in prison, but didn't really have any medical needs. I was pregnant for most of the time when I went in. Intermittently, I would get pre-natal care. Before and during my incarceration, I had experienced a lot of trauma and had low self-esteem. I realized the last time I was arrested on a parole violation that if I didn't find someone to talk to, I would keep getting locked up. One of the requirements of getting into the nursery while I was inside was to go to therapy. I had to get past my trust issues. I began telling secrets that I thought were damning to me, that I would never think about telling; about what led me to pick up. So when I went to therapy, I started to talk. At the time, I received a diagnosis and that helped me put a finger on what it was. When I found out that I was extremely depressed and had anxiety. That helped. Once I knew what was wrong, I could begin to do something about it. When I came home, I sought out help and therapy. I wish someone had told me about how to take care of my health. I wish people would have told me about getting regular check ups. You didn't get that on the inside. You were never told anything. I wish people told me to make sure I was okay.

I had been to parole after completing a six-month bid at Lakeview Shock camp. I was traumatized. I was living in a shelter and my life felt disjointed. Any connection to parole or the police and I did not do well. I felt vulnerable and anxious. After Shock, I went back to prison for a parole violation because I did not report. I was traumatized having to go and report. It was a set up. When I was released to a half-way house in 1995, a female parole officer would come to the house that I was living in. She met me in my own environment and that was supportive. I wish someone had told me that parole was not empathetic and unknowledgeable. They didn't understand addiction; that a person needed time to get their lives together. When I had gotten released after

completing Shock, the parole officer thought that I got what I needed and that I just needed to get a job. They did not want to take my history into account. I wish I knew that they would not understand. If I knew, I would have been able to deal with the ignorance. It was just a continuum of abuse and oppression from prison. I had an expectation that parole would have more understanding. Instead, they would read my record and make snide comments. They had control issues. I thought all the parole officers were like that, a continuation of humiliation and degradation.

Throughout my whole addiction and incarceration, my family didn't really know. Only at the end, the last five years, did they begin to know. Most of them ostracized me; didn't know how to deal with the fact that I used drugs and as a result went to prison. So my children suffered a lot. My family felt shame and embarrassment. Many times they didn't know where I was. When they did, they never brought my children to see me. I wanted to see my children, but my family wasn't educated about addiction and they were unforgiving. They never upheld my love for my children by telling them no matter what I loved them. Some of my kids

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were raised by my family. When I got home, my older kids, who I had a relationship with before my many incarcerations, expected that I would be able to pull everything together. So when I relapsed and returned to prison, everything shifted. They probably thought, "She isn't reliable." The second time, they did not try to have a relationship with me right away. When I was able to parent my younger kids, the older kids thought, "Why hadn't I stayed with them?" The adults who raised some of my children would say to me, "We don't really know you." But we're family!

To this day, my family does not reach out to me or my children who are with me. I have to do all of the reaching out. It's my responsibility. I

have caused this situation in my life and unfortunately my children suffered. My older children are back in my life. As for the other children who lived with relatives, they go on with their lives. It is still a struggle. I didn't know how to establish a relationship with my family, to speak my mind, take a stand for myself and my children as to how they had been treated. I wish someone told me about how families can be unforgiving.

Everyone experiences their own situation with their family. I wouldn't know what to say to someone else. My own experience is that I ultimately had to rely on myself and take my time with establishing relationships. I knew that once I could take care of myself, that if I thought about me, then I would be able to take care of other things in my life, but first I had to take care of me and the two children who depended on me. Accept your family to the extent that you can, but do everything yourself and understand your limitations. Have no regrets. They keep you from moving forward. Everyone has their own higher power. Family relationships are really a sticky thing if you've never received their support during your incarceration. To this day, my family doesn't think of me, what I might need, if I need help, if I am paying the bills. They have never offered. I have never asked. I didn't have friends due to the lifestyle. I also didn't trust people. When I got out, I carried that over. If I met folks who didn't have the determination it takes to stay out, I didn't want you to be close to me. I didn't establish friendships right away and still it is hard for me to let people in. I have a few close friends today and I have been out for 11 years. I don't use that word [friend] loosely.

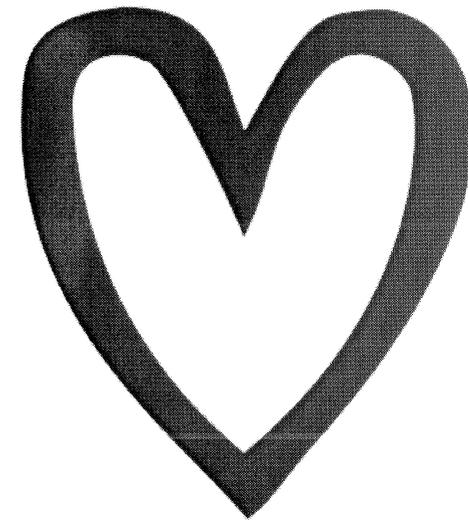
To my advantage, I was housed with others who came home with children. At the end of the day, we could informally sit down and talk. It was informal so it was not intrusive. We were given a space to have these moments. When I went to meetings in the beginning my son was nine months old and some of the members were annoyed that my son would make noise and not sit still. My son went with me wherever I went. I wasn't going to leave my child and I was not going to stop making meetings because my son was disruptive at times. I wasn't going to miss out. So I said to the others, "If you don't want to deal with my son, don't touch him, just let him be... and know that I am not going anywhere so just get used to us." They did eventually and I attribute my sons' attitude and demeanor to the exposure they have had in AA. They still make meetings with me sometimes.

To cope when I was at my lowest, I played with my son. I probably would have used if I didn't have him. I had no sense of self while alone, so at first it was all about him. I would wake up at night and just look at him. Just looking at him and not going through a door because I had no direction...being still when I didn't have the answers. Fortunately, those low times didn't come very often.

Today, I am a co-founder of an organization: WORTH, Women on the Rise Telling HerStory. WORTH is an association of women who have been impacted by the criminal justice system. The members of WORTH strive to change public perception and policy as they relate to women. I say give *time* time. Now you have an opportunity to take the time. Before you *did* time or time *did* you. Now instead of counting down, you can count forward. You have the opportunity to do whatever you want with that experience. Detach yourself from your experience. It is not who you are, especially for women, because women are seen a certain way and women get a lot of pressure and put a lot of pressure on themselves. Every day just being able to go to sleep and wake up is a lot. Hook up with your sisters and be supportive of one another.

You and Your Children

We have the right to have
meaningful
relationships with our children.



patience

An especially hard experience for mothers coming home from prison or jail is dealing with the emotions around reuniting with their children. If you are a mother, you might be worrying about what your children are feeling about you, what they will say to you, and how they will act towards you when you get home. Your children may have grown and changed in ways that you don't expect. It is important to forgive yourself for past mistakes and move forward with your children in a healthy and responsible way. Here is what women who are mothers have to say about connecting with their children after coming home.

