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BY THE COMPTROLLER GENERAL

Report To The Congress

OF THE UNITED STATES

Women In Prison: Inequitable Treatment Requires Action

Women in correctional institutions are not provided comparable services, educational programs, or facilities as men prisoners. Inequities are most prevalent in State institutions, but they also exist in Federal and local correctional systems.

An increasing number of suits have been brought by women demanding equality in the types of facilities and other opportunities provided to men. Courts are frequently deciding in favor of female inmates.

Some jurisdictions are using innovative approaches to corrections to a limited extent. Through a cooperative effort at all levels of Government, with the Federal level assuming the leadership, more equitable treatment for females could be achieved with increased emphasis on alternative approaches. At the same time, existing and future facilities and staff resources would be used more efficiently.



113947 / 1013407



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WASHINGTON, D.C. 20548

B-200741

To the President of the Senate and the
Speaker of the House of Representatives

The enclosed report describes how women inmates are treated differently from men inmates in Federal and State prisons and local jails and how, in their effort to correct these differences, women have gained support from the courts. The report also discusses alternative approaches to overcome these disparities and makes recommendations to improve the conditions for women in prison.

We are sending copies of this report to the Director, Office of Management and Budget; and to the Attorney General.

James P. Altitude
Comptroller General
of the United States

D I G E S T

Women in correctional institutions do not have access to the same types of facilities, job training, jobs in prison industries, and other services as men prisoners.

Inequitable treatment is most prevalent at the State level, but it also exists at the Federal and local levels. Correctional systems have not been aggressive in providing programs and services to females due to the relatively small number of women prisoners, and because many officials feel that women do not need the same type of training and vocational skills as men.

Women are beginning to demand equal treatment through the courts. An increasing number of suits on behalf of women inmates are demanding that correctional officials extend to women the same type facilities and other opportunities provided to men, and courts are frequently deciding in favor of female inmates. (See pp. 8 to 12.)

DIFFERENCES BETWEEN MEN'S AND
WOMEN'S CORRECTIONS SYSTEMS

Federal, State, and local jurisdictions have a larger population of male inmates than female inmates. The relatively large number of male inmates makes it possible to have a greater number of institutions that can be placed throughout the jurisdiction and permits a greater number of industrial operations where males can learn skills and participate in a variety of other programs and services. These conditions permit corrections officials to more appropriately place male inmates in maximum, medium, or minimum security institutions. The number of institutions also provides the opportunity to transfer male inmates among institutions so they receive specific programs, job training, and other services. At the same time men have a greater opportunity to transfer to

Monetary constraints at all levels of government present problems in providing comparable quantity and quality of services, programs, and facilities for the relatively small female population. However, because the courts are ruling in favor of female inmates, more and more jurisdictions are having to deal with the situation. (See p. 8.)

ALTERNATIVES EXIST TO
PROVIDE EQUAL TREATMENT

Alternatives exist which would provide for more equitable treatment without duplicating existing programs and services. These alternatives include:

- Shared facilities: a concept of co-corrections involving men and women sharing the available resources other than housing. This concept is used in the Federal system and to a limited extent in some States. The range of programs, facilities, and other services is greatly increased for women. (See p. 27.)
- Community corrections: an alternative to the traditional approach of incarceration which involves the community in the corrections process. Used as either an alternative to incarceration or a transitional facility out of the system, community resources are available to provide offender services. This approach greatly increases sentencing alternatives and may include restitution to the community or victim through either service or monetary means, and at the same time may require education or training that will benefit the offender. (See p. 28.)
- Joint venture: a concept of pooling resources at the Federal, State, and local levels to better utilize incarceration facilities. Agreements between States and the Federal Bureau of Prisons could greatly enhance the possibilities for solving inequities in female corrections.

tance of correcting the situation. The Department stated that the report presented a good overview of major problems in female correctional facilities as compared to male facilities, such as fewer programs, fewer types of vocational training, inadequate classification, etc. It stated further that the present era of fiscal austerity places a challenge on correctional administrators to reduce the inequities while working within the limits of existing resources. (See p. 23.)

The Department neither agreed nor disagreed with the recommendations in this report. Rather, the Department discussed a large number of actions taken or planned that address directly or indirectly the female offender issue. The implications of the Department's comments are that these steps satisfy the intent of the recommendations.

GAO acknowledges that the Department has taken steps to improve opportunities and conditions for females. However, it believes that the Department needs to take a greater leadership role in fostering the kind of cooperative Federal, State, and local government relationships required to solve the problem of inequitable treatment of female offenders. (See pp. 35 to 38.)

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CHAPTER 1

INTRODUCTION

In fiscal year 1978, Federal, State, and local governments spent about \$5.5 billion in corrections for confinement and related costs to house about 300,000 inmates. Of the total inmate population, about 12,700 were adult females. To discuss the present-day position of the relatively small number of women offenders within correctional systems, it is necessary to show (1) how the complex and far-from-uniform network of correctional systems has developed in this country and (2) the emerging case law on the legal status of women.

The American criminal justice system reflects contributions from many people of diverse backgrounds, customs, and laws. During this country's early years, each State and the Federal Government devised penal codes out of a maze of various customs and statutory systems, including English common law; and French, Spanish, Dutch, and Roman civil law. Moreover, legal and penal philosophies behind these statutes represented a jumble of conflicting attitudes concerning appropriate punishments, the efficacy of the death penalty and hard labor, and prisoners' rights. For instance, legislatures debated whether the objective of punishment ought to be retribution, restitution, reformation, or deterrence. Following historical practice, legal codes also distinguished between free citizen and servant or slave, man and woman.

LEGAL STATUS OF WOMEN IN THE UNITED STATES

The status of women was a subject of debate after the Revolution, with both sexes arguing for women's right to membership in the new "civil order" or "body politic." However, no early State legislatures or courts assigned equal rights to women. As a consequence, in 1833 a legal commentator remarked of women:

"According to their destiny and consequent place they occupy in civil society, they are less exposed to the temptation or to inducement to crime; their ambition is not so much excited, and they are naturally more satisfied with a dependent situation; * * * they have not the courage or the strength * * * to commit a number of crimes * * * and according to their position in society, they cannot easily commit certain crimes

her husband. Separate from a husband, a woman was morally responsible for her actions, capable of owning property, signing contracts, using civil courts, and being charged in criminal courts. One problem, particularly among new immigrants and the urban and rural poor, including many free blacks, was the presence of women who were living in family relationships without a legal marriage. They were, therefore, considered by the courts to be without a husband or children.

Women and men were sentenced to the workhouses and prisons with little difference in treatment. However, these conditions did not remain unchallenged. Several societies providing assistance both to the poor and to prisoners called for separation by age, sex, race, and degree of "depravity."

Women in jails, workhouses, and prisons have been both separated from and mixed with men. But whether in a cell, in workhouses, or in a separate institution, women have always been a very small and almost invisible minority in the corrections system. Their small numbers, coupled with the attitude of many corrections officials that women are passive, dependent, and childlike, limited concern and action to improve their lot.

Moreover, women have seldom participated in legislative and administrative decisions concerning the planning and management of correctional institutions. Such basic decisions and planning have been made by men. Institutions developed and administered by women for women have occurred only when women organized politically (often through the use of women's civic organizations) while having women in key political positions with access to judicial or executive branches.

INCARCERATED WOMEN TODAY

There were about 12,700 females in the custody of Federal and State Governments as of December 31, 1978. A breakdown of this total by Federal and State Governments is shown in appendix II.

A GAO staff study, "Female Offenders: Who Are They and What Are the Problems Confronting Them?" (GGD-79-73, Aug. 23, 1979), presented a detailed profile of the typical female offender. According to the study, she is

--young,

--poor,

--of a racial or ethnic minority,

OBJECTIVES, SCOPE, AND METHODOLOGY

While researching female offender issues, 1/ we identified a significant issue dealing with the inequitable opportunities offered females in terms of facilities, training and education programs, and services, as opposed to the male offender. This review was directed at determining the significance of these inequities, why they were occurring, and alternative ways to eliminate them.

We conducted our review from September 1979 through June 1980 at the Bureau of Prisons, National Institute of Corrections and the National Institute of Justice in Washington, D.C.; State departments of corrections in California, Minnesota, North Carolina, New Hampshire, Texas, and Vermont; and at numerous jurisdictions in those States. We also visited Federal, State, and local correctional institutions where both men and women were incarcerated. In addition, we visited projects established as alternatives to incarceration and community corrections programs.

Our selection of States and other locations to visit was based on knowledge gained during the prior research of published materials and contacts with experts. The States were chosen to provide a wide range of corrections approaches, inmate populations, urban and rural facilities, and locations where innovative alternatives were used as a part of corrections. The States selected had female inmate populations ranging from 1,147 to a low of 6. One State contracted with another to house female offenders. The selection also provided us with examples of jurisdictions that view their purpose as primarily custodial and others which have a more rehabilitative approach. Several States selected have a variety of innovative approaches to corrections, including community corrections and other alternatives to incarceration. We have identified those States with the innovative approaches so that other States might be able to contact them to obtain additional information. The selection of jurisdictions within the States was made on the same basis as the States themselves and on suggestions from correctional officials based on their knowledge of the local jurisdictions.

1/The results of the research were published in the staff study "Female Offenders: Who Are They and What Are the Problems Confronting Them?", (GGD-79-73, Aug. 23, 1979).

CHAPTER 2

WOMEN OFFENDERS ARE NOT PROVIDED

FACILITIES, TRAINING, AND SERVICES EQUIVALENT

TO THOSE PROVIDED MALE OFFENDERS

Government units charged with providing inmates basic services and a humane and safe environment are not providing them equally to both sexes. Unequal conditions exist at the Federal, State, and local levels and include the types and locations of facilities, job-training programs, and prison industries. Where corrections systems have instituted programs in education, vocational training, actual jobs in industry, and other benefits, they have done so principally for the large male prisoner population. The small number of female prisoners affects the variety of services offered them, their separation by security levels, and their exposure to the community setting. Although inequities exist at all levels, the Federal level has taken action to increase opportunities for females by operating facilities which house both men and women, and thereby provide equal services to both. It has also established a task force to study specific problem areas in need of further improvements.

To gain more equitable conditions, women inmates are demanding improvement through the courts. The courts are increasingly deciding in the women's favor that small numbers, expense, and administrative convenience are not adequate defenses for continuing unequal practices.

Factors, other than number, expense, and inconvenience, have also contributed to unequal programs for women inmates. Old stereotypes have been perpetuated in the institutions so that, where programs have been made available, they have been primarily in fields considered traditionally female, such as sewing, cosmetology, and food service--not in fields that generally command high wages.

