


4-15-1976

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Recommended Citation

Mohr, Aline L. (1976) "The Conflicts Between Female Inmates' Needs And Prisoners' Goals," *IUSTITIA*: Vol. 4 : No. 1 , Article 3.

Available at: <https://www.repository.law.indiana.edu/iustitia/vol4/iss1/3>

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The Conflicts Between Female Inmates' Needs And Prisoners' Goals

ALINE L. MOHR

A comparison of the purposes behind the existence of male and female institutions reveals that several common goals exist: custody, deterrence, and rehabilitation. An examination of these goals of women's prisons can be best understood in the context of whom they are aimed to serve. If the goals are to serve society alone, then the custody of female offenders is undoubtedly viewed as an accomplished goal, since society is protected and secure from the infliction of criminal acts by these female offenders. However, if the goals are directed at the inmates as well, deterrence of further criminal activity and rehabilitation have failed both the society and the inmates as workable goals. Women sentenced to prison frequently return; in fact, it has been estimated that anywhere from fifty to eighty-five percent are recidivists.¹ Furthermore, the women are generally not rehabilitated. Upon release, they are ill-prepared to cope with life on the outside. One former inmate stated, "You just come out BAMB. And you don't know how to deal with it. You don't have a family to go to half the time. You don't have a home or job. . . . A lot of times the only thing left for a person to do is commit new crime."² If one agrees with Herbert Packer that the goal of rehabilitation is justified by the desire to reform the offender so further criminal activity will cease, and that each offender must be treated individually according to her needs then one must ask, why are not female offenders rehabilitated?³

This study attempts to develop an answer to this question by first researching the crimes committed by female offenders. The crimes committed reveal problems of which the prisons fail to take account. This leads to an inevitable conflict of prison goals with inmate needs. This conflict raises two alternatives: (1) one can work from the assumption that prisons will long continue in existence, so that any attempt to bring goals and needs closer together will have to be developed by working with the prison system, or (2) one can work from the assumption that alternatives to prison, as it is now known, must be found in order to effectuate the goals of prison and society and yet accommodate the needs of the female offenders.

THE CRIMES WHICH LEAD TO IMPRISONMENT

Permeating the entire subject of female criminality is the notion of sex-related activity. Traditionally, women have not been viewed as dangerous, since their crimes were either related to sex or drunkenness. Offenders were believed to be in need of protection and education in high moral standards. Treatment in the prisons reflected this dual attitude by preparing the women to be good mothers and homemakers, dependent roles they would serve on the outside, and, by inculcating standards of morality acceptable in the society.⁴

The emphasis on sex, since at least the mid-1800's, and the defining of female crimes on the basis of sex-related activity, indicates the strong societal value placed on morals and the belief that if the moral standard of the woman can be uplifted, she will become a better member in society. In short, using morals as the distinction, good women are the noncriminals, and bad women are the criminals.⁵ This theme recurs throughout the writings of those who have studied female criminality, and, as is shown below, today, "sexuality is seen as the root of female behavior and the problem of crime."⁶

Sheldon and Eleanor Glueck did extensive research of the women at the Massachusetts Reformatory for Women in the 1930's. They broke into categories the crimes committed by the women and found: (1) 54% of the entire group studied were sentenced for "offences involving the sex impulses" — 12.6% for adultery, 24.4% for being "lewd and lascivious", 4.4% for fornication, 6.8% for "common night walking", 1% for keeping a house of ill fame, and 4.8% for "other sex offences"; (2) 23.8% of the five hundred were sentenced for offenses against "the public health, safety or morals," *i.e.*, sentenced for being "idle and disorderly", an offence usually involving "sexual immorality"; (3) 11.2% were sentenced for property offenses, *i.e.*, larceny, burglary, *etc.*; (4) 6.6% were sentenced for drunkenness; (5) 3.4% were sentenced for neglect of children or family; (6) .2% were sentenced for drug possession; and (7) .8% had committed offenses against persons.⁷ Clearly, sex-related activity was the most common reason for incarceration.