Reuniting with your children

- ◆ *The relationship with my children was strained. Getting to know them was the hardest because they were their own individuals, different from when I went to prison. Be patient and give them time to heal and know you. I wish someone told me everything, what my kids were thinking, what they may feel, what to expect, and how to deal with their feelings.*
- ◆ *Before you try to reestablish connections, you need to get yourself together first. You must befriend your children before you try to step into the "mommy" role. You should start reconnecting with your kids while you are still inside.*
- ◆ *I have a lot of problems with my children. I have to go through the caretaker just to see them. I had the idea that it would be okay once I proved myself. I waited nine to ten months with the caretaker stringing me along, promising me that I will see them. Weeks of excuses even though they would promise. It became obvious that it was bullshit, so I went to court. I felt very empowered. The court looks at what you're doing now. It leveled the playing field.*
- ◆ *I do not have my children because they are in another state. My relationship is strained and I have only spoken with them once in ten months. I want to resume a relationship, but I am not able to at the moment. My advice for others is to be patient.*

- ◆ *The hardest thing was not seeing my son for over nine years and getting in touch with him the first time, accepting him and listening to the changes in his character. I was surprised seeing him grown up. I had lost touch with him because he was taken at the age of two because of my drug use. Stay clean, keep in touch, listen to your child, be open-minded and do not view your parenting role as a burden.*

Dealing with your guilt

- ◆ *The hardest thing was forgiving myself. I am even harder on myself than my child. Be patient, understanding that we make mistakes.*
- ◆ *It was awful, painful, guilt-ridden. I haven't really assumed a relationship with them. My relationship with my kids is non-existent by their choice. My children are grown now and they have their own agendas. I would say to other women have great expectations of your children and jump in where you left off. In many cases, you have to be a friend first, then a mother.*
- ◆ *At first, my kids wanted nothin' to do with me. About a year ago, they started talking to me. There is a deep loathing that my two kids have for me. I have to forgive myself for what I've done to my kids. That's my advice. Forgive yourself. Let the guilt go 'cause it will eat you alive. Don't let the guilt take you out.*
- ◆ *I'm on the biggest guilt trip. My son is 25. We have no relationship. He hates me. He's angry because I raised the other kids and not him. My other child is in the system. I chose him to be raised by his father, who is abusive and so now my son is in the system. My twins respond with anger and rebellion—and I raised them. Love and patience helps, but they need more. The hardest thing is fighting with the child welfare agency for my kids. I was a fallen child of the system. The system didn't work for me. Don't give up in dealing with the system. The system does things to make you turn away. It is very easy to give up, but I don't want my children to go through the same thing. I try to focus on my inner feelings.*

Establishing trust

- ◆ *They were happy to see me but did not trust that I would not go back to jail. Building trust was hard. Give children time to trust and heal. I wish someone had told me that my kids would be leery of me.*
- ◆ *Not talking to them was the hardest. I couldn't have contact with them. My mother didn't trust me yet. Take time getting reacquainted with your children. The caretakers may not feel you have actually changed.*

Sharing the fact that you were incarcerated and dealing with your children's reactions

- ◆ *I didn't sugar coat it. I just told them and said I would make up for it. My son didn't ask many questions. He was understanding.*
- ◆ *I thought it was going to be easier, but it's not. Sit down with the children if they are old enough to understand and be honest.*
- ◆ *My child is angry and is rebelling. I thought it would be easy, but my child is resentful and hostile and I feel that I cannot get angry. My advice to others is to not hold onto the past.*
- ◆ *My son was blackmailing me with things that I had done in the past. Make sure that you try to spend a lot of time with them. Set some goals that can be achieved together.*
- ◆ *They were angry and hurt. While they missed me, they kept a wall around them to avoid being hurt again. Do not expect instant acceptance.*
- ◆ *I'm not going to let my children take me on a guilt trip. The past is the past. I'm not going to buy your love back. You're not going to act out. We can grow together.*

Knowing your rights as a parent

- ◆ *What I would tell a woman with kids to be careful of the termination of your parental rights. You can lose your rights and if you lose them, they are lost. Don't get caught up in the system and monitor where you are with your rights.*
- ◆ *I have three kids and two grandkids and another grandkid is on the way. I am just starting to rebuild my relationship with my kids because I was using. They were adopted by a foster mother. I blame myself because I didn't know. I had drugs. No one showed me how to be a mother and then they took my kids. And once they took my kids away, I just got high all the time. So don't lose your rights as parents, because once they are lost, you've finished your relationship with your kids, if they didn't give up on you already. And you have to do it right in time. Not too late. Sometimes when I am down and depressed and I hear my grandkid say, "I love you" that's everything to me. It's difficult. It takes time. I don't have your typical mom-kids relationship. Don't give up on your kids and being a mommy. Right on time I got my act together. Once you've lost faith from your kids, that's it. Find out your status from ACS [New York City Administration for Children's Services].*
- ◆ *My child was adopted while I was in prison. I wish someone had told me to maintain contact with the courts and my kids. My parental rights were terminated. When I found out that I lost my son, it was so hard. My son thought I abandoned him. Maintain contact with your kids...it's really important. You need to believe in yourself and have faith in God. I believe my son will come look for me when he is older. That's what makes it easier for me to deal with the situation.*
- ◆ *I sought it out. You got advocacy groups...my children are with ACS. I have been fighting for two years. A case worker could've helped, but I did it for myself. I read. I am nosy. I was not waiting for the social worker to set me up.*

Being a positive model and helping your kids heal

- ◆ *Be a productive parent. Be assertive with kids. Don't let them get over. Love them productively. Don't give them everything or spoil them. Let them know they have to work for stuff.*
 - ◆ *My son and I have been close, all through everything, when I was inside. It's hard for him. He doesn't want to be bothered with his mother now. He's not accepting the fact that I have changed and I don't want to do that [certain things] anymore. I'm upset because of the influence I have had on my son. When you're in that lifestyle, you will smoke and drink. My son doesn't think about the consequences of his behavior. He doesn't have a place to live. Love yourself. Keep communication open. Reach out.*
 - ◆ *I have a good relationship with my son. I do things with my son, skating, talking to him about girls and how he should treat a woman. I want him to be a good man. I'm like his friend, not just his mother.*
 - ◆ *Love your child to death. Hug them. Apologize. Love them to death. When I came out my child was so happy to see me and I didn't want to let go. My two-year-old daughter wears my shirt to bed. She loves the smell. She doesn't want to let me go. Love your kids. And don't leave them alone.*
-

Russelle

I became a mom at age 15 and at age 19 moved in with a man four years older than me just to get out of my mother's house. When I went to prison, my daughter was 13 and I had three sons—nine month old twins and a one and a half year old—who were placed into foster care. My mom took my daughter. She had the opportunity to take my sons but refused, so my sons ended up being adopted. They are adults now. I was at Bayview when I was given a furlough. Right before my furlough, my counselor told me my sons were about to be adopted. I was always trying to find my sons. My counselor told me my kids were being adopted that day, the day I was being released. I told him I wanted to stop the adoption. He said, "If we gave you your kids today, what could you do for them?" I couldn't say anything. I didn't know my rights and I felt I couldn't fight. If I had information about my rights, I could have fought and I'd have my sons today.

I am living with AIDS. I came to prison in 1991 knowing my HIV status and in deep, deep denial because of fear and stigma. I was afraid of people finding out. I got sick and wound up in the infirmary. I became a part of ACE [AIDS Counseling and Education program at Bedford Hills] and met some great women—all of the greats in early HIV activism. They helped me accept my disease, to become an advocate, to look for resources, and to educate myself. By the time I got to Albion, I was more comfortable with myself. I met with a counselor. I looked for jobs I needed. I worked in the kitchen for one week and then became a peer in the AIDS Resource Center. I eventually became a certified AIDS Counselor.