Women's institutions, far fewer in number, generally house the full range of security levels together. These few institutions are far from most women's homes and offer little opportunity to progress to less controlled incarceration. For male prisoners, however, the jurisdictions provide greater opportunity for separation by security level--thus ensuring that men are usually incarcerated under appropriate security controls. In addition, these institutions are so numerous that men can be incarcerated relatively close to their home communities; they can "progress" to less secure institutions; and

ruled that women prisoners have the right to a range and quality of programing substantially equivalent to that offered men but based on the needs and interests of female inmates.

--In Barefield v. Leach, No. 10282 (D.N.M. 1974), the court found the State had failed to provide parity in vocational programing, assignment to wage paying work within the institution, and adequate facilities for vocational projects. The court ordered the State to achieve a reasonable parity.

--In Grosso v. Lally, No. 4-74-447 (D. Md. 1977), the parties entered a consent decree in which the Division of Corrections agreed that programs, conditions, and opportunities for women would be "no less favorable, either quantitatively or qualitatively" than for men. Women were granted participation in community corrections and work release programs, equivalent eligibility requirements and wage rates, and vocational programs. The decree also allowed women's participation in educational and drug programs.

--In Molar v. Gates, 159 Cal. Rptr. 239 (4th Dist. 1979), the court held that the county jail system could not provide special programs and facilities for men only. The court rejected the defendant's argument that the administrative requirements of maintaining separate facilities and the cost of providing duplicate programs were too expensive. The court left it up to the county to decide whether to provide women the same benefits or eliminate the men's special programs and facilities.

Molar v. Gates demonstrates that some equal protection suits may result in diminished privileges for both sexes. The special facilities available to the men were considered a "privilege" rather than a basic constitutional "right" (such as access to the courts). The equal protection problem did not have to be solved in this case by offering identical "privileges," but rather by ensuring both groups were treated equally.

Eighth amendment suits

Women offenders have also brought suits on the basis of the eighth amendment, which prohibits cruel and unusual punishment. Many of these suits have been based on lack of proper medical care.

Court cases are in process

In addition, a number of cases were underway in the States we visited.

In Texas, two suits alleged unequal treatment of female offenders. The complaint in Quinlin/Moore v. Estelle alleges that the Texas Department of Corrections denies women access to the courts because in the view of the plaintiffs its law library is inadequate and only available for limited time periods. Quinlin v. Estelle is a class action suit which charges that the vocational training available is inferior to that provided male inmates. The complaint charges that men are offered auto shop, printing, welding, and other skill training, while women are offered training only in traditional female vocations. In addition, the complaint alleges that, unlike male inmates, the women do not have a 4-year college program or work furlough programs.

In Batton, Stokes, Stokes, Jones, and Hamm v. the State of North Carolina, et al., women inmates have alleged that their first, fourth, sixth, eighth, and fourteenth amendment rights have been violated. The suit asks the State to institute practices and programs for women prisoners equal to those available to men. It also challenges a departmental policy that houses most women in one institution without regard to their security ratings, the nature of their crimes, or their ages. The suit further alleges that women in prison have limited access to employment, parole, and work release because of the prison's location.

In California, a suit was brought against the city and county of San Francisco by various groups, including the Women's Jail Study Group. According to the suit, the defendants have failed to provide a work furlough program for incarcerated women, although they had made one available to incarcerated men. In an attempt to settle this suit, the Sheriff's Department presented a plan to lease building space for a women's furlough program. The court postponed further action on the suit until it receives a status report from the Sheriff's Department.

Another class action suit filed in California against Santa Clara County officials alleges that women were being denied certain housing and rehabilitation available to men inmates. It further charged that women in pretrial custody were being held without cause under conditions and restrictions amounting to punishment.

PENAL INSTITUTIONS

<u>Federal</u>	<u>Male</u>	<u>Female</u>	<u>Shared</u>	<u>Total</u>
Correctional institutions and penitentiaries	22	1	3	26
Penitentiary and prison camp combinations	5	-	-	5
Prison camps	5	-	-	5
Metropolitan correctional centers	-	-	3	3
Community treatment centers	6	(a)	3	9
Detention center	1	-	-	1
Detention center and camp combination	<u>1</u>	<u>-</u>	<u>-</u>	<u>1</u>
Total	<u>40</u>	<u>1</u>	<u>9</u>	<u>50</u>
<u>State</u>				
California	<u>b/29</u>	1	<u>c/1</u>	31
Minnesota	4	<u>d/2</u>	-	6
New Hampshire	3	(e)	-	3
North Carolina	79	<u>f/6</u>	-	85
Texas	15	2	-	17
Vermont	5	-	1	6

a/The Bureau has contract facilities for female community corrections.

b/The male institutions include 19 conservation camps. These are not available to females.

c/Separately housed, civilly committed male and female narcotic addicts.

d/One juvenile female institution is used to house the overflow from the adult female institutions.

e/Female inmates are housed in another State.

f/Four of the 6 institutions are halfway houses with a capacity of 10 residents each. One additional institution houses selected juvenile female offenders.

- Women may have little opportunity to participate in outside work release programs, since many women's prisons are located in rural settings far from community resources.
- Women may not be able to transfer between institutions to get programs, training, or services.
- Women's institutions often do not include major industrial operations or vocational programs.

At the Federal level, a recent task force study concluded that:

- Women's facilities were not located geographically to provide the best possible service. The study identified a need for additional female institutions in the Northeast Region, in the North Central Region, and in the lower California region.
- Lower custody women were being housed in facilities designed for higher custody inmates.

Although not addressed in the task force study, problems in placing women offenders from the District of Columbia in the Bureau's Alderson prison have been noted by several groups. This practice places these women about 250 miles from home in a remote area, which has little commercial transportation available. On the other hand, many of the male District offenders are committed to a facility in Lorton, Virginia, near their homes. A Bureau attorney said there are indications District judges are considering this situation and are becoming reluctant to confine women at Alderson. The House Committee on the Judiciary has encouraged the Bureau to study alternative uses for Alderson. The Committee also stated that since the Bureau has recognized that female offenders are held in facilities more secure than are necessary, placement in community-based facilities and minimum security camps should be considered. The Bureau was directed to report to the Congress no later than January 1, 1981, on the result of this study.

One of the States we visited had 85 correctional facilities located in 67 counties. Women were housed in only one primary facility and four limited space treatment facilities (halfway houses). In addition to the far greater number of facilities and the benefits accruing from a variety of institution types, men are allowed to transfer between units to get the vocational programs needed. Women are not offered this opportunity. The only vocational programs offered to women are at the one primary facility.

--At another facility, an industry shop was provided for men but not for women inmates.

--At one institution, men had access to a gym, but women did not.

Differences in programs and in training, industrial, and medical service opportunities

Women inmates are not provided the same range of opportunities available to their male counterparts. The wider range of men's prison facilities and their proximity to communities provided male prisoners greater opportunities to meet their needs for classroom as well as on-the-job training. In addition, the proximity to community services makes it easier for men to obtain proper medical or mental health services. Specifically,

--men generally get training in skilled trades or go on to work release programs,

--men often work in industrial operations--frequently for pay, and

--men often have access to full-scale hospital and mental health facilities--often within the prison system itself or at a nearby location.

Because of the size and location of most female institutions, female inmates generally have fewer opportunities.

--Women's institutions often limit the vocational programs to traditional, low-paying female occupations.

--Work release opportunities are often limited because of institutional locations and the lack of segregated housing for those on work release.

--Full-scale health facilities are often not available and women have to be transported to distant community facilities.

Women in jails are also at a disadvantage even though little is offered either sex in these facilities. Women are sometimes denied access to the few recreational and service offerings available to men.

In another State, male inmates at the various institutions were offered vocational training in skilled trades, such as welding, electronics, auto mechanics, carpentry, and brick-masonry. They were also given the opportunity to transfer between institutions to help meet their vocational needs. Women were offered cosmetology, upholstery, and secretarial sciences in the one primary adult female institution. In addition, women had no opportunity to transfer for training.

Fewer industries are available to women

Prison industries are operated in many institutions to provide, among other things, a training and work environment and, at the same time, provide the inmate an hourly wage. Access to prison industries has not been made available equally to men and women in most instances. In the Bureau, for example, women have access to only 13 of 84 industrial operations, while men have access to 82 of 84. In addition, most of the industrial operations for women--11 of 13--are located in co-correctional institutions, and are therefore equally available to men.

At the only all-female institution, both of the industrial opportunities were in traditional, low-paying skills--keypunching and sewing. At a recently converted all-female institution--now co-correctional--the opportunities offered women in four of five industrial operations were in the same areas of sewing and keypunching.

Differences in industrial job opportunities were also found in States. For instance, in one State, women have only one industry--sewing. Men have a dairy farm, furniture factory, glove factory, sewing machine repair shop, and an industrial laundry. In addition, men can transfer from one institution to another to better utilize their skills. Women cannot.

Differences in medical services provided

As in the other programs and training, we found differences in the range of medical services at male and female institutions. Examples of these differences follow.

The Bureau's task force on female offenders found that more community medical resources were used for women than men and that this presented both budgetary and managerial problems. The task force also looked into the psychiatric problems among female offenders and concluded

not justify the expense of duplicate facilities and programs, and (2) the women were not interested in the types of vocational training offered men. A less obvious reason may be the personal feelings of some penal officials on the appropriate roles for women or towards incarcerated women in general.

Numbers of incarcerated women are small compared to numbers of incarcerated men

The numbers of prisoners of both sexes housed in the Federal and State systems at the time we contacted them are shown in the following table.

	<u>Total</u>	<u>Offenders</u>			
		<u>Male</u>		<u>Female</u>	
		<u>Number</u>	<u>Percent of total</u>	<u>Number</u>	<u>Percent of total</u>
Bureau of Prisons	24,157	22,892	94.8	1,265	5.2
States					
California	21,325	20,178	94.6	1,147	5.4
Minnesota	1,989	1,910	96.0	79	4.0
New Hampshire	320	314	98.1	6	1.9
North Carolina	14,734	14,181	96.2	553	3.8
Texas	24,575	23,570	95.9	1,005	4.1
Vermont	481	467	97.1	14	2.9

As can be seen, the female population appears small compared to the incarcerated male population. However, in absolute numbers, there are a great many incarcerated women. The problem of small numbers is particularly pronounced because the women are scattered in Federal, State, and local institutions. As a result, it can be extremely expensive to duplicate for women the variety in facilities, programs, services, and industries provided men. For example, corrections officials in one State we visited recognized the inequitable situation of females in the State system but said it was difficult to provide programs for the less than 100 women in prison, as compared to 2,000 men. The small group made most programs extremely expensive per person to implement.

