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Women's incarceration: Frequent starting point is childhood abuse



Since 1985, the number of women in prison has been increasing at nearly double the rate of men. A growing number of advocates and scholars—including formerly incarcerated women—are taking a closer look at the reasons, and what can be done to stem the tide. What's more, women of color are significantly overrepresented. In 2010, African American women were incarcerated at nearly three times the rate as white women, and Latina women were incarcerated at 1.6 times the rate.

A majority of women in prison have a history of abuse. This includes physical as well as sexual abuse, often occurring during childhood, as well as intimate partner violence.

"The rates of incarceration have been going up for women. ...Why is that happening? What has led to this?" said Roberta Meyers, director of the National H.I.R.E. Network

(<http://www.hirenetwork.org/>), which advocates for employment opportunities for people with criminal records. "Substance abuse has been a big part of this, as well as a women's history of victimization, trauma, and violence."

Women behind bars are more likely than men to have a family history of substance abuse and felony convictions, to have an unstable childhood home life, and to originate from a low-income family.

"If you can't talk about what has happened in women's lives before they became involved in the criminal justice system, then you won't get a full picture that's needed to develop positive and effective solutions. The question about a history of abuse has to be asked and has to be part of assessment at the earliest stages of the criminal justice system and beyond," said Meyers. "Over the past five years, there is more of a discussion about trauma and how trauma impacts women. From a policy standpoint, there has been a shift. When there is a discussion about incarceration and arrest rates and gender, trauma now comes up in the conversation, and looking at what women need, and that's critical."

Advocates for incarcerated and abused women have been pushing for these kinds of questions to be considered in criminal justice reforms, and they're starting to find traction. In New York State, the proposed Domestic Violence Survivors Justice Act would allow judges to give lower sentences or community-based alternatives to incarceration to survivors of domestic violence. "Incarcerated and formerly incarcerated women have played a central role in advocating for this bill," said Gail Smith, director of the Women in Prison Project of the Correctional Association. "Women nationwide are often incarcerated if they fail to protect their children from their abusers. If they harm their abusers to save their children, they are prosecuted, but if they fail to do so, they are incarcerated for allowing the children to be injured."

Other states have passed legislation that can help women who have been abused. "Several states build in the defendant's experience of abuse as a mitigating factor in their sentencing laws," said Cindene Pezzell, legal coordinator for the National Clearinghouse for the Defense of Battered Women. "Alaska has such a law that was passed in 1991. Some states have probation/parole provisions for survivors. California's 2002 habeas law provides relief (usually a new trial) for incarcerated domestic violence victims who didn't have relevant expert testimony on battering and its effects presented at their trials. Georgia has a pending bill that would give judges the discretion to deviate from mandatory minimum sentences if the defendant can show she's a victim of abuse."

Women are more likely than men to be incarcerated for crimes associated with substance abuse. "There is a direct correlation between women's childhood victimization and adult addictions," said Julie Rosenzweig, an expert in trauma stress and professor emerita of social work at Portland State University. "Addictions are often used as a coping strategy to manage trauma. Property crimes and sex work can be a way of supporting the addiction, and may also be a part of intimate partner violence."

Women often begin their entry into the criminal justice system when they are girls. In fact, the number of girls in the juvenile justice system has been increasing steadily over the past two decades. Girls of color are also overrepresented in the juvenile justice system. For example, African American girls constitute 14 percent of girls in the US, but make up one third of detained and committed girls. And Native American girls are 1 percent of the general population of girls but 3.5 percent of detained and committed girls.

A 2015 University of Texas at Austin study found that girls are often held in juvenile facilities for less serious offenses—running away, truancy, and curfew violations—than boys and for longer periods of time. Girls are also more likely than boys to have been abused.

"Trauma causes girls to enter the system in the first place, keeps them there, and needs to be addressed in order to help them," said Lisa Pilnik, deputy executive director of the Coalition for Juvenile Justice. "Trauma is often the reason we see girls committing offenses. Many have experienced trauma or may even have post-traumatic stress disorder and are reacting to that. Traumatized girls might just be trying to protect themselves, but it can come off as disrespectful or misinterpreted as aggressive."

Locking up girls with a history of abuse in juvenile facilities instead of providing them with treatment and services can have devastating impacts. "When law enforcement views girls as perpetrators ... the cost is twofold," states *The Sexual Abuse to Prison Pipeline: The Girls' Story* (http://rights4girls.org/wp-content/uploads/r4g/2015/02/2015_COP_sexual-abuse_layout_web-1.pdf), a 2015 report by the Human

Rights Project for Girls, Georgetown Law Center on Poverty and Inequality, and the Ms. Foundation for Women. "[Girls' abusers are shielded from accountability, and the trauma that is the underlying cause of the behavior is not addressed."

Incarcerated women also have greater incidences of mental health problems and serious mental illness than men. *Women's Pathways to Jail: Examining Mental Health, Trauma and Substance Use* (<https://www.bja.gov/Publications/WomensPathwaysToJail.pdf>), a national 2013 study by Shannon Lynch, Dana DeHart, Joanne Belknap, and Bonnie Green, found that a majority of incarcerated women had at least one mental health disorder, and 82 percent had a lifetime substance use disorder. Most of the women experienced multiple types of adversity and interpersonal violence in their lives.

"Multiple forms of violence and chronic violence is poly-victimization—which means it happens so much that your basic expectation is that there are few if any safe places, and that can contribute to making bad or illegal choices as an adult," said Shannon Lynch, department chair and professor of clinical psychology at Idaho State University.

But the reasons why women and girls might become involved with illegal activity are still usually not addressed when they come into contact with the criminal justice system. "One of the most harmful aspects of our system is that we tend to criminalize women's survival strategies—the ways they cope with abuse and trauma," said Dana DeHart, assistant dean for research at the University of South Carolina College of Social Work. "So girls may run away from home or use drugs as a means of escaping abuse—escaping physically or mentally. Then these same behaviors are considered delinquent or criminal acts. Systems are starting to change, so many states are enacting juvenile justice reform so that children are not labeled delinquents and are instead connected with the services they need. Similarly, we often see women incarcerated for assaults against abusive partners, when ideally it would have been preferable to stop the woman from being assaulted through legal action against the abuser. This is not to say that women are not culpable when they assault someone without provocation, as there are other ways of addressing relationship violence, but our systems often fail these women when they reach out for help."

Prosecuting and incarcerating women with a history of abuse can have negative implications that last even after they have completed their sentences. "Women's experiences throughout the criminal justice system, from prior to arrest, through to charging, through to the conviction, during incarceration, and upon reentry, are often re-traumatizing for women," said Julia Yoshimoto, attorney and director of the Women in Prison Project and Reentry Law Project at Oregon Justice Resource Center. "If the criminal justice system is re-traumatizing them in great and small ways throughout the process, then they are returning to the community with more to overcome than before they entered the system and not well-equipped to be successful in the community."

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