When I came home, I wrote for the PWA [People With AIDS] newsletter. I decided then that advocacy would be my career. I was part of ACE Out in New York City. I found ACE Out because I stayed in contact with women at ACE. But that doesn't erase the fact that I almost died

in Albion. I saw women pushed in wheel barrels and not getting their meds. I got sick in the dorm and the women took care of me. Women helped me to care about my health.

When I came home in 1993, I had no Medicaid. I had to get ADAP [AIDS Drug Assistance Program]. Because of my affiliations inside with ACE, I could do things to prepare. I was able to continue my relationship with my doctors inside and outside. At the time there were only two medications and I had bad reactions to both. However, because I was proactive and educated, I was able to move things along. I was in positions while incarcerated that enabled me to do well outside. It's all about how you do your time. Prison allowed me the opportunity to grow up.

Fortunately, I had a good relationship with parole. My parole officer laid it out. She said, "You have a choice: go back into the community or come back here and we'll have a cot. It looks like you have a good head

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on your shoulders, but it's up to you to make a choice." I came out on work release. I worked at Women In Need. This was the best for me, working for women like me who needed help. I was able to form relationships with them. The job at work release led to full-time employment. I came off of parole with a full-time job. Listen to what the parole officer says and don't be

afraid to share your fears. I used drugs from 110th Street to 151st Street. My fear was going back to those neighborhoods where the worst part of my life was. She said stay away from people, places, and things. I was fearful of parole at first. I heard they would violate you first thing, but it wasn't like that.

I lived at the YMCA because I didn't want to go to my mom's. I had changed. I stayed at the Y for eight months and then got my own apartment. I had to fight to go to the YMCA. My P.O. wanted to send me back to my mom's. Because my mom is an enabler and uses drugs, I knew if I were around her, I would use. I was told if I was released to a place, I had to stay there, but this was not true. It is important to be real with yourself about the relationships that you have. Is that a good, healing relationship and can it benefit you? Not every relationship is positive. If it is negative, you don't need that. If it was a bad situation before, stay away.

In the beginning I thought that just because I was the mother that I could mother my children. I thought I understood this coming out, but knowing and experiencing are two different things. When I went to prison, my daughter was 13. The day I was arrested, she saw me arrested and then I was gone three years. When I came home, she was 16. She had grown up and raised herself. Emotionally, my mom wasn't there. Anger, pain, frustration—all there. My mom said to her, give her (meaning me) six months, she'll be back in jail. Remember, I drugged before jail, so there was no trust. My daughter was offered the choice to stay with me or my mom. She chose to stay with my mom and with me on the weekends. We gradually got comfortable with each other. I had to accept this. She would come after school to the Y to hang out during visiting hours. We would walk and talk about everything. On weekends, I would go up and stay with her.

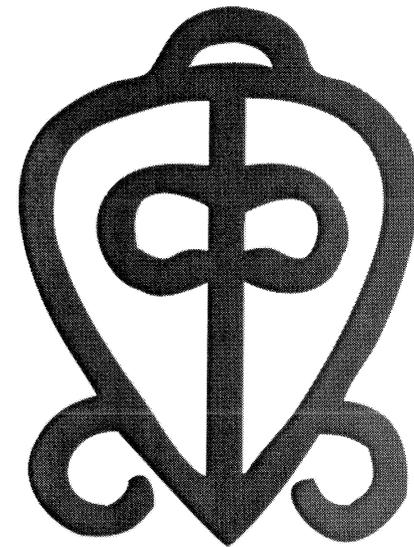
I am a woman living with AIDS, an ex-offender, and a mother. I still have close friends who are ex-offenders. We are still friends and I rely on their support in my everyday needs. For many women, the relationships with their kids have been badly damaged. It takes time to repair. I sought information from the church. My godfather led a prison ministry. He put me in touch with the right people. For example, at Christmas, the church had a Christmas party and toys. They helped me get toys and provided a place to bring my daughter without being around my family. A minister at Bayview had a church that I would go to. She provided me with access to a food pantry so I was contributing to the household. These things are small, but important. They gave me a sense of belonging and kept me busy. I had positive places to take my daughter. I was able to spend time with her in a place where she didn't have to worry about me drugging or going off with a man. They paved the road for me.

I got what I needed by trial and error. Trust your gut and listen to your inner voice. I know that I needed to be quiet enough to hear it. If there is chaos, then other people are leading me. If it's quiet and still, I will know the right thing to do—stinking thinking versus your gut. You must be comfortable with yourself in order to do this. Trust your thinking and your experience, that it is good enough to make decisions. As women of color coming out of bad relationships that wore out our self-esteem, we haven't trusted our own thinking because we have been told our opinion doesn't matter, just do as you're told. I had to learn who I was, what I liked, what I wanted so I could stop. You are not as stupid as others say. Don't dumb down for others' purposes. It's not relationships, but thinking.

I coped by praying and still do today. I talk about what I'm feeling because 12 years later, I still get the feeling that I want to get high. There are tests. Some are harder than others. Each test takes you back to the first day of release where you had to explain who you are and how you got there because there are people who believe that you don't deserve to be here. I wish there were more programs for women, where women could feel comfortable as women, to share their fears and strengths and not have to run around to get the big picture.

Lesbians & Transgender People

We have the right to our gender
identity and sexual orientation.



power of love

Women who identify as lesbian or transgender may face insensitivity and even hostility when seeking services and support after returning home from prison or jail. Finding sensitive services to meet your specific needs may not be easy depending on where you live, but remember to keep searching until you find what you need. Here is what women have to say about finding affirmation and support.

Denise

In my early days after coming out of prison my priority was to go back to the block, but when I did, I realized that I was scared and my priorities became finding housing and a job. I had to make the decision about whether to go to my family or to a shelter and I chose the shelter. Parole helped a lot. The shelter helped a lot. I realized in the shelter that I was back in prison in a way because of the other people who were there. I was in prison for selling not using. I wanted to get into the clean and sober dorm in the shelter, which I could get into if I did a program. That is what I did and it gave me stability and structure. I was in the military, which is all about structure. Later, I went to NA where they told you if you go with your feet, your mind will follow. That also helped me with the structure. It also reminded me of the morals I had prior to my negative behavior.

I wish someone told me that I needed to be more flexible in my thinking. I am an aggressor. In prison I was a boy and that played a huge role in trying to get employment. I had to change the fade, do something different. I learned that I couldn't just wear jeans and sneakers. I realized I had to be by myself and get to know myself. I would have trusted that information from my prison father, my father of choice.

My mental health and learning needs were intertwined. I knew what I needed when I left prison, but because I was taking a mental health

medication that was considered a controlled substance, it was difficult to get a shrink to give it to me. I had no proof, no comprehensive medical summary. It was a really long wait and I was in such a dysfunctional shelter. Also, I left prison with an additional "diagnosis" because I am a lesbian. I wish someone told me about clinics that were gay-friendly. For me in prison, the medical staff was male and that was not good, especially the gynecologist. Therefore, it took me three years after I got out to find a doctor.

I had no expectation regarding parole. I didn't know what to do. I used to drink when I hung out with friends. Then I realized that I couldn't do that. Or, if they [the parole officer] came by the shelter, I couldn't be in a bad mood. After one and a half years, I stopped going. The male parole officer I had kept saying I needed to get a job, but I needed to get my life together first. Let me finish my program first, let me get a foundation first. The second parole officer I had was a woman and the dynamics were better. The male parole officer would not let me get a job in construction and this is what I had skills in. By the time I got the female parole officer, I knew a little better—like not to wear my hat sideways. They had access to evidence of my crime and ran a list of people from my past that I could not associate with. I wish they told me in advance that they would know their names and would throw them back at me. It made me feel really uncomfortable.