Women are beginning to demand expanded opportunities and are entering suits to obtain equal conditions. The courts are supporting the principle of equality where disparities amount to constitutional violations. However, actions through courts are generally a slow process. Penal systems and institutions not parties to the litigation generally are not bound by court orders. Moreover, litigation is by its nature reactive--that is, it generally deals with existing conditions that are sufficiently severe to warrant court action. And until the litigation is resolved--which may take several years--unacceptable conditions may continue to exist. Finally, it should be recognized that some disparities, though undesirable from a policy standpoint, may not be sufficiently severe to qualify for relief in a court of law.

There are opportunities for providing women inmates more equitable treatment without the major expenses involved in constructing new facilities or duplicating programs and services for small numbers. In the following chapter we discuss some of these alternative approaches.

AGENCY COMMENTS

The Department of Justice commented on a draft of this report by letter dated October 20, 1980. (See app. III.) The Department agreed that incarcerated females are not treated equally with incarcerated males and recognized the importance of correcting the situation. The Department stated that the report presented a good overview of major problems in female correctional facilities as compared to male facilities, such as fewer types of vocational training, inadequate classification, etc.

In its comments, the Department stated that, although prison industries for women may not provide training in skill areas which are transferrable upon the inmate's release, one purpose of industries is to orient inmates toward the basic work ethic philosophy, and existing industrial operations should not be condemned in their entirety. The Department cited recent studies indicating that potential employers place a higher value on inmates who have developed good habits than on inmates who have contemporary technical skills.

Rather than condemning the Federal prison industries program, we acknowledge (see pp. 18 and 19) their success in providing a range of industrial opportunities to females housed in Federal co-correctional facilities. However, the all-female institution at Alderson had only keypunching and sewing, which are traditional, low-paying female occupations. We believe that the Bureau should strive to provide both males and females with marketable skills and work ethics.

The medical center in Springfield and the institution in Butner specialize in long-term medical services for men who have severe and complex medical and psychiatric problems. As noted on page 20, in January 1980, the Bureau established a 28-bed psychiatric unit at Lexington to provide similar services for females. However, as of October 1980, the facility at Terminal Island had only four beds for females and offered only short-time care in its medical unit. Also, the facility offered psychiatric services only to male inmates.

The Department labeled our failure to emphasize the Law Enforcement Assistance Administration and the National Institute of Justice initiatives regarding the female offender issue as a glaring omission in the report. Specific initiatives listed dealt with employment opportunities for women on probation, a study of processing of female arrestees, and a study of incarcerated mothers. Although undoubtedly of value in their own right, these programs and studies simply do not deal with the subject of this report--the inequities in opportunities for incarcerated men and women.

The other specific Law Enforcement Assistance Administration and National Institute of Justice actions cited were a survey of female prison programs and a yet to be published monograph on correctional programs for women. Although we do not discount any of the Department's efforts, we believe it overstated its criticism.

--the value of contributions made by a participant through public service or victim restitution.

The alternatives discussed below are based on correctional approaches being used at the Federal, State, and local levels of government.

SHARED FACILITIES OFFER
BENEFITS TO BOTH SEXES

The concept of shared facilities, or co-correctional institutions, is not new. After centuries of housing the sexes together, the movement toward single sex institutions began in the 1870s and continued until 1971 when the Bureau opened the first co-ed institution. Soon after, several States opened co-ed institutions. Under this concept, male and female offenders are housed in a single institution and separated only in living quarters.

Shared facilities have made it possible for the Bureau to offer a greater variety of training programs to female offenders, since all programs are open to both sexes. Occupational courses include such training as welding, office skills, television production, and apprenticeships in areas such as carpentry, plumbing, airconditioning, and masonry.

While shared facilities expose both males and females to a variety of programs, this is not true for all-female institutions. For instance, one Federal institution which was co-correctional for a period of time moved the male inmates out to make space for women. When this occurred, the non-traditional training programs were dropped. Bureau officials later concluded that they may have moved too quickly in eliminating the nontraditional courses and planned to begin apprenticeship training programs. Since that time, this institution has been converted back to co-correctional.

Shared facilities, from the viewpoint of officials at one Federal co-correctional institution, have more advantages than disadvantages. Some of the advantages include the following:

- A more normalized environment improves inmate language, dress, and grooming habits.
- Fewer fights and assaults results in a safer environment for both staff and inmates.
- A more extensive range of programs increases inmates' chances to improve.

or victim, community treatment centers, and weekend confinement. On the other hand, one State, which viewed itself as a caretaker, had not appropriated funds to any extent for community corrections, and inmates generally leave the institution without a gradual transition period. Examples of States with community corrections programs follow.

Minnesota

The intent of the State's Community Corrections Act is to get the communities involved and find alternatives to sending low-risk individuals to State facilities. Whether as a result of the act or not, many jurisdictions were taking advantage of programs and services in the community. For example, one jurisdiction in the State operated a nonresidential day treatment center. The five-part program offered counseling, independent living skills, adult education, parent/child development, and vocational and career development. The clients were usually sent by the courts as a specific written agreement of probation.

Another example is a seven-county area that has a new program for female offenders. According to the program director, the program has had about 170 clients, of which about 25 percent had completed the requirements specified by the courts. Court-imposed penalties for participants usually include a specified number of hours of work in some community-related service. The client also may be required to participate in training or education programs. During the brief period of operation, the jurisdictions had committed all of their felons to the program and none to the State institution.

California

This State also uses community correction alternatives to incarceration for those convicted of crimes. In addition to the State, counties also substitute community service work. The advantages accrue to the individual and the community. For example:

- Individuals can serve their sentences without major disruption to their lives.
- Custodial costs are reduced or eliminated.
- The community can benefit from the work performed.
- Persons convicted of minor offenses do not come in contact with sophisticated criminals.
- Persons who cannot pay court fines are not automatically incarcerated.

Examples of differences in numbers of institutions which provide for choices in placement are demonstrated below:

--The Bureau has 50 institutions 1/ spread throughout the States, of which 40 are all male and 1 is all female. In addition, there are (a) three co-correctional institutions, (b) three metropolitan correctional centers for both males and females, and (c) three community treatment centers for both males and females.

--One State has 85 State-operated institutions, only 5 of which are used for adult females. The male facilities are located throughout the State and provide segregated facilities for inmates from maximum to minimum security. About 95 percent of the female inmates are housed in the one central location, and all security levels are confined together.

--Another State has 31 State institutions. This total includes 10 male institutions and 19 male conservation camps. Another is for civilly committed male and female narcotic addicts. There is only one adult female institution; it houses inmates from maximum to minimum security and is considered a maximum security institution.

Through more extensive cooperative efforts and combined resources, it seems possible to greatly reduce the inequitable conditions female offenders experience and, at the same time, reduce the need for additional facilities at the Federal and State levels. The beneficial effects of pooling resources to achieve more equitable conditions and possibly to avoid the expenditure of funds for brick and mortar at the Federal and State levels are shown in the following examples:

A Bureau task force found that facilities for women were not geographically located to provide the best possible service. The task force identified a need for women's prisons in the Northeast and North Central United States and in the southern California area of Los Angeles and San Diego. The need for these facilities was based on a geographic and security level need and not a requirement for increased bed space. The State of California has also identified a need for new facilities.

1/See table on page 13 for breakdown by type.

Although not a part of the compact, the Bureau has a contract with one of the States for housing felons. At the time of our review, 22 of the State's felons were housed in Federal institutions.

The National Institute of Corrections, founded to strengthen and improve local correctional agencies and programs, could assist in the development of intergovernmental agreements. The statutory mandates of the Institute are to provide training, technical assistance, research and evaluation, policy and standards formulation, and clearinghouse services for corrections agencies. Through research and evaluation of existing agreements, technical assistance, and corrections staff training, the success of the joint venture concept should be enhanced.

Through the expanded use of reciprocal agreements between the Federal and State levels, the Bureau could have a significant effect on the inequities in the States' corrections systems and could also serve as a vehicle to aid the Attorney General in carrying out his responsibility under the Civil Rights of Institutionalized Persons Act.

MORE INDUSTRIAL JOBS ARE NEEDED

Many of the institutions we visited have limited opportunities for inmates to work in industrial operations and become skilled at a trade which will be useful outside. This was particularly true at the female institutions, with their limited numbers and funding. New industries in the institutions are usually acquired from any profits obtained from existing industrial operations. Since the cost of establishing a new industry is great, the institutions usually have limited flexibility to produce new products.

The Law Enforcement Assistance Administration has provided funds to seven States to evaluate the merits of having prison industries operate like their outside counterparts, using standard business practices. It is hoped that this concept will increase economic efficiency while offering inmates a work experience which will better prepare them to acquire and retain a job after release. We are presently studying this program in another audit.

Private industry's involvement could solve the problem. Having private companies come into the institutions with updated equipment to supply products or services that are in demand could provide jobs for inmates and offer them better potential for employment when they are released. This could

be developed for providing, as effectively and economically as possible, equitable opportunities for women inmates.

RECOMMENDATIONS

We recommend that the Attorney General provide the same level of resources and opportunities to women inmates as are provided men. To accomplish this in the Federal system and assist States in overcoming disparities in their institutions, we recommend that the Bureau, in conjunction with the National Institute of Corrections, develop a strategy for dealing with the inequities in female corrections. This strategy should include all levels of corrections on a regional, metropolitan area, or statewide basis to achieve equitable conditions and at the same time provide for more efficient use of existing and future facilities and staff resources.

We also recommend that the Attorney General require the National Institute of Corrections to place more emphasis on research and evaluations of innovative approaches that are being used at the different levels of corrections throughout the United States and serve as a clearinghouse for disseminating information on successful alternatives to the Federal, State, and local levels.

AGENCY COMMENTS

In response to our recommendations, the Department cited a large number of actions taken or being taken by its component agencies that directly or indirectly deal with females incarcerated at the Federal, State, and local levels. These initiatives cover a wide range of topics ranging from the National Institute for Corrections' training and technical assistance for correctional administrators to the National Institute of Justice's research on the problems of females throughout the criminal justice system.

Although all of the steps cited undoubtedly have merit, the thrust of our recommendations runs to the need to better integrate the programs at the Federal, State, and local levels as a means of overcoming a common problem, i.e., the high cost of providing services to the relatively few incarcerated females in each jurisdiction. In the absence of any direct agreement or disagreement with our recommendations, the implication of the Department's comments is that the many steps cited have fulfilled the recommendations' intent. Yet, the Department agrees with our assessment that inequities persist, and correctional officials we dealt with saw no solution to their problems forthcoming.

joint or regionally operated facilities, one of the alternative strategies we cited, was not new, having been advanced in 1967 by the President's Commission on Law Enforcement and the Administration of Justice. The Department agreed the concept of joint-owned and operated prisons had merit, but it identified a number of specific funding and operational questions that have yet to be answered. The Department concluded, and we fully concur, that such an arrangement would require extensive cooperation on the part of all levels of government.