During the past forty years, sex has continued to be the primary basis for labeling a female's conduct as delinquent or criminal. Juvenile female offenders are usually accused of behavior such as running away, truancy, promiscuousness, and pregnancy. The police and juvenile officials have little toleration for female sexual freedom, although these types of delinquent acts are probably only harmful to the girl, not the public.⁸ The President's Commission on Law Enforcement and the Administration of Justice found that more than one-half of the girls in the juvenile courts are referred for behavior, as opposed to crime. Only one-fifth of the boys are brought to court for behavioral problems. Yet, "even though their offenses are not as serious as boys', girls are committed to institutions with proportionately the same frequency as boys."⁹

Adult female offenders are also sentenced more for minor offenses, for social problems, as opposed to criminal offenses, than are men. The women are arrested predominantly — one in five — for prostitution,

commercialized vice, and minor sex offenses. Additionally, the crimes of theft, violated narcotic laws, drunkenness, and disorderly conduct are the more common female crimes.¹⁰

In order to explore the differentiations in female and male criminality, and, in order to understand the resultant distinguishable needs, the typical moral assumptions and moral approaches must be abandoned. Whatever the reason for originally defining criminality in terms of sexual activity — whether it was based upon the belief that women belonged to a sexually oriented economic position of “reproductive and domestic workers” which warranted differential treatment for criminal activity, or whether it was based upon a pervasive and strict moral standard which inevitably viewed female criminality from a different perspective — it is not useful to deal with myths and societal judgments when objectively examining the crimes committed by men and women.¹¹

Dale Hoffman-Bustamante attempted to produce an objective study in “The Nature of Female Criminality”. She concluded that five factors give rise to crime: (1) “different expectations for men and women”; (2) “sex differences in socialization patterns and application of social control”; (3) “structurally determined differences in opportunities to commit particular offenses”; (4) “differential access or pressures toward criminally oriented subcultures and careers”; and (5) “sex differences built into the crime categories themselves”. By using these five factors as a reference, one can look for differences in the nature of the crimes committed by men and women.¹²

Bustamante’s study made use of the arrest rates from the Federal Bureau of Investigation of 1970. (See Appendix A.) In comparing the rates at which males and females commit particular crimes, two types are found linked to sex: (1) forcible rape — committed by males — and (2) prostitution and commercialized vice — committed by females. In 1970 women comprised 14.4% of all persons arrested. Other than prostitution, for which female arrests exceeded 79%, the following nine of thirty categories were the only ones in which the female arrests exceeded 15% of all the arrests for the particular category: (1) murder/manslaughter, 15.4%; (2) larceny, 27.9%; (3) forgery and counterfeiting, 23.7%; (4) fraud, 27.1%; (5) embezzlement, 24.6%; (6) narcotic drug laws, 15.6%; (7) vagrancy, 19.7%; (8) curfew violation, 21.2%; (9) runaway, 51.6%.¹³

While there are categories in which the women are predominant, the 14.4% of the total criminal activity is extremely significant. Females in this society experience differences in socialization and social control, closer supervision, and stricter discipline than do males. Informal sanctions are applied to women for deviations from standards which are generally accepted. The result is that women are taught to conform and are rewarded for doing so, but men are rewarded for not adhering to standards. In sum, Bustamante’s first and second factors reflect reasons for differentiations among male and female offenders.¹⁴

Bustamante’s three other factors are somewhat more interrelated, yet, the heterogeneity remains. A woman’s propensity to commit violent crimes has been the focus of studies and the hypothesis has developed

that murders are rather closely connected to the "female sex role". Wolfgang found in a 1958 study that 51.9% of the murder victims had a family relationship to the woman offender, while this rate was only 16.4% for male offenders. The use of physical strength was nonexistent in 51% of the cases, and David Ward's study in 1969 indicated that one-third of the weapons used by women were knives or household items and one-third were guns. Men are found to beat their victims; in addition, there is a much greater use of guns.¹⁵

Another interesting comparison focuses on the resistance of the victim. Ward found that 42% of the female offenders' victims were ill, drunk, asleep, off-guard, or infirm; another 19% were children. The tendency of violent activity aimed at those unable to defend themselves may well be traced to the fact that women are less likely to fight or beat up their victims. The female typically commits the crime in the home, and when this factor is coupled with the types of weapons used, it is arguable that homicides committed by females are "closely related to the nature of the female sex role, the types of skills women learn as they grow up and the network of social relations in which adult women are involved."¹⁶

The category of crime referred to as larceny is one in which the female offender accounts for a rather large percentage, as noted earlier. In particular, 80% of all arrests for larceny are due to shoplifting. Typically, women do the grocery shopping and department store shopping, and these stores are apparently conducive to shoplifting. It is interesting to note that while men also shoplift, they take goods of greater value than do the women. Burglaries do not show a high rate for women, since burglaries are often committed at night and women are not as likely to be out at night. In sum, homicide and larceny are the only two major crimes listed by the F. B. I. in which females constitute a higher percentage of arrestees than the average for all crimes.¹⁷

The crime of robbery involves the presence of the victim. Ward found that only 14% of the cases involved women as the lone robber. Instead, women were usually partners or accessories to the men who committed robbery. However, forgery and counterfeiting are crimes in which the female tends to engage singly, but, the arrestees are the novices. The characteristics of offenders in these categories are the attainment of a higher education and employment in professional, skilled, and clerical jobs. Forgery is a crime which is hard to detect and is usually learned while growing up. Arguably, the rate of female offenders is high here, since the crime occurs in the realm of everyday activity, and, if the woman pays the bills in her household, forgery may be seen as an alternative or escape from the financial burdens of the family.¹⁸