I had no relationship with my family. I am a strong believer in you make your bed, you lie in it. My mother did not know where I was. I was also adopted and that had its issues. That was the simplest aspect of reentry for me. I had no one pressuring me or giving me opinions. I just had myself. Loving, caring family members don't realize how much pressure they are putting on people. It is better to live by yourself and get stable first. It is better for you if you understand this will happen when you get out, than trying to get them to understand. I didn't have friends—not safe. When I first got back, if I started hanging out with my associates, I would not have made the right decisions. Now, I have associates. I don't call them regularly. I don't want anybody too close to me. It is too much work for me to figure out if I can trust you.

You just got to keep it simple. You are where you gotta be. Don't complicate it with more.

There are survival traits that I continue to use today. For me, it's what people think of as my mean disposition and that's a good rollover. If you are about junk, you know not to approach me. The skills from the street that I use today are organizational skills, critical thinking, presenting that I am in control, and persuasion. Some of these can be used negatively, but you're not going to lose all the bad habits you had because they are survival skills. I believe in positive manipulation. As long as no one is getting hurt, it's about how to persuade people. Don't manipulate people negatively. Do it in a way that empowers you and keeps the person thinking positively about you.

In terms of special needs, if you are a lesbian you have to realize you are a woman, that you are living in a society that doesn't give a damn and you have to be aware. You have to understand if you go into the system, they don't give a damn. You have to find your group. You will be seen in one way only and get no special treatment. I felt that I was alone and didn't have anyone to express myself to until I found the Center [Lesbian, Gay, Bisexual and Transgender Community Center] where they had AA and NA groups. I didn't have to trust the people in the room. I just had to talk to them, to grab information.

For someone coming out of prison now, I wouldn't say anything to her unless she came off the bus and said, "I'm here." Then I would take her hand and walk her personally to that help. I would tell her, "Now you have to take the suggestion of the next person. We're going to show you that there's more you can do than run or get high."

As far as coping, my personality kicked in. I was cocky and arrogant. I refused to fail. This, being home, beats any fucking day behind bars. I refused to ever be incarcerated again. That was the lowest time of my life. For any woman coming home, she needs to be affiliated with an organization where they will feel comfortable enough to talk to someone about what's going on in their head. Not a family member, but someone to feel connected with. You just got to keep it simple. You are where you gotta be. Don't complicate it with more. Hook up with your sisters and learn how to judge character.

Some thoughts from other lesbians to consider

- ◆ *Keep the focus on yourself. If you have a lover upstate, keep her in your heart but keep the focus on your self, not on your girl. Get yourself together.*
 - ◆ *There's a place called The Center on 13th Street [in Manhattan]. They have meetings, groups, dances.... You can meet people. Stay away from women who get high.*
 - ◆ *I live in transitional housing with men and women. I need respect. Men have something about aggressors.*
 - ◆ *My parole officer, the guy was cool, but the woman was religious. She didn't respect me being gay. She didn't call me by my preferred name.*
 - ◆ *My parole officer, a woman, said, "I know I'm gonna have a problem with you."*
 - ◆ *Most of my family is dead. My family doesn't like me because I am gay. They think I have a disease. My brother took me to a shrink and turned to him and said, "Cure her." The shrink told him that being gay is not a disease and to get out of his office. The psychiatrist educated my brother. I kept seeing the psychiatrist for a year. I could talk to him.*
 - ◆ *You make your own family. My family is my significant other and my kids.*
 - ◆ *I wasn't there for my 15 year old daughter. I was in and out of her life. In 1995, I decided I wasn't going back, so I stopped using. I got her back. She didn't like my husband. Now she loves my wife. She loves my lifestyle. Now for the first time she's calling me ma. My son, who is 10, loves my partner. They do things together.*
-

Mariah

I was born and raised in New York City. I have been incarcerated at Rikers Island four times. My experience is as a transgender woman. At Rikers, transgender women are housed with the men. My last bid at Rikers was the longest—40 days—and my worst.

Being a transgender person is not about playing dress-up. It is a total psychological way of being, but our physical and psychological issues are not addressed appropriately by society. There are very specific things about the transgender experience in the jail setting that make returning home extremely difficult for us. For example, a transgender woman may not have access to hormones, so she grows a lot of facial hair while in jail and has to return home with a full beard. A transgender woman gets ridiculed when she goes to pick up her clothing package before release and someone sees a frilly dress. Then she has to wear that dress home with hairy legs. Transgender women leave jail with no clothes, no food, no hygiene stuff, and no where to live. Because of the lack of transgender-specific services, there is often no alternative but for a transgender woman to immediately go back on the stroll. Even the way we are released from incarceration can be a challenge. Being released from court can be better than being released from Rikers at 6 a.m. and having to jump into the stream of things at 9 a.m.

I am luckier than most transgender persons because I was in the foster care system. As I was aging-out of the foster care system, I was entitled to certain services—such as a housing subsidy, food stamps, health care and legal help. I was a ward of the state, so I demanded these services and they had to give them to me. Many girls have nothing. They just buckle down and make a plan, usually to go back on the stroll. It is hard to tell someone not to work the stroll when she has nothing.

The priority need for transgender persons returning home from jail or prison is more transgender-specific services. Transgender people have many medical issues, including HIV and Hepatitis C infection. It is hard for many to get hormones. We also have other health issues like heart palpitations and mental health issues. Accessing medical services inside can subject a transgender person to ridicule, harassment and insensitivity. Medical personnel will say, “I’m not touching her or him.” Or there is no confidentiality. I once refused sick call at Rikers because they would call us to the gate to talk about medical problems and not take us somewhere private. Another time I was in medical—I had a pain in my leg because of the hormones—and the medical person said, “So just stop taking the hormones.” When non-jail personnel do show some sensitivity by addressing me as a female, jail personnel get in the way by saying something like, “No, that’s a man.”

I have been an activist since I was 13 years old. My mom died of AIDS and I got involved in AIDS activism. In 1998 I became more involved in gay/lesbian/bisexual/transgender/queer issues. I am a founding member of Fierce! [a community organization for transgender, lesbian, gay, bisexual, two-spirit, queer and questioning youth of color in New York City]. I had a case against the [New York City] Administration of Children Services where I won the right to dress as a girl when I was a resident in a boys group home. I was a spokesperson when they were closing gay housing at Rikers. I got a judge to order the state to pay for my sex change. So I’ve always spoken up. I have a thick skin. When I feel something is wrong, I can’t rest until I fix it. Sylvia Rivera [a civil rights activist who fought for the rights of transgender persons and others] was my role model. She was very powerful to be around. You could not be around her and not be an activist. She taught me that there is always a way to win and that if we want change, we must do it ourselves.

Transgender persons are not universally damned. We are entitled to humane treatment. To transgender people who are in my shoes I say the first step is to identify what you are feeling. What’s wrong? Is it an unfair policy? A guard with an attitude? The circumstances of the day? Then figure out what your goal is, like, “I need my hormones.” Assess what you want and how you are going to get it. Then, take action. Do you need to file a grievance? Do you need to see a lawyer? Do you need an advocate? Don’t take things lying down. So many transgender persons have been broken and conditioned by the system that they can

be treated any kind of way. This frustrates me. I say become an activist. Engage in self-empowerment while inside. This will follow you outside into other areas of your life. When you demand services inside you will feel empowered to demand services outside.