However, despite the many worthwhile steps taken and planned, this extensive level of cooperation has yet to be achieved, and we believe it will only be achieved through strong Federal leadership and initiative. The Department's position that, given economic realities, it is not possible to provide all of the alternatives suggested by GAO, underscores the need for the Department to take the lead in seeking a satisfactory solution.

The Department noted that its Civil Rights Division, because of its role in the investigation and litigation of cases concerning institutional conditions of confinement, had shown interest in this report. The Department cited cases the division had participated in. However, it noted that since institutions for female inmates tend to be small, and that limited opportunities exist for most female inmates, the division had made State-wide challenges to conditions of confinement the focus of its litigation program. Also, the division had not prosecuted a case involving differences in services, education, or recreation on a sex discrimination theory. The Department cited the Civil Rights of Institutionalized Persons Act, which clarifies the power of the Attorney General to initiate litigation involving inmates' rights as enhancing the division's capability to target correctional institutions in need of reform.

For the several reasons noted on page 23, litigation may not be the best solution to the problem of inequitable treatment of female inmates. The real benefit of the act may lie in its role as a catalyst for change. The act requires the Attorney General, prior to initiating a civil action, to notify State and local officials of alleged substandard conditions, to suggest ways those conditions may be remedied and provide information about financial, technical, or other assistance that may be available from the United States. If the act is viewed by the Department in a broad context, it can serve not only as the authority to compel change through courts but also as a vehicle for fostering the kind of cooperative Federal/State/local relationships required to solve the female inmate problem.

LIST OF GAO REPORTS

Use Of Comprehensive Employment And Training Act Funds For Prisoners (HRD-80-100, Aug. 4, 1980).

Community-Based Correctional Programs Can Do More To Help Offenders (GGD-80-25, Feb. 15, 1980).

A Federal Strategy Is Needed To Help Improve Medical And Dental Care In Prisons And Jails (GGD-78-96, Dec. 22, 1979).

Prison Mental Health Care Can Be Improved By Better Management And More Effective Federal Aid (GGD-80-11, Nov. 23, 1979).

Female Offenders: Who Are They And What Are The Problems Confronting Them (GGD-79-73, Aug. 23, 1979).

Correctional Institutions Can Do More To Improve The Employability Of Offenders (GGD-79-13, Feb. 6, 1979).

Housing Federal Prisoners In Non-Federal Facilities Is Becoming More Difficult (GGD-77-92, Feb. 23, 1978).

Managers Need Comprehensive Systems For Assessing Effectiveness And Operation Of Inmate Grievance Mechanisms (GGD-78-3, Oct. 17, 1977).

Conditions In Local Jails Remain Inadequate Despite Federal Funding For Improvements (GGD-76-36, Apr. 5, 1976).

Department Of Labor's Past And Future Role In Offender Rehabilitation (MWD-75-91, Aug. 7, 1975).

Use Of Selected Drugs At Medical Center For Federal Prisoners (GGD-75-91, June 6, 1975).

Federal Guidance Needed If Halfway Houses Are To Be A Viable Alternative To Prison (GGD-75-70, May 28, 1975).

Rehabilitating Inmates Of Federal Prisons: Special Programs Help But Not Enough (B-133223, Nov. 6, 1973).

	<u>Female</u>	<u>Male</u>	<u>Total</u>
Indiana	169	4,754	4,923
Oklahoma	176	4,010	4,186
New Jersey	176	5,693	5,869
Arizona	181	3,275	3,456
Missouri	182	5,455	5,637
Louisiana	208	7,083	7,291
Pennsylvania	235	7,685	7,920
Washington	236	4,327	4,563
Maryland	244	7,722	7,966
Alabama	259	5,213	5,472
Tennessee	261	5,574	5,835
South Carolina	310	7,086	7,396
Illinois	340	10,918	11,258
Virginia	359	7,985	8,344
North Carolina	534	12,718	13,252
Ohio	538	12,569	13,107
Georgia	551	10,852	11,403
New York	554	19,635	20,189
Michigan	621	14,323	14,944
Florida	837	19,936	20,773
Texas	1,005	23,570	24,575
California	1,147	20,178	21,325

Source: Prisoners in State and Federal Institutions, U.S.
 Department of Justice, National Prisoner Statistics
 Bulletin No. SD-NPS-PSF-6

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4. BoP and NIC should work cooperatively to satisfy the requirements under Section 7(b)(1) of the Civil Rights of Institutionalized Persons Act in promulgating minimum standards for the development and implementation of an effective system for the resolution of grievances of adults confined in jails, prisons, or other correctional facilities.

In response to the above recommendations and to the report in general, NIC has focused attention on many of the problems presented in the report, and innovative approaches to create more equitable systems and alternatives are always being considered. Several salient comments on the report and actions taken on the report recommendations follow:

1. In the realm of economic realities, it is not possible to provide all the alternatives suggested by GAO, e.g., sharing resources among institutions when there are no institutions nearby, and providing the gamut of nontraditional job training when it has not been determined (a) whether women are expressly interested in these alternatives, and (b) whether there realistically is a market for released female inmates out in the business and industrial community.
2. A glaring omission in the draft report is the failure to emphasize initiatives in regard to the female offender issue that both the Law Enforcement Assistance Administration (LEAA) and the National Institute of Justice (NIJ) have supported and are continuing to support. For example, LEAA has just initiated a major program in nontraditional employment opportunities for women on probation and has supported numerous other projects aimed at reducing inequitable treatment for female offenders. In addition, NIJ has supported a variety of research efforts relating to female offenders. These include an ongoing study of the criminal justice processing of female arrestees, a survey of female prison programs, research on the development of female prisons and related programs, and a study of incarcerated mothers. A monograph on correctional programs for women is also being prepared.
3. While NIC's resources are extremely limited, it has focused attention to the problems outlined by GAO and expects to continue to do so as evidenced by the following actions.
 - a. For the past two years, NIC has been providing training to correctional managers and their staffs working with female offenders. This training has focused on the enhancement of knowledge of special problems facing women--including legal issues--and the development of institutional skills to provide better services and programs. Essential to this overall initiative has been the concept of networking, i.e., the participants are forming networks among themselves to share information regarding resources, problems, promising approaches, etc. In fiscal year 1981-82, NIC will be working with those having direct responsibility for programming, with a view toward addressing regional and national strategies. In various training activities, NIC has encouraged correctional administrators and staff to work closely with such resources as unions at the local, State and Federal level to expand apprenticeship and other training and employment opportunities for women offenders. Available resources similar to the above have not been adequately exploited.

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j. Regarding interagency coordination, NIC works closely with BoP and is involved in its Task Force on Women. Information communications have been established between NIC and the Department of Labor (DOL) to consider the feasibility of adapting DOL's apprenticeship program for incarcerated women. NIC continues to solicit, through its Board and field facilities, suggestions for its programs in all areas, including female offenders. NIC is sensitive to the issues concerning the disparities between male and female institutions and remains committed in its efforts to create more equitable systems and provide better services to incarcerated women.

GAO's review addresses the disparities found in the inequitable treatment of incarcerated women at all levels of the criminal justice system. Because the report evaluates local, State and Federal correctional facilities, many of the statements reflect a general assessment of the status of female offenders nationwide. Several concerns, however, are pertinent to the Federal Prison System.

Bureau of Prisons corrections officials are being required to provide more equitable opportunities for their small female populations, thus placing additional demands on an already tight budget. Although the more ideal alternative of providing duplicate services for both males and females is cost prohibitive, this response makes several suggestions which may be feasible at various levels or in varying degrees. The present era of fiscal austerity places a challenge on correctional administrators to reduce the inequities in correctional systems while working within the limits of existing resources.

The report bemoans the lack of industrial jobs and vocational training programs for women. Although Federal Prison Industries' (FPI) programs for women may not provide training in skill areas which are transferable upon the inmate's release, existing industrial operations should not be condemned in their entirety. It should not be forgotten that one of the purposes of FPI is to orient inmates toward the basic work ethic philosophy. Recent studies indicate that potential employers place a higher value on inmates who have developed good habits than on inmates who have contemporary technical skills.

Although FPI would welcome the opportunity for private industries to provide consultation and technical assistance, legislative constraints prohibit private concerns from having total responsibility for prison related industrial programs. The desire to prevent the exploitation of inmate labor and to avoid competition with private industry also limits the scope of FPI. It should be noted that FPI industrial programs are available at all four of the primary Federal facilities incarcerating women, and females are employed in every one of its twelve factories. FPI programs for women range from such traditional industries as a garment factory and automated data processing activity to such nontraditional opportunities as a furniture factory, a sign factory, an electronic cable shop, and a printing shop.

GAO's evaluation of vocational and apprenticeship training in the Federal system shows that BoP recognizes the need to provide women with skill training opportunities in such traditional areas as cosmetology and office management skills,

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Women represent 5 percent of the total inmate population and are limited to fewer facilities with fewer security options. The Alderson Feasibility Task Force is examining these concerns and the concomitant issue of overclassification of women. Meanwhile, BoP tries to mitigate any negative effects of confinement in distant or overly secure institutions by insuring that the full range of programming in community activities is available to eligible women. The increased use of furloughs, daily and lengthy visiting hours, and programs such as Sesame Street and the Children's Center, help an inmate soften the effects of distance on family ties.

The concept of joint or regionally operated facilities was first introduced by the President's Commission on Law Enforcement and the Administration of Justice in 1967. The proposal, both then and now, suggests that the Federal Prison System take the initiative and provide training, funding and other technical assistance to develop this concept. In a position paper prepared in July 1977, BoP expressed its commitment to re-evaluating the Federal role in corrections. However, the use of joint or regionally operated facilities may not be the most practical solution to the problem of women in prisons. The concept of joint owned and operated prisons does have merit, but the following specific issues must be resolved before such an alternative can be implemented:

1. How would funding be divided?
2. Who would be responsible for providing staff and other resources?
3. Would such facilities truly be jointly operated or would they be run Federally with States contracting for services?
4. What would happen to such jointly operated facilities if one jurisdiction, be it Federal, State or local, decided to withdraw its support from the agreement?

Obviously such an arrangement would require rather extensive cooperation on the part of all levels of government.

Special mention is made of a need for hospital and mental health facilities for female offenders. Currently, the Federal Correctional Institution, Terminal Island, California, and Federal Correctional Institution, Lexington, Kentucky, serve as medical referral centers for women. These two facilities provide services that are comparable to those for men at the Medical Center for Federal Prisoners, Springfield, Missouri, and Federal Correctional Institution, Butner, North Carolina. Additionally, each institution has developed contractual agreements with local hospitals to provide emergency and short term care. Travel time to local hospitals averages 10 minutes. The farthest local hospital is at Alderson and requires a 15 mile trip. Alderson's institution hospital, however, has a fully equipped ambulance to transport women downtown.