Fraud is a category of crime which includes the writing of insufficient checks, welfare fraud, con games, and false advertising. Males are predominant in this category and it is an area in which much white-collar criminal activity occurs through financial manipulations, unfair labor practices, and restraints of trade. However, the percentage of female fraud remains high, perhaps because the types of fraud undertaken are more easily discovered, that is, welfare fraud and con games. Male fraud,

on the other hand, is not easily detected, especially when big, complex companies are involved.¹⁹

The category of embezzlement raises further distinctions between the criminality of men and women. Women accounted for 24.6% of the total arrests, and it was found that they embezzle either from organizations which are not generally audited, or, if from organizations which are audited, such as banks, then three other factors enter into the high rate of arrest: (1) the women work in positions of lesser responsibility and greater supervision; (2) the women are generally less educated in finances in the lower levels of work so that their embezzlement is easier to spot; and (3) the women are less likely to pay back the embezzled funds without being prosecuted. Thus, the sex role can be linked to the crime rates here. Skills and economic opportunities are still different for males and females, and where the female is found "at the bottom of the economic ladder", her position tends to make her crime "more vulnerable to detection".²⁰

Many states still consider prostitution a "female offense". If the crime of commercialized vice is added to prostitution, women account for 79.3% of the arrests. However, if the customer were arrested in all states, instead of singling out the prostitute, the arrest rate for women would proportionately go down. The F. B. I. separates prostitution from "other sex offenses" which includes "statutory rape, offenses against chastity, common decency, and morals". In effect, prostitution is a status offense, that is, the woman is arrested for "being a prostitute" besides committing acts of prostitution.²¹ The category is one which raises constitutional questions as to its legality, and is currently the subject of much debate in state legislatures. If prostitution is treated as a status offense, another problem arises. The women can be arrested for activities which the society and its legislature believe are characteristic of a prostitute. For example, the curfew and runaway laws can be used to prevent the young female offenders from being out on the street at night. A very paternalistic attitude is expressed in such laws, yet it is outside of any concern of the particular offense committed.²²

Sex roles do have a relationship to crime, as is demonstrated by Bustamante's discussion of opportunities to commit crimes, pressures toward criminal careers, and the crime categories themselves.²³ The fact that the female arrest rates are lower in categories such as robbery and burglary, categories in which the crime typically requires "male" behavior, illustrates the importance for prison officials to recognize the types of crimes committed by those females who are incarcerated. This is further emphasized by the fact that the figures released by the F. B. I. for major crime in 1971 and 1972 continue to support Bustamante's findings. (See Appendices B and C. Slight variations and fluctuations have been noted in Appendix D.)

The nature of the criminal activity of the female offender should point the way to the type of help she needs, help which should be instrumental in making her readjustment in the community more likely to meet with success. In commenting about the majority of the women incarcerated, the Superintendent of the Ohio Reformatory for Women

stated, "The women who end up here, are acting out of their inadequacies as individuals—not with criminal rings or real criminal intentions. They have two or three kids and nobody to help them, so they write checks."²⁴ These women have very special problems and needs which probably do not correspond to prisons' methods of effectuating their goals of custody, deterrence, and rehabilitation. Thus, if the prisons do not take account of what it was that brought the women to prison, the prisons will certainly be unable to effectuate any changes in the offenders' behavior, thereby accommodating rehabilitation with their needs.

THE PRISONS' APPROACH FOR EFFECTUATING GOALS

In 1968 a study showed that only 15,000 women were incarcerated in this country's state and federal prisons; this was only 4% of the total number of persons imprisoned. One arrest in seven was of a woman and only 9% were arrested for violent crimes.²⁵ In 1964 twenty-nine separate facilities existed for the female offenders. Nineteen had less than 200 inmates, ten had less than 100, and ten facilities had from 200 to 878.²⁶ Obviously, every state does not have a separate facility for women; those that do are faced with the dilemma of expending large amounts of money for the rehabilitation of only a small number of criminals.²⁷ However, the rehabilitative goal is not the single factor appraised by prison officials when budgeting for female inmates and women's prisons. Practical consideration is given to the prisons' additional goals of custody of the criminal, deterrence of criminal activity, and security for the public.