I try to surround myself with positive people—people who have jobs and who encourage me. I would say to transgender women, try to come home and be around motivated people and not someone who sleeps all day. A wise man learns from fools' mistakes and not just his own. Learn from those around you. There is no reason to do things the way that others are doing them if it is not working for them. Don't just spend your money on food, drugs and clothes. If you are smart, then don't be lazy. If you have a support network, don't choose to stroll just because you don't want to pick up the phone and call your family. Learn from the one or two who are doing the right thing.

Only people who have been incarcerated can understand that the experience stays with you. It is hard to describe. I have talked to other people about a spot in the subway at Canal Street that smells just like

To transgender people who are in my shoes I say the first step is to identify what you are feeling. What's wrong? Is it an unfair policy? A guard with an attitude? The circumstances of the day? Then figure out what your goal is, like, "I need my hormones." Assess what you want and how you are going to get it. Then, take action.

Rikers Island. Maybe it's the cleaning stuff they use. I don't know what it is, but when we smell it, it brings us right back to that experience. When I get dressed in the morning, I look at my socks, my shoes, my clothes and say, "Will I be wearing these clothes when I get undressed tonight?" There is always this feeling that I might go back. Being incarcerated is traumatic and it stays with you.

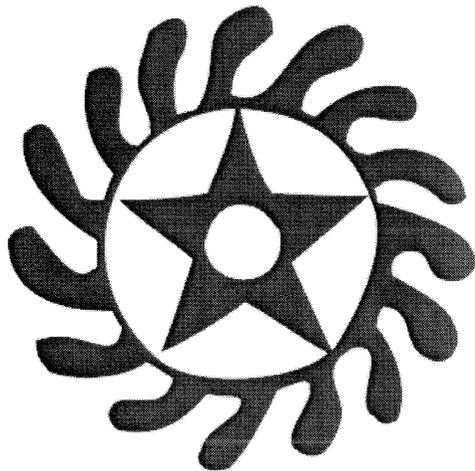
Right now I work as a transgender services coordinator for an AIDS service organization in Brooklyn. Jails need to understand that in order

to provide more effective services for transgender persons, they must invest the money and time in release programs to help us connect with services—period. Does this involve complicated solutions? Yes. Transgender people need to feel that the system will work for them and that there are people who want us to succeed and do better.

When I feel low, I cope by thinking about what I have accomplished. I also think of the people who are proud of me—the younger girls who have someone to look up to. I am also spiritual. We are all here for a purpose. I remind myself that I am not the only one and that this is not the end of the story.

Believe in Yourself

We have the right to have confidence in who we are and who we can be.



transformation

You can make coming home be about more than getting a job and finding housing. You can use it as an opportunity to create a new space in the world for yourself. You have the right to work toward your hopes and dreams, to love yourself and to believe in what you can be and do, just like everyone else. Your mistakes do not make up the sum total of your life. They are only a part of it. Here are some things that women have to say about the importance of knowing who you are and building your self-esteem and confidence when you come home.

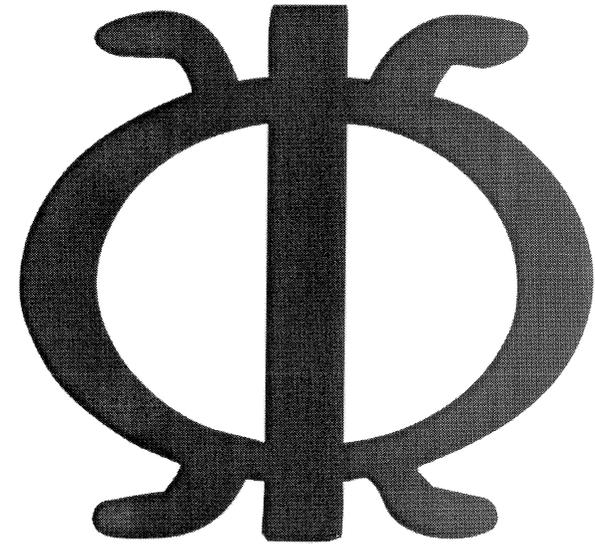
Developing self-reliance and recreating yourself

- ◆ *Don't expect too much at once. Work on yourself and your issues. Make amends.*
- ◆ *I have a sponsor—she is very connected—to help me get a sober network. I used to think that people who didn't get high had no life, but they are living. Boredom is relapse. NA has a lot of functions. It's not just a bunch of junkies. People are looking good and living sober, having the time of their life—parties, fashion shows. Make friends. Go out to lunch, to the library, to the park, to the gym, simple things I took for granted, like bowling.*
- ◆ *I'm so busy I don't have time for anything. I feel obligated to call my friends. I feel bad. I call from time to time to say hi. Everyone wants your time. Everyone's expecting so much. Gotta keep up front. I come first.*
- ◆ *I didn't want people to give me things. It's always having that person who knows you, mentor, relative, friend, not to do for you or make choices for you, but just to be there, "I'm here." This is really important.*
- ◆ *I learn by listening now because I didn't have a chance coming up. I wish I had family that guided me from the beginning. I came from the foster care system as a child. Today I fight for my children. I am happy to have that. Go with your determination and create your own path.*

- ◆ *I was always in the system—foster care, girl's home.... I am a product of the system and so I always knew there was help out there. I just didn't ask for it or tap into it. I think don't be shy is the most helpful tip. Take initiative. There are people out there fighting for you and your cause. Give your voice. Life is worth living. The records of your past don't dictate your worth.*
 - ◆ *My philosophies are "just for today" and "I made a mistake, but I'm not a mistake."*
-

Coping

We have a right
to our feelings.



perserverance

**“You just got to keep it simple.
You are where you gotta be.
Don’t complicate it with more.”**

In order to cope when the going gets tough, you must be aware of how you are feeling at all times. Be ready with positive ways to deal with feeling frustrated, angry, sad, depressed, as well as any negative behaviors. Here are some of the things that women have to say about coping when they are feeling low.

Focus on the positive

- ◆ *Give time time. Now, you have an opportunity to take the time. Before you did time or time did you. Now instead of counting down, you can count forward. You have the opportunity to do whatever you want with that experience. Detach yourself from your experience. It is not who you are.*
- ◆ *I thought of my son. He needs me. I can’t say” fuck it” any more. My son is 10 and he needs me. My son is like a little man. He gives me advice. He is a big motivation.*
- ◆ *I was motivated because I kept looking at my kids. I thought of my mother when she said that you have to set the example. I was 350 lbs. I lost over 100 lbs. I prayed if God opened my eyes I would live a different way. Every time I have a hard day, I know there is a degree with my name on it. I have passed the test. Today is the first day I could tell my story because I was so fearful it would bite me in the ass. I’ve been running inside.*
- ◆ *My sister helped me. She said think of your kids because no one else will care for them like you do.*

Do something healthy that makes you feel good

- ◆ *I hit my lowest a lot of times, especially in the shelter. I resorted to prayer. I tried to stay busy. Also, I dressed my best. I looked my best—looked the part even if I didn’t feel it.*

- ◆ *I like to draw and write in journals. Stories are my getaway.*
- ◆ *I started going to a Christian church and Bible study where I met other parolees and addicts seeking some type of peace. This helps me focus.*
- ◆ *I would go into myself and read the Koran and the Bible, pray, call my family and parole officer. I have a built-in support network.*
- ◆ *Pray, family, friends, make meetings and watch comedies.*
- ◆ *I call friends and family or my sponsor, go to AA meetings, pray. I encourage others to reach out for help and recognize that you will not be judged. Be open-minded. Listen and wait till the next day.*