Lexington also serves as a female psychiatric referral center for short term intensive treatment of acutely psychotic or emotionally disturbed women. Women who do not require hospitalization but are in need of long term care which is not available elsewhere may remain in Lexington's general population.

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and practice litigation involving deprivation of Constitutional rights of inmates in correctional institutions, has passed. This legislation will enhance CRT's capability to target correctional institutions in need of reform. With respect to the draft report's specific recommendation on page 46 that the Attorney General work with BoP and NIC to develop standards for the voluntary accreditation of correctional institutions' grievance procedures, as required by Section 7(b)(1) of the Act, the Office for Improvement in the Administration of Justice and NIC are now developing those standards. CRT, of course, will be working closely with these entities to ensure timely promulgation of acceptable standards.

Third, the Department considers it noteworthy that the draft Federal Standards for Corrections, soon to be issued in final form, address the issue of sexual equality in correctional facilities. Section 002 in those draft standards provides:

Each facility develops and implements policies and procedures assuring the right of inmates not to be subjected to discriminatory treatment based on political beliefs. This should include an essential equality of opportunity in being considered for various program options concerning classification status.

Where male and female inmates are housed in the same facility, they have equal access to all available services and programs and are not denied opportunities solely on the basis of their smaller number in the population. Separate institutions and programs for male and female inmates may be maintained provided that there is essential equality of: (1) institutional programs, (2) living conditions, (3) access to community programs and resources, (4) employment opportunities, (5) access to families and other community associations, and (6) decisionmaking processes affecting the status, activities and terms of incarceration.

The draft standards also contain provisions for specialized medical services for women and for ensuring privacy to institutionalized women. These standards, when final, will doubtless impact in a significant way upon the operation of BoP. In addition, pursuant to Section 8(5) of the Civil Rights of Institutionalized Persons Act, BoP will be reporting to Congress annually with regard to the progress made in each Federal institution toward meeting existing promulgated standards or Constitutionally guaranteed minima.

Finally, the draft report identifies two statutes under which female offender rights could be asserted. We suggest inclusion of an additional statute, Title IX of the Education Amendments of 1972, 20 U.S.C. Section 1681 et seq., which prohibits discrimination on the basis of sex in education programs and activities receiving Federal financial assistance. The Department has issued proposed regulations implementing Title IX (45 Fed Reg. 41001, June 17, 1980).

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In addition, the Supreme Court has ruled that an individual has a private right of action to enforce Title IX. Cannon v. University of Chicago, 441 U.S. 677 (1979). This statute could be an effective tool for eliminating discrimination in education and training programs for offenders. In addition, Title II of the Education Amendments of 1976, 20 U.S.C. Section 2301 et seq., is intended to provide sex equity in State vocational education programs, including those in State correctional institutions.

We appreciate the opportunity to comment on the draft report. Should you desire any additional information, please feel free to contact me.

Sincerely,


Kevin D. Rooney
Assistant Attorney General
for Administration

(182630)

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BoP acknowledges its role as a leader in the field of corrections and has been one of the first correctional systems to address the special needs of female offenders. The Federal Prison System has paved the way in the areas of co-corrections, non-traditional vocational training and apprenticeship programs, and industrial operations for women. The Female Offender Program was initiated in 1978, and its staff continues to establish direction and monitor Federal institutions' efforts toward meeting the needs of women. The BoP staff also continually evaluates the program to update and educate themselves in this critical area.

BoP is willing to share its experiences with other correctional agencies in order to develop a strategy to deal with the inequities in female corrections, but BoP also depends on State, local and private agencies sharing their successes and failures with Federal institutions as a means of improving Federal services to women. In order that the needs and problems of all incarcerated women are heard, BoP would be willing to help other correctional agencies establish effective systems for the resolution of grievances of confined adults which are comparable to administrative remedy procedures presently in use throughout BoP.

The Department's Civil Rights Division (CRT) has also shown an express interest in this report because of their role in the investigation and litigation of cases concerning institutional conditions of confinement. Specific comments on certain salient points are addressed below.

First, it should be noted that CRT has litigated issues involving conditions of confinement for female inmates in correctional institutions in a number of statewide cases. In those cases, CRT has sought and secured broad-based relief to ameliorate many of the types of problems which the draft report references, e.g., inadequate medical and psychiatric services. Some of the cases have involved issues of sexual harassment and abuse of female inmates by their keepers. See, e.g., Adams v. Mathis, 458 F. Supp. 302 (M.D. 1978), aff'd, 614 F.2d 42 (5th Cir. 1980).

CRT has not yet prosecuted a case involving differences in services, education, or recreation on a sex discrimination theory. However, CRT supported the unsuccessful effort of plaintiffs in Quinlan v. Estelle, mentioned on page 13 of the draft report, to intervene and raise sexual inequity issues in Ruiz and the United States v. Estelle, C.A. No. H-78-987 (S.D. Tex.), a statewide challenge to conditions of confinement in Texas prisons. CRT has also investigated some matters in this area and will continue to seek to develop particularized litigation in this regard. However, since institutions for female inmates tend to be small for the most part, and in view of the overall limited opportunities for most female inmates in correctional institutions, CRT has made broad-based challenges to conditions of confinement on a Statewide basis the focus of its litigation program. This is so in part because CRT has sought, given limited resources and a multiplicity of interests to serve, to litigate cases which will affect a large number of the incarcerated.

Second, the draft report makes reference to Public Law 96-247, The Civil Rights of Institutionalized Persons Act. The Department is gratified that this legislation, which clarifies the power of the Attorney General to initiate pattern

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and such nontraditional areas as heating and air conditioning, masonry, television production and welding. However, both men and women enroll in these programs in small numbers. The reason for such limited enrollment is primarily economic. Simply, inmates can earn more money in the profit-making industrial operation than they can in an apprenticeship program earning performance pay. For this reason, BoP has been working with DOL to establish Bureau of Apprenticeship and Training approved apprenticeship programs in each of the FPI factories.

Under apprenticeship programs, inmates can learn job skills as well as earn pay. Of the 44 registered apprenticeship programs in FPI, six are in institutions housing women.

In 1978 and 1979, women comprised 6 percent of the total inmate population, yet 37 percent of all inmates on work release during that time were women. The actual number of both male and female inmates participating in work release, however, was small, and remains small. It is our belief that temporary employment outside an offender's home community during his or her incarceration is less successful than employment in the offender's community. Our efforts have focused on providing skill training and education opportunities while the offender is in prison. Employment in the community is emphasized once the offender is transferred to a halfway house in his or her home town. In this way, inmates have the stability and support of the halfway house staff and can maintain employment continuity upon their release.

BoP supports the concept of community-based corrections and presently operates nine halfway houses of its own. Three of the community treatment centers house women, and BoP contracts with virtually every State to make community-based correctional programs available to both male and female inmates. Interestingly enough, although the number of men in the Federal Prison System is significantly larger than the number of women incarcerated, the percentage of each population that is released through the community-based facilities is comparable. It is the goal of the Federal Prison System to release all eligible inmates through community-based halfway houses. At present, approximately 80 percent of eligible women are released through community-based correctional facilities.

The concept of shared facilities, or in BoP terms, co-corrections, is not new. The Federal Prison System assumed a leadership role in this area by opening the first co-correctional facility at the Federal Correctional Institution (FCI), Fort Worth, Texas, in 1971. BoP presently has seven institutions across the nation in which female inmates are confined, six of which house both men and women--three co-correctional Federal Correctional Institutions and three Metropolitan Correctional Centers. Only the Federal Correctional Institution at Alderson is an all female facility. Approximately 67 percent of the incarcerated Federal females are in shared facilities. While BoP believes that there clearly are advantages to co-correctional institutions, there will always be a need for a single-sex, secure female facility. While there are numerous advantages to the co-correctional approach, including the increased quantity and quality of program opportunities, the concept of shared facilities is not a panacea for the problems facing incarcerated women today.

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b. NIC's Jail Center has been involved at the local level in training and providing technical assistance to detention/jail personnel working with female offenders. Management programming, and staff and resource development have all been addressed.

c. NIC has funded the Social Action Research Center to survey all State facilities for women, including a large sample of jails, to determine what kinds of programs exist for incarcerated women. Information on the most successful programs will be collected and disseminated to the field. Emphasis will be on vocational programs and family issues.

d. Small technical assistance grants are being given to institutions to help them develop vocational training programs which will focus on the development of a woman's economic independence upon release. Part of this effort will, therefore, necessarily look toward private industry's involvement in creating training/employment opportunities.

e. NIC's fiscal year 1981 Program Plan calls for the development of an information package addressing the consolidation of resources among multi-jurisdictional jail systems. Issues affecting women will be part of such information.

f. While not specifically targeted, NIC encourages the expansion of community alternatives for females through its efforts to expand the use of alternatives to incarceration generally.

g. NIC has targeted resources into the development of classification systems for corrections at all levels. These program and technical assistance funds have not been earmarked for women but any correctional system/facility may request assistance. In fiscal year 1980, a project was funded to specifically focus on risk screening and classification for female inmates. Under a grant from NIC, the Michigan Department of Corrections will utilize the same methodology as employed in the development of the classification (screening) instrument for male offenders to produce a comparable data base for female offenders. This data base will be used to identify groups of female offenders with different probabilities of risk (and success) on parole with the intention of improving current classification and release procedures.

h. As to the Civil Rights of Institutionalized Persons Act, NIC will continue to provide technical assistance and training related to the development and implementation of grievance procedures in all types of facilities. Under court order, NIC also provides assistance to facilities to improve their grievance systems.

i. Another recent undertaking of NIC's Jail Division, is the award of grants to 12 individual jail systems to serve as area resource centers for use by other jail managers. For example, the Dade County, Florida women's facility, which has one of the most progressive female programs in the country, was selected as a special resource center. The jail, through NIC funding, will be providing technical assistance and training to other jailers, with the potential of serving other prison officials interested in studying the Dade County operation.



U.S. Department of Justice

OCT 29 1986

Washington D C 20530

Mr. William J. Anderson
Director
General Government Division
United States General Accounting Office
Washington, D.C. 20548

Dear Mr. Anderson:

This letter is in response to your request to the Attorney General for the comments of the Department of Justice (Department) on your draft report entitled "Women In Prison: Inequitable Treatment Requires Action."

