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BARRIERS TO REENTRY AND THEIR DISPARATE IMPACT ON WOMEN

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INTRODUCTION

In the last 30 years, the number of women in prison grew at a rate of 1.5 times that of men.¹ Yet despite the fact that they now comprise the most rapidly growing group of ex-offenders in the United States,² reentry programs are not being tailored to support their particular needs. While there are some similarities between male and female offenders, there are also circumstances particular to women that not only cause them to run afoul of the law³ but also then to require additional resources and support to aid in their rehabilitation and eventual reentry to society. For these reasons, by examining barriers with a specific concentration on the female experience, society can begin to help promote healthy and effective community reintegration for formerly incarcerated women.

HEALTH-RELATED ISSUES

It is now widely understood that most formerly incarcerated people have health conditions that require treatment or management, including mental health maladies. Indeed, fifteen percent of men and more than 33 percent of women report a diagnosis of depression or other mental illness but

the actual frequency of mental health conditions for the formerly incarcerated could be up to double the self-reported amount.⁴

Despite such prevalence, prisons and jails do not always provide adequate treatment during incarceration and once a person is released, access to healthcare is further curtailed.⁵ Only two-thirds of men and three-quarters of women with physical health conditions receive treatment while in prison, and eight to ten months post-release that number falls to one-half of men and 6 in 10 women.⁶ Furthermore, about 60 percent of men and women with mental health conditions receive mental health treatment in prison, and again after less than a year of being released, treatment levels fall to 50 percent of men and 40 percent of women.⁷

Impacts of Abuse on Women's Health

Such issues are exacerbated for women in particular, as the road to incarceration is often peppered with abuse, drug use and untreated mental illness. According to data and statistics compiled by the National Resource Center on Justice Involved Women, up to 98 percent of incarcerated women have experienced trauma in their lives, 73 percent have a mental health problem and up to 50 percent were homeless in the month before their arrest.⁸

Further, histories of abuse often mean that formerly incarcerated women have been living in environments with a heightened risk for sexually transmitted infections (STIs), such as hepatitis B and C infections and HIV.⁹ For example, when compared with men, women are more likely to report drug use one month before an offense, which places them at heightened risk for HIV transmission. For this reason, the prevalence of HIV among formerly incarcerated women appears to be higher than that of previously jailed men.¹⁰

Lacking Sanitation and Hygiene in Women's Facilities

In addition to these larger issues, women also face more mundane challenges to their physical health and hygiene while incarcerated. Recently, recognition of the lack of access to feminine hygiene products in prisons and jails has created a wave of legislation in state legislatures aiming to supply inmates with hygiene products and raise awareness about the widespread nature of the issue.¹¹ However, for formerly incarcerated women, lasting effects of inadequate feminine hygiene can manifest as severe medical conditions, like toxic shock syndrome or even infertility.¹²

Unfortunately, due to the prevalence of STIs combined with the unhygienic practices caused by lacking resources during menstruation, formerly incarcerated women are often

forced into more significant healthcare issues with little to no direction or assistance.

This cycle often continues outside prison walls. Once released, many formerly incarcerated women do not seek healthcare at a level commensurate with their needs, primarily because of financial barriers such as poverty and a lack of health insurance. Moreover, for women, such personal needs are often placed on the back burner because of the sheer number of more pressing priorities that demand their attention once released, such as securing housing, addressing substance use, finding financial support and reunifying with family.

LACKING ACCESS TO JOB TRAINING AND EMPLOYMENT

For most formerly incarcerated people, reentry occurs between ages 25 and 54—the very time in life when society expects a person to have obtained full-time employment.¹³ While more than 80 percent of the general population in this age range is employed, only 33 percent of all formerly incarcerated people find employment within the first year after being released.¹⁴

Those first months of post-release living are the most critical in determining how successful reentry will be. In fact, a 2015 Manhattan Institute study found that formerly incarcerated people who quickly gained employment after release were 20 percent less likely to reoffend than those who remained unemployed.¹⁵

However, with limited education and work experience, finding employment after release is difficult. According to several studies, about 70 percent of formerly incarcerated people have not completed high school.¹⁶ Moreover, because of their criminal histories, many formerly jailed people are viewed negatively by former employers, and the combination of a limited professional network and an obvious résumé gap can make it very difficult even to obtain an interview.