Reach out

- ◆ *Talk to friends, family Shake it off and realize that low points pass.*
- ◆ *When I was feeling low, my mother was there for me. I talked to friends and family. It’s so hard being gone for such a long time and then coming back, it can be terrifying. You need someone to talk to.*
- ◆ *I use my support system in any way. I network with my sponsor, the people at my community residence, my counselors, and my psychiatrist at my program.*
- ◆ *Reach out to somebody. I keep my diseases—addiction, mental health status—upfront. And I have a great support network....The door is always open at my program.*
- ◆ *NA has been a big thing. It’s a social network. When I’m walking around lonely, I get out my meeting book. I get a lot of hugs and movies, and go out to eat after the meetings. I got involved in volunteer work. They teach me and trust me. I can make a mark on the world and express myself. At the training program, I can get a good reference. They got to know me. This helped me deal with the loneliness.*

- ◆ *Get involved in advocacy and support programs. Meet with advocates. There is still hope and determination. This helped me most. Focus on yourself, know what you have to do and take action. I wish I was told that many resources work if you try. Focus on yourself, know what you have to do and take action.*
- ◆ *Get involved and meet others in similar situations. Stay away from the wrong crowd and negative influences. Don't beat yourself up.*

Realize that you don't have to make the same mistakes

- ◆ *They always say that you will follow in your parents' footsteps. My mother was an alcoholic, so I believed this. But you can break that cycle. I'm here today. It can be done.*
- ◆ *I didn't follow in my mother's steps. She did everything in the book. My brother is doing time and that got me scared. My brother almost overdosed, that made me scared. I got locked up, not for using drugs but selling. Greedy for money. What keeps me strong? I said I'm not going to be like her. My father was an alcoholic. I learned from that. I said, "It won't be me". I didn't get a high school diploma because I had no one to guide me. I took the GED and I'm waiting for my results. I want to go to college for nursing.*
- ◆ *My foster parents told me, "You're going to be like your mother." I'm just shaking this off. I don't have to be like that.*

Susan

I was better prepared than most because I had run the pre-release program at Bedford Hills. My priorities were getting clothing and finding a job. I didn't want to live off of my family. I had lived on my knitting in prison. Also, I wanted to gain confidence. I remember walking with my head down. I felt like I had a big X on me. Then I realized no one knew me—they were looking at me because I was a white in a black neighborhood. I had top-notch support from my family and friends. I needed to know the New York City subway system because I didn't live in New York City before going to prison. I got it from a nun who gave me a map, but she wouldn't show me how to use it. I learned it within two weeks; then I could go anywhere in New York City.

I'm diabetic and I have hypothyroidism. I had an incredible experience at welfare. My first day there, I got a Medicaid card, emergency money, and a list for donated food. I needed medication. I had to go to a clinic, or so I thought. I wasted all morning waiting. I was sent to a diabetic clinic. It dawned on me that I had a Medicaid card and I could go to any doctor.

I was incredibly lucky to go to a women's program in Brooklyn. My parole officers there were supportive. I knew I could go to either one of them. All I had heard were horror stories; these were people who essentially controlled your life. But I had just a positive experience. One of my parole officers saw me and my sister. We got all of our questions answered, that was very helpful. I wish someone told me there were people who cared. My experience has been if I go to somebody and say I'm having a problem and can we talk about it, they will find a resource for me to use. You have to talk in a non-confrontational way. You have to trust.

My relationship with family and friends was excellent. I used them a lot of the time and to this day. I don't need them to get through. I get lonely for shared experiences. I didn't want people to give me things. I just wanted to know that I'm normal. To this day, I don't know if I'm normal or not. People ask me what do I do when I get home. Is it what normal people do? It's hard to feel I know what normal people do. Other people go home, watch TV, eat dinner.... There are still things I don't do. I haven't been to the movies.

And no elevators. I still have a fear of crowds of people. I don't feel safe. In prison you always had to be careful, always had to know who was behind you, sit with your back to the wall, that kind of mentality. So I avoid really crowded places.

Find one person that you trust to go with you places. I have someone who knew me well enough to help me out when I started to panic. It's always having that person who knows you—a mentor, relative, or friend. Not to do for you or make choices for you, just to be there. This is really important.

I've known one friend since 1974. When I got out she was there with my sister and brother-in-law. I know her children and grandchildren. Another woman I knew inside is now doing really well. She's been good about helping me get through. So I'm that person to others too. My philosophy is I was helped, so I have to give back.

It takes time. As a long-termer you come home to some scary new experiences. You have to be willing to ask questions and accept what people tell you. You can't have too much pride. I never talked about my feelings. I was scared to death. I didn't know how to get a subway train. You just gotta push ahead. I needed a sweatshirt and it cost \$30. I

Find one person that you trust to go with you places. I have someone who knew me well enough to help me out when I started to panic. It's always having that person who knows you—a mentor, relative, or friend. Not to do for you or make choices for you, just to be there. This is really important.

could not pay that. I said let's go to Kmart. It was the same price. This is when I realized that the prices were different. So many things had changed—the type of machines out here, the airport and the moving sidewalks.... Again, it's that support group who will giggle and help you laugh at yourself.

When you are older, you appreciate things differently and are willing to take it slow. I learned to think before I act. In the first couple of weeks—excitement, freedom. Then you realize life is about everyday things. I did 27 years. I want to give back by helping someone coming out. To be there, to be that person. Women who did a long time in prison have that. We are the ones the younger ones come to when they didn't make their [parole] boards. Nurturers.

I say know your good qualities. I found it necessary to stay in touch with other long-termers. They've experienced the heartache of everyone going home and leaving. I always made friends with other long-termers. It bothers me to know that other long-termers who are doing well totally block prison out of their minds. I wouldn't recommend this. I can engage in conversation about my experience. It made me who I am today. I'm not denying it. I really have to adjust. This is the one problem I had at my program with women who did one to two year bids. To me they didn't appreciate what they had.

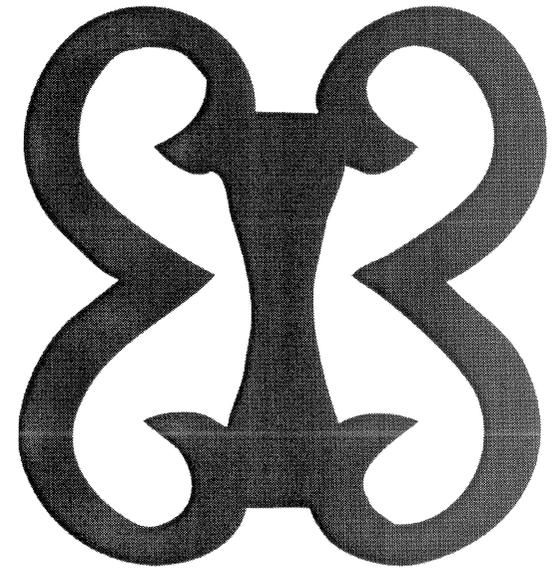
Reentry starts the minute you hit the prison grounds. I got a lot of information from my work in pre-release. You need to know this stuff, how to build and how to present yourself. You have to prepare from day one. I worked in a professional office as administrative assistant trying to keep my skills up. I made sure I had the names of supervisors I worked for so I could get references.