At the outset, we would like to commend the General Accounting Office (GAO) staff for their thorough job in researching and presenting a reasonably good overview of major problems in female correctional facilities as compared to male facilities, e.g., fewer programs, fewer types of vocational training, inadequate classification, etc. The report points out that the courts no longer will permit lack of resources to be used as an excuse for denial of equal opportunities for female offenders. In addition, the report fairly points out that the National Institute of Corrections (NIC) and the Bureau of Prisons (BoP) recognized the importance of identifying issues concerning female offenders and established a task force to study their needs within the Federal system. A number of the issues being addressed by the task force bear directly upon this report.

GAO makes general recommendations about the need to pool resources, strengthen community corrections, increase the use of co-correctional programming and facilities, expand the free venture model, and bring private industry into female institutions. Regarding the role of NIC, GAO makes the following recommendations:

1. NIC could assist in the development of intergovernmental agreements so that agencies could combine resources available to women.
2. NIC and BoP should work together to explore the alternatives identified in the report as well as any other alternatives that may be developed for providing equitable educational opportunities for female inmates. This effort should be coordinated with State and local governments in an attempt to solve the inequities as effectively and economically as possible.
3. NIC should perform research and evaluation of innovative approaches being used at different levels of corrections and serve as a clearinghouse to disseminate information on successful alternatives.

TOTAL FEMALE AND MALE INMATES
BY STATE AND FEDERAL GOVERNMENTS
AS OF DECEMBER 31, 1978

	<u>Female</u>	<u>Male</u>	<u>Total</u>
United States	12,720	293,882	306,602
Federal institutions, total	<u>a/1,828</u>	27,975	29,803
State institutions, total	10,892	265,907	276,799
North Dakota	4	196	200
New Hampshire	6	277	283
Vermont	11	453	464
Montana	15	675	690
Maine	16	695	711
Rhode Island	16	648	664
South Dakota	18	514	532
Wyoming	19	414	433
West Virginia	29	1,156	1,185
Idaho	30	772	802
Alaska	34	678	712
Utah	36	875	911
Hawaii	37	688	725
District of Columbia	60	2,784	2,844
Delaware	64	1,261	1,325
Colorado	67	2,419	2,486
New Mexico	67	1,526	1,593
Nevada	76	1,274	1,350
Iowa	80	1,985	2,065
Nebraska	83	1,264	1,347
Arkansas	94	2,511	2,605
Minnesota	94	1,871	1,965
Massachusetts	95	2,738	2,833
Kansas	98	2,193	2,291
Kentucky	111	3,279	3,390
Mississippi	111	2,785	2,896
Oregon	122	2,769	2,891
Connecticut	129	3,360	3,489
Wisconsin	147	3,286	3,433

a/On July 14, 1980, the female population in Federal institutions was 1,276.

The act requires the Attorney General to develop standards for the voluntary accreditation of correctional institutions' grievance procedures. Concerning the development of standards required by the act, our draft report included a recommendation that the Attorney General direct the Bureau of Prisons and the National Institute of Corrections to work cooperatively to satisfy the requirements to formulate the standards. The Department's response to the draft stated that these standards were being developed and that the Civil Rights Division would be working closely with other divisions in the Department to ensure timely promulgation of acceptable standards. In view of the actions underway, we have deleted the recommendation from our final report.

The Department, through its Civil Rights Division, Law Enforcement Assistance Administration, National Institute of Corrections, and National Institute of Justice, has a responsibility that extends beyond females incarcerated in Federal institutions operated by the Bureau of Prisons. Although we do not question the importance of any of the initiatives cited, there are clear indications that a strategy for dealing with the overall problems of female inmates has yet to emerge. With strong Federal leadership, a strategy could be developed that would address both the problems at the State and local levels and those remaining at the Federal level.

The Department's comments suggest that more needs to be done to fully integrate and coordinate its efforts. For example, the National Institute of Corrections has funded a project to survey all State facilities for women, including a large sample of jails, to determine what kinds of programs for women exist and to collect and disseminate information on the most successful programs. Yet the Department states that the Bureau of Prisons has been one of the first to address the special needs of female offenders and has paved the way in areas of co-corrections, nontraditional vocational training, apprenticeship programs and industrial operations for women. There is little doubt that the Bureau of Prisons is far ahead of most State and local jurisdictions in recognizing the problems of females and acting to correct the inequities that exist at the Federal level. These successes at the Federal level should be made available to others.

The Department said that the Bureau is willing to share its experiences with other correctional agencies in order to develop a strategy to deal with the inequities in female corrections, but that the Bureau depends on State, local, and private agencies sharing their successes and failures as a means of improving Federal services to women.

Regarding the sharing of information, the Department cited the National Institute of Correction's training initiatives and stated that essential to the overall initiative has been the concept of networking, i.e., the participants forming networks among themselves to share information regarding resources, problems, promising approaches, etc. We believe there is a clear need for improved information sharing, and our recommendation that the National Institute of Corrections serve as a clearinghouse for disseminating information on the Federal, State, and local levels is sound.

The Department stated further that the National Institute of Corrections will be working with correctional officials with a view toward addressing regional and national strategies. But at the same time the Department commented that the concept of

also provide greater opportunities for inmates to earn money while in the institution for the support of dependents, to make restitution to victims, or to defray a part of the institutional housing and food costs.

This method of training inmates and recovering part of the operational costs is used by one jurisdiction we visited. In this jurisdiction the officials were in the process of contracting with a private company which would come into the institution, be responsible for the entire operation, and hire and fire the inmate workforce.

Other institutions in this State were also engaged in contracts with private companies to produce products or services. Officials stated that inmates, when working in the industry or on work release, paid as much as \$50 per week for their room and board and were expected to contribute toward family expenses.

The involvement of private industry could be the link to the outside world, particularly for those inmates not able to gain work release status because of the security required or the length of sentence to be served.

CONCLUSIONS

Jurisdictions have a number of options available to them that, could (1) overcome the inequality that women in correctional institutions face and (2) avoid court imposed changes. The obvious alternative would be to duplicate the existing facilities in type and location and thereby provide women the same opportunities for vocational and educational training, industrial jobs, work and study release, and other services. This alternative, while providing equal opportunity, would be cost-prohibitive given the small number of women inmates confined in each jurisdiction.

The various alternatives discussed earlier in this chapter provide for innovative approaches to corrections and should be explored by corrections officials at all levels. The opportunities for application could be beneficial from an autonomous viewpoint but would seem to have even greater multi-jurisdictional potential.

The Federal Government should take a leadership role in improving corrections at all levels and should seek innovative approaches to solving existing problems. We also believe that the Bureau, in conjunction with the National Institute of Corrections, should explore with State and local governments the alternatives identified in this report and any others that may

One of the new facilities planned will be a women's institution located in northern California, probably in the Stockton area about 80 miles from San Francisco. Presently, the Bureau has a women's facility in northern California at Pleasanton, and the State has a women's facility in southern California. Through the pooling of resources and reciprocal agreements between California and the Bureau, it may be possible to reduce or eliminate the need for new construction.

This same concept could also be considered by the Bureau in connection with the study being made of the women's prison at Alderson. The Bureau houses about 150 District of Columbia female offenders at Alderson, which is about 250 miles away. The States of Virginia and Maryland have facilities for women which are near Richmond, Virginia; and Jessup, Maryland. Cooperative agreements between the District and Virginia and Maryland to establish a facility in the metropolitan area would permit female offenders from the District and the surrounding area of the two States to be housed nearer their communities. The agreement could ultimately include the joint use of existing female facilities in the three jurisdictions thereby providing for improved facilities and programs, and diverse security classifications for the various types of offenders. By having the increased number of facilities available, each jurisdiction will have expanded the opportunity to house females in more appropriate environments and will have the ability to transfer inmates to less secure institutions as they approach their release dates.

The intergovernmental approach was chosen by the New England States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont through an Interstate Corrections Compact. The compact, not limited to female offenders, provides:

"The party states, desiring by common action to fully utilize and improve their institutional facilities and provide adequate programs for the confinement, treatment, and rehabilitation of various types of offenders, declare that it is the policy of each of the party states to provide such facilities and programs on a basis of cooperation with one another, thereby serving the best interests of such offenders and of society and effecting economies in capital expenditures and operational costs. The purpose of this compact is to provide for the mutual development and execution of such programs of cooperation for the confinement, treatment and rehabilitation of offenders with the most economical use of human and material resources."

--Individuals do not lose their employment.

--Individuals can earn wages, support dependents, pay fines, and make restitution.

FEDERAL, STATE, AND LOCAL
JOINT VENTURES COULD BENEFIT
FEMALE OFFENDERS

As shown in appendix II, female offenders are relatively few in number compared to male offenders. With the small number of females autonomously managed and housed in each jurisdiction, the advantages which could be achieved by pooling resources through joint ventures at the Federal, State, and local levels could create a more equitable environment for the female offender. If existing facilities were more effectively utilized, society could reduce its need for additional institutions.

Traditionally, each governmental unit at the Federal, State, and local level has facilities to house inmates. There are limited cooperative agreements between jurisdictions. However, for the most part, each confines only those individuals convicted of crimes pertaining to laws established by that jurisdiction. ^{1/} Generally, the jurisdictions have a choice of institutions where a male inmate can be housed, varying from maximum to minimum security, offering many different programs that male inmates can participate in.

This choice of institutions and opportunities does not exist to the same extent for women. Because of the relatively small number convicted and housed in each jurisdiction and adherence to the principle of each autonomously caring for its own, female offenders are usually housed in institutions containing all ages, custody levels, types of crime, and lengths of sentence.

^{1/}The local level is also used to temporarily house prisoners that have been sentenced to the State system.

- The presence of both sexes results in improved community transition upon release.
- Nontraditional training programs are more available to females.
- Females can be located closer to their homes by increasing the number of locations where they can be housed.

The officials stated that there are certain disadvantages, such as the following:

- The need for more staff for surveillance and control.
- A greater need for public relations within the community because of the greater risk of failure.

One State we visited had a slightly different concept in the planning stage. This State has adjoining facilities which are not suited for joint use, and therefore programs are duplicated. The plans call for a new building which will house the educational and vocational training programs and provide living quarters for inmates on work release. This building will be shared by men and women inmates so that a greater number of programs can be made available without duplication.

COMMUNITY CORRECTIONS COULD PROVIDE NEW OPPORTUNITIES TO WOMEN

Some form of community corrections is used in many of the jurisdictions we visited. In some locations, the concept is used as a substitute for incarceration; others use it as a transition from the institution to ease the adjustment from prison life back to society. The possible alternatives that exist in communities through either resident or nonresident arrangements span the full range of services available to most individuals and includes medical treatment and educational and vocational training. Opportunities for vocational training are greatly enhanced, because communities not only have the facilities but also offer job market potential. This advantage is missing in many of the female institutions located in isolated or rural areas.