Although these issues certainly affect formerly incarcerated men, the numbers are far bleaker for women. For example, a 2008 Urban Institute study found that eight to ten months after release, over 50 percent of men were employed but only one-third of women were. Furthermore, the study found that men reported better employment outcomes than women and had worked for more total months since release.¹⁷

The reasons for such disparity in opportunity are varied and complex but one factor that contributes is the archaic but nevertheless prevalent bias that automatically presumes that women are incompetent or underqualified, particularly in certain professions. The Proceedings of the National Academy of Sciences (PNAS) found distinct biases toward women

candidates.¹⁸ When hiring managers had to choose between an equal mix of men and women for a math-based task, managers preferred male candidates, based on their paper qualifications alone.

Researchers at Arizona State University polled roughly 50 employers about hypothetical job applicants, including men and women who had the exact same criminal record. The employers reported that they would have called back about 57 percent of the men for an interview, but only 30 percent of women.¹⁹

Alas, even once hired, over 40 percent of women in the United States say they have faced discrimination because of their gender.²⁰ Those with criminal histories are both underemployed and unemployed, work fewer hours and make less per hour than their male counterparts. Moreover, formerly incarcerated women are often employed in nonpermanent, low-level or entry-level occupations with little chance for advancement.²¹

Examining the types of jobs formerly incarcerated women are applying for can potentially shed some light on why men are more successful in finding employment after release. Jamie Gullen, an attorney in the Employment Unit at Community Legal Services of Pennsylvania, believes that women are more likely to apply for work in the retail and healthcare fields, both of which rely heavily on criminal background checks.²² For example, according to the National Retail Federation, 87 percent of retailers in the United States use criminal background checks as part of their hiring process.²³

Men, on the other hand, tend to apply for jobs in the construction, transportation and manufacturing industries, which are less likely to rely on background checks and thus more likely to hire formerly incarcerated individuals.²⁴ These fields, however, are less accessible to women because of stereotypes about women's abilities held by employers and co-workers and because of the difficulty mothers in particular have with the daily working hours this type of work requires.

What's more, those few women who are hired to work in construction or manufacturing are often subject to gender stereotypes that make it harder to maintain jobs, such as employer assumptions about actual or perceived caregiving responsibilities or women's physical capabilities in the field.²⁵

Such discrimination against employees based on their responsibilities to care for family members is referred to as Family Responsibilities Discrimination (FRD). The practice most commonly occurs against pregnant women and mothers of young children. In the past ten years, social scientists have documented that the most prominent form of

caregiving—motherhood—is a key trigger for gender stereotyping at work.²⁶

Adding to the lack of employment opportunities, nearly half of women in state prisons have not completed high school, sixty percent were not employed full-time when they were arrested and nearly one-third had been receiving some kind of welfare benefits prior to arrest.²⁷ If women are to be successful upon exiting detention, society must be willing to provide mechanisms for them to reenter the community better situated than they were before incarceration.

CONTINUING INVOLVEMENT WITH THE SYSTEM

According to the Bureau of Justice Statistics, between 1975 and 2012, the number of parolees nationwide increased by 495 percent, ensnaring more than 851,000 individuals in the web of post-release supervision. Conditions of parole vary from state to state and case to case. And, while some restrictions seem logical—like complying with all laws—others are less practical and can even be detrimental to successful reentry.

Technical violations punish formerly incarcerated people for behaviors that are not inherently a criminal offense but rather a condition of that person's post-release supervision. If, for example, a parolee does not report for a scheduled office visit, cannot gain employment or neglects to make required payment of court costs, a parole officer can require that individual to return to court to face additional punishment. In some instances, these technical violations lead unnecessarily to reincarceration.

This troubling fact is also made worse by data that suggests that the amount of time in and around the criminal justice system relates directly to a formerly incarcerated person's ability to establish a pattern of successful reentry.²⁸ For example, immediately after release and before gaining employment, a parolee is likely unable to pay the required court costs. And often the already difficult prospect of obtaining employment is exacerbated by the rigorous reporting schedule of in-person office visits with a parole officer. Certainly, the need to check in should not interfere with one's ability to maintain a regular work schedule, particularly when the employment itself is often the only mechanism available for the parolee to earn the money required to cover their court costs. Forced between a rock and a hard place, parolees must skip visits in order to work. In either case, however, the missed payment or the missed visit both constitute individual technical violations.