Is a person always in reentry? Probably. I'm always trying to do something because in the back of my head there's always that thing, that fear.... I don't think about parole because I'm not doing anything. I've never been hassled. They don't bother me. I don't feel like I'm still in reentry. I feel so strong. I feel in control of my life. I am who I am. If you like it, that's great, okay. If I have to live alone for the rest of my life, okay. It goes back to my support system. Once you get past employment and you set priorities, then you just do it.

I had a guy [friend] that came out a year after me and committed suicide. I was so pissed. He survived 17 years in a male facility and then got out here and couldn't cope. He didn't reach out. It took a lot out of me. Then it just made me more determined to stick my nose in others people's business. My advice to everybody is to reach out and to get help. Then reach back and help somebody behind you.

Knowledge is Power

We have the right
to information and
self-empowerment.



preparation

“It’s important to ask questions and don’t be afraid.”

There is one thing that almost all women will say to other women coming home from prison or jail: ask for help and support. It is one of the most empowering things that you can do. You don’t have to go through the transition home by yourself. Also, stigma and discrimination against formerly incarcerated people still exists, so you will also need to know your rights and learn how to be effective in fighting for and protecting them. Here is what women have to say about gaining and using knowledge to help yourself.

Asking for help

- ◆ *I am not homeless anymore. I have been clean for almost six years. I did not give up. If it wasn’t for the program I would be back smoking crack. Accept help. It will keep you on a positive track.*
- ◆ *I got help through social services, friends, my half-way house and my mental health group. The support I got from others who know what I have been through was comforting because I didn’t want to put myself in a bad situation again. I would recommend that women get connected and keep trying even if you’re discouraged and all the doors are being closed in your face.*
- ◆ *As individuals, we need to be motivated even if it doesn’t come from outside resources. Keep it internal. Stay motivated and focused. It will come. We all suffer and cry. Roll with the punches.*
- ◆ *Shed the layers. Reveal layers of yourself. You think no else has been there. You have to look in the mirror and love yourself. This is the reality of reentering anything.*
- ◆ *Ask the girls. I found out who was in charge. It requires foot work. I had to fight for a program and a judge said, “I’ll give you one chance” because my history was terrible. I had no more options. I begged, “Help me help myself. I’m tired of having nothing to look forward to.”*

- ◆ *I found out by networking and word of mouth. It helped that people gave me positive direction and information. Ask for help and information about other agencies and services. Always ask questions.*
- ◆ *Court was really helpful. It was really helpful to have court-ordered housing, counseling and mandated treatments. It made me realize I wasn’t alone.*
- ◆ *I went to crisis services and drug court. Ask questions. Don’t be afraid to ask questions.*

Using programs and services in prison and out

- ◆ *I got a lot of information from my work in pre-release. You need to know this stuff, how to build and how to present yourself.*
- ◆ *I wrote letters to the half-way house when I got my release date and they wrote me back accepting me. They helped me in the transitional services and pre-release class preparing me for getting back to work and school.*
- ◆ *I heard others speaking and started asking questions. It was helpful when agencies visited the prison because I could gather information and if I did not use it I could give it to someone else. I would advise others to seek help and don’t give up. Keep going.*
- ◆ *I found that finding out about programs was helpful. I recommend that others find out as much as they can. Have a game plan and use available resources while in prison.*
- ◆ *ACS [New York City Administration for Children’s Services] brought my daughter to visit. They helped with my apartment and taught me about HASA [HIV/AIDS Services Administration]. And staying connected once you are out. When I first came out, I didn’t think these groups could do anything—housing, benefits, assistance—but I stuck with it and it’s amazing what they can do for you.*

Virginia

When I returned home naturally I needed some form of housing. I had an upper hand because I worked in pre-release at Beacon. I was the one that set up the groups to meet with the women. I also needed employment when I got out. During my incarceration, I maintained friendships with people who got out before me. My friend, who was off of parole by then, picked me up on the day of my release to take me to a program in Brooklyn. In the car, her boss called her and asked to speak to me—he owned a painting company that hired a lot of men coming out of prison. He asked what my plans were and I had none. He said, “I’ll create a position for you.” I worked as an administrative assistant there for three months and learned book keeping, accounting, and Quick books. During that time, a position opened up at a reentry program for women. I switched to work at that program after three months.

Networking wasn’t me before incarceration. I was really an introvert. During the course of my incarceration, 17 years, seeing people coming back in and asking what had failed them, many felt they didn’t have support. An organization is good, but you have to make your own community of support. Stay informal though, any regiment is like being back in prison. The same things I did in prison, I did on the outside: shower, brush teeth, work every day.... Coming home is not as easy as you think. You can’t pick up from where you left off. The amount of time inside has nothing to do with it. Things are changing within you that don’t necessarily affect people on the outside.

Medically, I actually had more issues inside the facility than on the outside. I have a history of fibroids and cysts in the breasts. I found an attorney to fight for me because inside they were taking their sweet-ass time. They waited nine months to do surgery. It took me five months to get an attorney and it took him four more months to get the surgery. I went out for so many mammograms I thought I wouldn’t have anything

left! If you ask me, it was pure negligence. When you get home, it is important to find yourself a primary care doctor as soon as possible or at least get a full physical.

Grab the resources, whatever you can. You may feel that it doesn’t suit you, but make that call once you know.

My relationship with parole was nothing like I expected. Originally, I had eight years left, but I got released on good time after three years. We had very good supervisors over my parole officer at that time and that made it much better. We had a women’s focus group every

Tuesday, women from different walks of life in different places in their reentry. It was a good place for networking and to find things out. Sometimes, if a P.O. feels that she isn’t being supported by her superiors, she stops caring. That was not the case with mine. Originally, I thought it would be a lot more rigid, but each individual is doing what they should have done for themselves. Seeing people coming back and forth to prison, you know it is not parole’s fault. Definitely use the mechanism of parole for your benefit. If you feel boxed in, don’t be afraid to take it higher. It won’t fall on deaf ears. Parole doesn’t have to be seen as another form of discipline.

Through communication you begin to identify how you are feeling. Certain things that you have to do, you should do. But not every day is happy or picture perfect. Try to be unregimented to resolve issues. If you usually shower at 8:15, take a shower at 8:45. It might change your whole day.

A lot that I had previously, I no longer had. Within my 17 years inside all of my family died except my kids. I lost my mother, father, brother and sister. My nuclear family changed and it was hard. My children had already relocated out of state. I’m their biological mother and they give me the title of mother, but my mom was their mother.... I did the trailer visits and mom never refused a collect call. We did the host family summer program. My family also put in effort, but your life goes on and so does theirs. As much as you are changing, they are too. Have a continuing dialogue. Talk about your experiences inside and outside. Talk about the expectations you have and they have.

My clients at the program I work for will say, “My mother doesn’t understand.” It’s hard for families to accept, even if you are putting in the extra mile. All they know is your history of making the same mistakes over and over again. It is true for all relationships. As I said, I came home biologically their mother, but that was the extent of it and at times it was strained. I wouldn’t call for weeks. I was coming to terms with the fact that they were growing up. I was saying, “You really shouldn’t do this or that.” or, “Your skirt is too short.” I had to make a conscious effort to withdraw and to realize that they were grown adults and I wasn’t always going to be part of it. If they had a dinner party, mom wasn’t always going to be invited. I had to form my own friends. It was hard for me. It’s a totally different role. They are older. You are older. It is different when kids are teenagers. Coming home to younger kids, I didn’t have that opportunity.