The use of community corrections varies and seems to coincide with the jurisdictions' philosophy on corrections. Some States used community corrections extensively, both at the local and State levels. Community corrections in the locations we visited involved a variety of types of programs, including restitution in the form of service to the community

CHAPTER 3

ALTERNATIVES THAT CAN PROVIDE GREATER OPPORTUNITIES FOR WOMEN INMATES

As a result of court actions, jurisdictions are being required to establish equitable programs for females. Regardless of the jurisdictions' philosophies on corrections--punitive, rehabilitative, etc.--women are usually not treated equally with males in the number of services and opportunities offered them. The conventional approach to correcting this disparity--establishing duplicate programs and services and dispersed facilities--requires creating facilities for even smaller numbers of women.

Providing more equitable opportunities for the smaller female population through either voluntary or court imposed action creates problems for management and may place further demands on an already tight budget. Yet, alternative approaches exist which can provide opportunities to the female population and at the same time avoid the costs of duplication. Increased emphasis on these alternative approaches--shared facilities, community corrections, and joint ventures of Federal, State, and local governments--would reduce the disparity between opportunities provided male and female.

Our discussion of alternatives does not include comparative costs for the various programs because of the many factors which may affect the cost per inmate day. These factors include

- inmate to staff ratio,
- number and types of programs offered,
- rate of hourly or daily pay for services performed by inmates,
- monetary benefits derived from inmate services, and
- inmate contribution to room and board.

Costs of alternative programs would vary depending on the approach, such as

- resident versus nonresident, and

In this regard, the Department raised questions about providing nontraditional job training to women when it has not been determined (1) whether women are expressly interested in these alternatives and (2) whether there realistically is a market for released female inmates in the business and industrial community. The Department provided a partial answer when it noted that while it had focused on providing skill training and education opportunities while offenders are in prison, only small numbers of men and women enroll in the Bureau of Prisons' vocational programs because they can earn more money working in the profitmaking industrial operations.

Despite any doubts about female inmates' interest in or need for training, the National Institute for Corrections is making small technical assistance grants to institutions to help them develop vocational training programs which will develop a woman's economic independence upon release. The Institute and the Bureau are working with the Department of Labor to consider the feasibility of adapting its apprenticeship programs for incarcerated women. By establishing apprenticeship programs in each factory, the Bureau will make it possible for inmates to learn job skills as well as earn pay. The Department noted that of its 44 registered apprenticeship programs, 6 are in institutions housing women.

Although we cannot fully answer the questions of whether women are interested in training in nontraditional areas or whether a job market for them exists, it is clear that the opportunities available to men and women must be comparable. This theme is embodied in the soon to be issued Federal Standards for Corrections which the Department cited. These Standards provide that separate institutions and programs for female inmates may be maintained provided that there is essentially equality of, among other things, institutional programs and employment opportunities. The move to co-corrections has enabled the Bureau to provide improved access to industrial and training opportunities to the the two-thirds of the female inmate population residing in such facilities. Although the situation at Alderson for the remaining one-third of the female population may be improving through the addition of apprenticeship programs, the training and industrial job opportunities remain relatively limited.

In commenting on the availability of medical and psychiatric facilities for women at two of its institutions, the Department stated that the Federal Correctional Institutions at Terminal Island, California; and Lexington, Kentucky, serve as medical referral centers for women. These two facilities provide services comparable to those for men at the Medical Center, Springfield, Missouri; and the Federal Correctional Institution in Butner, North Carolina.

Corrections officials' attitudes
also differ toward women

Although the official positions stated in the various penal systems publications do not indicate a difference in attitudes towards men and women offenders, we found that some individual officials within the system still maintain a traditional view toward the training programs and other vocational needs of women offenders. Some still assume that women do not need to be self-supporting or that they are only interested in traditionally female jobs. This assumption is not true based on a Labor Department study which found that the majority of women inmates expected to work after release to support themselves and others. Other studies have been performed that show women inmates are interested in such jobs as truck driver, carpenter, car mechanic, welder, and butcher. Attitudes toward female offenders were discussed at length in our staff study on "Female Offenders: Who Are They and What Are the Problems Confronting Them?" (GGD-79-73, Aug. 23, 1979).

The lack of concern over the needs of women made some officials unwilling to incur the expense of matrons so that women could participate in activities available to men in the same facility. For example, in one county jail female inmates were not allowed to attend education classes because penal officials did not feel they could spare a matron to monitor the co-ed class. In another jail, women were not allowed to work in the kitchen because jail officials did not consider mixing males and females safe.

Some officials had an attitudinal problem toward incarcerated women in general. For example, a county correctional official in one State expressed the attitude that incarcerated women would fail in any program because the criminal justice system only incarcerates "losers."

CONCLUSIONS

From data available to us, it is obvious that women offenders are not receiving equitable opportunities in facilities, programs, services, and industries. The differences were due to the relatively small number of women confined by each jurisdiction and the cost per inmate to provide women the same type and variety of programs and services as those provided men. The attitude of corrections officials also differs toward women. Officials seem to maintain a traditional view toward the training programs and other vocational needs of women offenders.

"* * * approximately 150 female inmates currently incarcerated in the federal system have been identified as suffering from a serious psychiatric disability. Of this number, it is estimated that from 20-30 women would be hospitalized at any given time if more expanded psychiatric facilities for women were available. While the psychiatric facilities currently available for females have been minimally adequate for management purposes, there is evidence which points toward the need for a more psychiatrically consistent response to this issue."

The Bureau has special psychiatric facilities for men located in Springfield, Missouri, and Butner, North Carolina. The Bureau planned to have women psychiatric patients at Butner; however, an official told us that this was not done because the security risk was too great due to the violent male population. In addition, they could not find 38 women inmates, the amount needed to fill a ward, in need of this type of care. The Bureau has responded to the need for hospital space for psychotic women. In January 1980, it opened a psychiatric facility at the Lexington facility with an ultimate capacity of 28 inmates. This facility, however, only handles cases that are serious enough to warrant hospitalization; and thus, the Bureau has not provided comparable facilities for women who do not require hospitalization.

In one State, there were no separate living units for emotionally disturbed women in the institution. In addition, there was no infirmary and only intermittent services of a physician, dentist, psychologist, and psychiatrist. Two of the male institutions had staffed infirmaries for routine medical services and one had an inpatient mental health unit, as well as an inpatient dependency program.

In two other States, men inmates have a comprehensive psychiatric treatment facility staffed by psychiatrists. Women inmates are transferred to State or local hospitals if their problems require extensive treatment.

In the jail setting, where it is difficult to separate the female inmates because of their small numbers, acutely psychotic women are sometimes held with other inmates while waiting commitment to a State mental hospital.

REASONS MOST FREQUENTLY
CITED FOR THESE DIFFERENCES

The reasons for differences most frequently cited by penal officials were (1) the small numbers of women incarcerated did

Program and training
deficiencies

Women are offered fewer programs and training opportunities than men. In this regard the Bureau task force on women offenders noted:

"* * * some improvements have been accomplished in skill training for women. * * * In particular, co-correctional institutions are able to provide a wide breadth of skill-training opportunities for women as well as men. However, we conclude that much remains to be done to raise opportunities for women to a level equal to that provided for male prisoners."

Alderson recently began offering programs in apprenticeship trade areas accredited by the Department of Labor's Bureau of Apprenticeship Training. The institution has also begun to use women to do building and ground maintenance work formerly done by men. However, the Bureau's Director of Programs stated that men inmates have greater opportunities than women to receive their desired vocational training close to their homes because of the greater number of male institutions to which they can transfer.

Differences in program and training opportunities were also evident at States we visited. For instance, in one State, male inmates are provided a formal prerelease program when they are nearing the end of their sentences. Inmates may request to participate, or the parole board may impose participation as a condition for release. A private corporation developed the program as a career clinic to emphasize employment through the preparation of goal-oriented resumes. About 50 percent of the men released each year participate in the program, and in 1978, 85 percent of these had verifiable employment when released. Women offenders, however, do not have a similar program. They have to find their own jobs with little or no instruction in the preparation of resumes.

In the same State, there was a wide disparity between the program offerings at the women's institution and the offerings at two men's institutions. Women received training in keypunch and food services--two traditionally female occupations. At one of the men's institutions, inmates had access to 13 different vocational and on-the-job training programs, including welding, auto body repair, drafting, computer programming, medical lab assistant, and X-ray technician. At the other male institution, there were 11 such programs.

In another State, men had access to a special training facility for placement in conservation camps operated jointly by the Department of Corrections and the Department of Forestry. Inmates spend an average of 1 year in the camps and are paid a small daily wage. The training facilities are large enough to house 1,200 inmates and to provide instruction in fire-fighting, reforestation, flood control, and physical conditioning for rugged terrain. In addition, vocational training for camp operations includes mill and cabinet work, masonry, welding, auto mechanics, body and fender work, and meat cutting. The inmates have access to academic classes and additional recreational programs. Most of the camps also have family visiting units for inmates' use. Women had no access to similar facilities, and they are denied access to the camp system, training programs, and wage earning opportunities provided men. The State is negotiating to establish a forestry camp for women.

The Bureau operates 13 camps throughout the country and plans to have additional camps for men, but they exclude women. These camps have minimum security and permit the inmates to have greater help in their reentry into society. Since most women offenders require minimum security, which allows them more access to community activities, camps or similar facilities seem to be appropriate for women also.

In jails where men and women are housed in the same institution, the inequity is one of access to available facilities. In one of our previous reports, we found that women requiring different security levels were usually kept in the same cell or cell block with no recreation facilities and were often fed in their cells. Some of the differences found in local jails in one State are shown below.

- Within county institutions, female inmates were not segregated by security classifications although male inmates were.
- Smaller local jails often placed women in the segregation or maximum security section as a means of meeting the State requirement for the segregation of sexes.
- In one facility, women on work release were strip searched each day upon return, because they were housed with the general female inmate population. At the same institution, men on work release were housed separately and were not subject to the daily strip search.

As the previous table shows, men had considerably more institutions than women in which they could be incarcerated. This is partially due to the large numbers of male prisoners and partially due to the history of penology in the United States (as discussed in chapter 1). Opportunities that accrue to men because of the large numbers of institutions and the types and locations of these institutions include the following:

- Men may be placed in an institution more appropriate to the type of security their individual cases require.
- As their need for higher security levels diminishes, men may transfer to less secure institutions, thereby having more personal freedom.
- As their release dates near, men may be placed in a facility nearer their home community so they can reestablish family ties, find jobs, etc.
- Many men may participate in work release programs because their institutions are near community resources.
- Men may get the opportunity to transfer between institutions for programs, training, or services.
- Men's institutions more often house industrial operations or vocational training programs.