Continuing Involvement with the Family Court

Such problems of continued involvement with the system are further exacerbated for formerly incarcerated women,

more than 60 percent of whom are mothers.²⁹ Most of those have children under 18. Thus, for women in particular, one of the greatest punishments of incarceration is separation from their children.

Once mothers are detained, departments of human services or human resources control placement of children into family members' homes or into foster care. After the mother's release, reunification of the family is the optimal outcome—for all parties involved. However, leaving detention does not automatically guarantee this, as multiple barriers often make it difficult for the mother to satisfy the court that she is "fit" to have her children returned.

Studies have shown that the likelihood of reunification is enhanced when mothers receive a broad range of employment, educational, and family and children's services in addition to substance abuse treatment.³⁰ However, the half-way houses where they often first live immediately after release do not usually accept children, which can lead to a potential loss of parental rights for women who reside there.³¹

Furthermore, even when children are reunited with their mothers post-release, the very process of reunification often requires them to be called to court repeatedly to attend "dependency hearings" meant to determine if the mother can provide a stable environment for a child. Between these hearings and others, mothers can be called to court once every three or four months.

As in the case with overly restrictive parole officer visits, these continuing appearances in court and all of the required hurdles that come along with them often interfere with the employment and stable living environment necessary to prove fitness in the first place. Certainly, periodic reviews of a child's dependency status are useful when used effectively and in moderation but in many cases, allowing mothers to remain out of prison and to participate in community-based alternatives is the best situation for the family.

SUGGESTED POLICIES AND PROGRAMS

Problems associated with separation of mother and child can be minimized by developing and implementing community-based sentencing schemes instead of incarceration. Sentencing alternatives might include house arrest, half-way houses where mother and child can reside together or day programs in which mothers attend rehabilitation or correctional programs during the day but are permitted to return home at night.

Indeed, research shows that community-based sentencing creates a supportive environment where parents can heal and be held accountable for the consequences of their conviction, while staying with and raising their kids.³² These

sentencing alternatives can also properly address substance use, mental health issues and homelessness, instead of criminalizing behaviors that merit public health interventions.³³

They can also ameliorate barriers to reentry by decreasing the number of women who are incarcerated in the first place. Factors that support limiting incarceration and increasing community-based alternatives include increased mental health and substance abuse treatment;³⁴ more specific supervision than regular probation sentences;³⁵ major cost savings compared to full incarceration;³⁶ amplified flexibility for judges to deviate from imposing sentences of incarceration;³⁷ and a reduction of overcrowding in jails and prisons.³⁸

Put simply, community-based sentencing is a healthier alternative to incarceration. Mothers are more likely to succeed at treatment for substance abuse and are less likely to return to prison if connection with family is maintained. Furthermore, by remaining connected to their mothers, children have the opportunity to experience healthy childhood development, which contributes to fewer behavioral issues and reduces the likelihood that the cycle of offense and incarceration will continue to the next generation.³⁹

Further, to replace punishment with community-based alternatives is less expensive to communities than incarceration. A study in New York state, for example, found that the impact of community-based alternative reforms has been significant: Since 2009, the increase in alternative referrals saved taxpayers \$5,144 per offender.⁴⁰ These savings resulted primarily from the fact that community-based drug treatment is less costly than the prison sentences that would have otherwise been imposed.

So far, these programs have already yielded reduced recidivism and increased family preservation.⁴¹ For these reasons, states are passing laws to give judges more leeway in deviating from mandatory sentences, especially for nonviolent offenders. This is largely because of their reductions of prison population and system growth. Since 2000, 29 states have modified or repealed their mandatory sentencing policies.⁴² By allowing judges to sentence women on a case-by-case basis to community-based intervention programs rather than incarceration, courts can promote punishment that is actually tailored to promote rehabilitation and successful reentry. An added benefit to population reduction is that the quality of care for those who must be incarcerated can be improved, which means that incarcerated women can have access to the appropriate sanitation and healthcare they have heretofore been denied in many cases.

CONCLUSION

Every person who has been incarcerated encounters substantial barriers upon reentering society. However, women

face challenges that are markedly distinctive and thus require equally distinctive approaches. And, since the vast majority of offenses committed by women are relatively minor and non-violent like drug-related charges,⁴³ community-based alternatives can help keep women out of prison in the first place; ensure adequate substance abuse treatment, sanitation and healthcare options for all system-involved women; keep families together and out of the system; and help to obtain—and retain—the necessary employment or education for a more promising future.

ABOUT THE AUTHOR

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