Take it slow and the keep lines of communication open. Give both sides the opportunity to say what they need to say, even if it hurts. People on the outside might not be making the same changes. For example, when I came home, I tried to be as independent as possible because of my domestic violence background. Little things like going to the store and not being timed are important. What matters to you might not matter to them. It’s trial and error and open communication. Be willing to take risks.... I wondered, “Do my kids hate me?” I took their father’s life when they were seven and five years old. It’s not about hate. I accept that I took their dad and I took me away from them. I was out on bail and we worked with a domestic violence specialist for children. They continued to work on issues of understanding cycles of abuse; that it overflows to other people in the same environment. They went to the specialist for years as a way of coping. You have to work constantly.

I went to a program for domestic violence survivors when it was first forming. I found a place for me to get support. Also, I’m a lesbian and I found no support in Brooklyn. Now I’ve relocated to New Jersey. It is again hard to find places to meet people. You want to go out with your partner and feel comfortable. In the program for survivors, I am the only woman in the group released from the violence, everyone else is trying to work their way out. To network, I take myself out of the borough. It’s important if you can, prior to getting out, to get a list of organizations that might meet your needs and follow up with an organization. Take yourself out of your comfort zone and the end results are that you will be glad you have taken it.

Inside I worked with pre-release and knew the resources available. After a substantial amount of time, release is stressful. I still shopped, cooked, went to the movies, but I also had security. Grab the resources, whatever you can. You may feel that it doesn’t suit you, but make that call once you know.

How do I cope when feeling low? Music. I am also in the habit of finding something new to do. Like I am dying to read this book and I can take myself out of a moment—make it feel less heavy, like it really wasn’t as bad as you thought.

When I first went to prison, my counselor gave me a piece of paper with my time in months, eight and a third to 25 years, and I crumpled it up. With a large sentence, you are not thinking about reentry, you are thinking about making it through the days. It is a continuous cycle, whether you did a month, county time, flat city time, state, federal.... I’m out for five and a half years and I am still saying this is a part of me. I was already out for one and a half years and I was at the Port Authority to meet a friend. I went into the ladies room and I am saying how do you flush? What am I gonna do? I waited for a few minutes, but then decided to go. I finished and the toilet flushed automatically and I said, “Oh my god. I don’t believe it.”

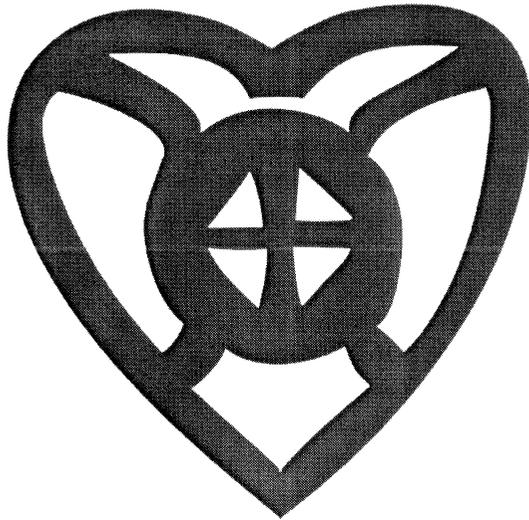
It really makes a difference if you served a lot of time versus seven or eight months. You continue to change. Some blossom. The longer that you are in, the process is entirely different.

A Closing Thought

We have the right to thrive.

“People who have experienced incarceration are always on the journey of discovery. It is a life-long process.”

Give *time* time.



faith

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For more information about the Correctional Association of New York visit http://www.correctionalassociation.org/WIPP/WIPP_main.html

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REENTRY RESOURCES

The following resource guides and organizations can direct you to the many organizations and agencies in New York State that provide services for people returning home from incarceration.

New York City

Connections: a resource guide for formerly incarcerated people in New York City. Some prison libraries have it. Incarcerated persons can also receive a free copy by writing to:

Institutional Library Services

The New York Public Library
455 Fifth Avenue
New York, NY 10016

Connections can also be accessed online at www.nypl.org/branch/services/connections. The Spanish language edition, *Conexiones*, is online at www.nypl.org/branch/services/conexiones.

The Center for Community Problem Solving Reentry Guide: A Handbook for People Coming Out of Jails and Prisons and for Their Families and Communities, 2005. To order, contact:

Center for Community Problem Solving

245 Sullivan Street, 5th Floor
New York, NY 10012-1301
Tel: (212) 998-6614
Fax: (212) 995-4031
Email: law.cps@nyu.edu
Website: <http://www.cpscps.org>

**Coalition for Women Prisoners
Women in Prison Project
Correctional Association of New York**
135 East 15th Street
New York, New York 10003
Tel: (212) 254-5700
Fax: (212) 473-2807
www.correctionalassociation.org

311. 311 is New York City's information phone number for information and access to all New York City government services and information. All calls to 311 are answered by a live operator, 24 hours a day, seven days a week. Immediate access to translation services in over 170 languages is available. You can call 311 from any borough of New York City. Outside of New York City, call (212) NEW-YORK (212-639-9675). The TTY number is (212) 504-4115.

New York State – General

WWW.REENTRY.NET

Reentry Net/NY: A support network and information clearinghouse on reentry from jail and prison and the civil consequences of criminal proceedings.

Westchester

Westchester Connections

Available on line at www.wccdinc.net

Hudson Valley

Hudson Valley Connections: A resource guide for persons returning to Columbia, Dutchess, Greene, Putnam or Ulster counties.

Available in English and Spanish. This manual is produced by the Mid-Hudson Library System and can be obtained for free by writing to:

Mid-Hudson Library System

Outreach Services Department
103 Market Street
Poughkeepsie, NY 12601

Back to Ulster County is a guide for Ulster County only. This manual can be obtained by writing to:

Restorative Justice Group

Unitarian Universalist Congregation of the Catskills
320 Sawkill Road
Kingston, NY 12401

It is also available online at www.uucckingston.org/comingback.html.

Capital District

On Your Own: Information and Resources for Persons Formerly Incarcerated, the Convicted and their Families in the [New York State] Capital District. This is produced by the Center for Law and Justice in Albany. Copies are available by writing to:

Center for Law and Justice
Pine West Plaza No. 7
Washington Avenue Extension
Albany, New York 12207

It is also available on line at www.albanypubliclibrary.org/firststop.html

Rochester and Monroe Counties

Making Moves: Handbook for Ex-Offenders Returning to the Rochester and Monroe County Area.

This handbook can be obtained by writing to:

Extension Outreach Department
Monroe County Library System
115 South Avenue
Rochester, New York 14604

Buffalo and Erie County

Connections: A Guide to Transitional Services in Erie County,

To obtain a copy write to:

Buffalo & Erie County Public Library
Extension Services
1 Lafayette Square
Buffalo, New York 14203

Ontario/Wayne Counties and Livingston/Wyoming Counties

Community Connections for Ontario/Wayne Counties and Livingston/Wyoming Counties. To obtain a copy write to:

Outreach Department
Pioneer Library System
2557 State Route 21
Canandaigua, New York 14424
(Be sure to specify the county you want.)

Transition Guide: How to get a good start on the outside

Produced by the New York State Department of Health.

For a copy write to:

New York State Department of Health
Corning Tower
Empire State Plaza
Albany, NY 12237

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