In contrast, women generally have little opportunity to transfer between institutions because they are usually housed in one or two central institutions within a State or in one of four Federal facilities. Because of the small number of women's facilities the following situations exist:

- Women may be placed in an institution housing inmates with a range of security levels. Consequently, women who are low security risks may have less personal freedom than their male counterparts.
- Women may not have the opportunity to transfer to a less secure institution as they become safer risks.
- Women may often be incarcerated long distances from their home and community. Moreover, they may not have the opportunity to be incarcerated in their home community when they are near release.

At the time the suit was filed, all women inmates, whether sentenced or in a pretrial status, were held in a maximum security facility. As an interim measure, the court ordered reasonable contact visits for pretrial women. The Sheriff's Department also said it would extend the privileges to include certain types of minimum security women. In addition, a stipulation filed later specified that female inmates would receive the same programs and classes as the males.

WOMEN OFFENDERS ARE
NOT OFFERED THE SAME
OPPORTUNITIES AS MEN

We visited institutions at the Federal, State, and local levels and found that in most instances women offenders did not have facilities, programs, services, and industrial training opportunities equivalent to those provided men offenders. This is not to say that the situation of men offenders was ideal or even particularly good, but rather that differences exist between male and female institutions. Although this report points out differences which exist in male and female corrections, it does not address the quality of offerings or suggest a standard for females based on men's institutions. We have issued several reports concerning the quality of programs and services provided to male inmates. A list of the reports is included in appendix I.

Female offenders are not
provided the same types
and numbers of facilities

The same types and numbers of facilities provided men are not available to women. This is particularly true within the State prison systems, and to a lesser extent, in the Federal system. Jails exhibited differences in treatment or situations also, but the differences related more to unequal access to available facilities rather than differences among facilities.

A comparison of the number of male and female institutions at the Federal level and in the States visited appears on the next page.

--In Estelle v. Gamble, 429 U. S. 97, 104 (1976), the court asserted that deliberate indifference to serious medical needs of prisoners violated the eighth amendment.

--In Todaro v. Ward, 431 F. Supp. 1129 (S.D.N.Y. 1977), a women's correctional facility's medical system was found to be unconstitutionally defective and was ordered improved.

Fourth amendment suits

Fourth amendment suits filed by women are based on the invasion of privacy.

--In Forts v. Ward, 471 F. Supp. 1095 (S.D.N.Y. 1978) the district court ruled the employment of male guards in contact positions at a female facility violated the females' rights to privacy. Entry into rooms or bathrooms by guards of the opposite sex was prohibited unless (1) there has been sufficient warning or (2) urgent necessity justifies an exception.

OTHER STATUTORY PROVISIONS MAY BE USED TO ASSERT RIGHTS OF FEMALE INMATES

Additional statutory provisions exist which may be used by female offenders to assert their rights.

In commenting on this report, the Department of Justice stated that Title IX of the Education Amendments of 1972, 20 U.S.C. Section 1681 et seq., could be used by female offenders to assert their rights. This section prohibits discrimination on the basis of sex in educational programs and activities receiving Federal financial assistance.

Another provision is the recently enacted Civil Rights of Institutionalized Persons Act (Public Law 96-247, May 1980), which gives the Attorney General authority to initiate and to intervene in civil actions brought to redress deprivations of constitutional and Federal statutory rights of individuals confined in State and local institutions. Another possible provision being discussed is whether inmates working in correctional institutions create an employer-employee relationship. If so, Title VII of the Civil Rights Act of 1964 may apply. This provision prohibits discrimination in employment based on sex, race, religion, or national origin.

they can transfer between institutions to get needed programs, services, and training.

Men's institutions provide their inmates a wide variety of academic, vocational, and work/study release programs, whereas women's institutions have few programs. Moreover, women prisoners lack equivalent health and recreation programs and prison industries. In many cases, women's institutions have few prison industries providing training and work skills that they can use after release.

LEGAL BASES EXIST FOR ENSURING EQUALITY BETWEEN THE SEXES

Women prisoners are beginning to demand parity with their male counterparts. Suits on behalf of women prisoners are demanding that correctional officials provide those facilities, educational, vocational, and work/study release programs presently provided to men. Courts deciding in favor of these women state that reasons such as (1) their small numbers, (2) the expense of providing equal situations, and (3) administrative convenience are not adequate defenses for continuing unequal practices.

These suits are based on several legal grounds. Treating male offenders differently from female offenders in some cases violates the fourteenth amendment. In some instances the treatment of females constitutes cruel and unusual punishment prohibited by the eighth amendment. Other suits protesting the situation of female offenders have been filed under the fourth amendment--for extreme invasion or violation of privacy.

Fourteenth amendment suits

Many sex discrimination cases filed by women inmates allege unequal access to work release and other vocational programs. These programs are often unavailable to women, and those that are available are frequently inferior to those provided their male counterparts. Recent trends indicate the courts are trying to fulfill the unique needs of women offenders rather than simply duplicating the programs available to men.

--In Glover v. Johnson, No. 77-1229 (E.D. Mich. October 16, 1979), the court found that women inmates had fewer and inferior educational and vocational programs than did male inmates throughout the State. In addition, the court found women had been denied access to supplemental programs such as work pass incentive and good time. The court

We reviewed legal cases that have been brought before the courts relating to conditions in jails and prisons and the opportunities provided inmates.

We visited institutions, interviewed officials, and reviewed records at the Federal, State, and local government levels to determine the types of facilities, training and education programs, and services provided male and female offenders and to determine how these governments were eliminating the inequities between male and female offenders.

In addition, we used the services of a consultant for background data related to females in the criminal justice system and to provide insight into the various corrections systems used.

- unskilled,
- unmarried,
- a parent, and
- had committed some form of victimless or economic crime.

The Director of the Federal Bureau of Prisons confirmed this description in recent testimony before the House Subcommittee on Courts, Civil Liberties, and the Administration of Justice. He described her as 31 years old, black, single, the head of a household, and responsible for two children. According to the Director, the female offender did not have a high school diploma and probably had been committed for an economically related crime or drug related offense.

FEMALE OFFENDER ISSUES

Recognizing the importance of identifying issues concerning female offenders, the Bureau established a task force in 1978 to study their needs within the Federal system. This task force addressed a number of issues directly bearing upon this report before it was disbanded in mid-1979.

- Location of institutions to provide the best possible services for female inmates.
- The role of co-corrections in carrying out the Bureau's mission.
- Appropriate custody levels within facilities.
- Adequate medical policies and procedures that meet the needs of female prisoners.
- Adequate skill training programs for women.
- Equal placement of women in community treatment centers.

This report discusses these issues in relation to Federal, State, and local corrections; identifies inequities between men's and women's environments; and describes some approaches being used to reduce these inequities.

such as bigamy, forgery, false arrest, abuse of civil power and revolt." 1/

Not only did the courts and legislatures determine women's position in society, they also defined the relationship of husband and wife. Barbara Wertheimer, summarizing research on women in We Were There, concludes that

"through the revolutionary period the colonial woman enjoyed considerably more freedom than her European sisters * * * but the stricter adherence to Blackstone's codification of English common law by the new American States following the war ended that freedom."

Blackstone's interpretation, used by James Kent in Commentaries on American Law (1826), was that, in the English common law tradition, married women did not retain their "personhood."

"By marriage, the husband and wife are one person in law: That is, the very being, or legal existence of the woman is suspended during the marriage, or at least incorporated and consolidated into that of the husband, under whose wing, protection and cover, she performs everything * * * under the protection and influence of her husband, her baron or lord * * *. The courts of law will still permit a husband to restrain a wife of her liberty in case of any gross misbehavior. In criminal prosecution, it is true, the wife may be indicted and punished separately, for the union is only a civil union * * *. In some felonies, and other inferior crimes committed by her, through constraint of her husband, the law excuses her; but this extends not to treason and murder." [Underscoring was italicized in original.] 2/

In all the States, the courts were faced with the difficult task of determining when a woman was or was not acting as a separate person, rather than under the authority of

1/Gustave Beaumont and A. de Tocqueville, On the Penitentiary System in the United States and Its Application in France, Trans. Francis Lieber Philadelphia: Casey, Lea and Blanchard, (1833), p. xvi.

2/William Blackstone, Commentaries on the Laws of England in Four Books (1765), George Sharswood, ed., (Philadelphia: J.B. Lippincott and Co., 1898) Book I, ch. 15, pp. 442-444.

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ABBREVIATIONS

GAO General Accounting Office

Equivalent facilities and services would be available without the need to duplicate existing resources in other jurisdictions. (See p. 30.)

--Private industry: this alternative would involve private concerns either inside the institution or through contracts to provide a product or service. The concept could expand the industrial operations available in the institutions and provide work and earnings for inmates. Private industry involvement could also be an effective link to the outside world at the time an inmate is to be released. (See p. 33.)

RECOMMENDATIONS

GAO recommends that the Attorney General provide the same level of resources and opportunities to women inmates as are provided to men. To accomplish this in the Federal system and to assist States in overcoming disparities in their institutions, the Bureau of Prisons, in conjunction with the National Institute of Corrections, should develop a strategy for dealing with inequities in female corrections. This strategy should include all levels of corrections on a regional, metropolitan area, or statewide basis to achieve equitable conditions and at the same time provide for more efficient use of existing and future facilities and staff resources.

GAO also recommends that the Attorney General require the National Institute of Corrections to place increased emphasis on performing research and evaluations of innovative approaches that are being used at the different levels of corrections throughout the United States. In addition, it should serve as a clearinghouse for disseminating information on successful alternatives to the Federal, State, and local levels.

AGENCY COMMENTS

The Department of Justice agreed that incarcerated females are not treated equally with incarcerated males and recognized the impor-

minimum security institutions as they near the end of their sentences, gradually progressing out of the system with greater opportunities for work and study release.

In contrast, many jurisdictions have only one or two female institutions because of the relatively small number of female inmates. Because of the small number of female facilities, women are usually placed in institutions housing a full range of security levels. A woman qualified for a minimum security risk classification may be confined under maximum security control.

The institutions in many instances are in rural or isolated locations away from work and study release opportunities. In many instances there are few opportunities for industrial jobs and other training programs.

Women have few opportunities to transfer to less secure environments offering outside activities and the opportunity to reestablish family and community ties. (See pp. 12 to 23.)

At local jurisdictions, men and women are usually housed in the same facility but separated. Differences in these systems relate more to unequal access to available opportunities rather than differences between facilities. Women are frequently denied access to the cafeteria and recreational facilities and confined to a specific floor, wing, or cell for the duration of their confinement. (See p. 16.)

The Federal corrections system has eliminated many of the inequities by establishing institutions which men and women share. However, because there are only four Federal institutions for women, many women are located long distances from their homes and communities. About one-third of all Federal female prisoners are housed in an all-female Federal prison in Alderson, West Virginia. Many of the same inequities exist at this institution as are found in State institutions. (See p. 18.)

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