The means by which these goals are implemented trace their origin to the attitude in society in the 1800's, which looked upon those women who committed crimes as pathetic figures and as women who had violated "the normative code with respect to sex and drunkenness".²⁸ As was mentioned earlier, treatment focused on helping these women to become better mothers and housewives, and the reformatories were begun with this goal in mind—a goal quite dissimilar to that which existed for the men. The architectural result at the separate female prisons was the "cottage plan". The prisoners were placed in smaller groups of thirty to fifty in individual buildings, for it was believed that rehabilitation of the women's morals could be best effectuated in this type of setting, a setting which could "bring discipline and regularity into their lives".²⁹

The success of the women's institutions has been thought to be dependent upon the staff. One administrator has asserted that the quality of the staff is crucial. Research shows that people usually acquire the attitudes of another, if they like that person. In applying this notion to the prison system, the expectations are that the guards and administrators will be able to convey attitudes of self-esteem and self-respect to the inmates, if they are liked by the inmates. Arguably, if this can be accomplished, the inmates will be better prepared to return to the outside as good mothers and housewives.³⁰

In addition to the implementation of goals through architectural designs and a qualified staff, the prison institutions have striven for improved educational and vocational programs, and maintenance of the

prison by inmate labor. In the institutions' struggle to be self-sustaining, however, the attempt is made to balance the goal of treatment for the inmates. The following prison justifications for the work performed by the inmates indicates, in part, accommodation of this dual objective: (1) if perceived as unpleasant and as punishment, work can be a deterrent for crime; (2) prison is not as monotonous for the inmates if they are kept busy; (3) inmate labor reduces the operational costs; (4) the work provides a way for the inmates to earn money; (5) the work teaches the inmates skills and "good work habits"; and (6) the work is seen as therapeutic.³¹

While the goals of economy and utility emerge as vital to the continued operation of the prison, the prison has also been concerned with the vocational training of the women.³² In the 1920's the superintendent of the Massachusetts Reformatory for Women stressed the need to spend less time on productive industries and more time, or at least an equivalent amount of time, on the inmates' self-improvement.³³ This has remained an essential goal through the 1970's.

Educational achievement has been one other goal of the prisons, for a great deal of illiteracy exists among the inmates. There is need for programmed learning, since the levels of education of the women are diverse. The General Educational Development Testing Program allows inmates to earn a certificate of high school equivalency, and its availability in all of the women's prisons has been advocated. Library services are recognized as a necessary tool for the inmates to develop and to keep up with world affairs.³⁴

The acquisition of skills in the field of education is a more recently developed goal, and it reflects the continued emphasis upon inmate rehabilitation. However, while the goal of rehabilitation through work, discipline, and study may be generally recognized by society as legitimate, and while custody and deterrence may similarly be viewed as inextricably bound up in the prison system, these goals must be re-examined for their continued viability. In addition, since the means for achieving these goals in the 1800's focused primarily on training the female inmates to become better mothers and housewives, it is imperative that the means used to effectuate the goals be studied in a twentieth-century context. By detailing the needs of today's inmates, one is able to discover great disparities in what the prisons seek to achieve and what is in fact occurring.

INMATES' NEEDS CONFLICT WITH PRISONS' GOALS

Deprivation of Family

Many of the deprivations which exist as a result of imprisonment are commonly experienced by both men and women: "(1) the deprivation of liberty. . . , (2) the deprivation of goods and services, (3) the deprivation of heterosexual relationships, (4) the deprivation of autonomy . . . , and (5) the deprivation of security."³⁵ However, one particular deprivation apparently pains and frustrates the incarcerated women more than the men, and to such an extent that it is considered the greatest problem the

women must face. This deprivation is the women's separation from their families, especially their children.³⁶

The reason for the apparent disparity in male and female inmates' experiences upon separation of their families is a result of societal norms and pressures. In our society women are usually viewed as being more closely connected to the raising of the children, and any separation from them is disapproved. Thus, it is inevitable that the imprisoned mothers encounter difficulties in adjusting to the separation from their children. If there is no father around, or one who is simply unable to provide adequate supervision because of his work, the children are most likely to be placed with other relatives or in foster homes.³⁷

The incarcerated mother's situation needs to be contrasted with that of the incarcerated father. Society does not put the burden of caring for the children on the father, at least not in the same manner as it does the mother. Additionally, the imprisoned father expects the wife to continue to care for the children during his period of incarceration. Thus, his separation from the children does not present a severe adjustment problem because he is reasonably assured the children will be at home upon his release.³⁸ The imprisoned mother is not likely to expect that her children will be at home upon her release. The husband who is the "breadwinner" is probably unable to take on the additional responsibility of caring for the children. Realizing this, the woman develops feelings of guilt, loneliness, and fear, and because the mother's role is crucial to her, the separation frequently ends up striking "at her essential personal identity and her self-image."³⁹ Because the separation of the mother from her child affects a majority of those women who are imprisoned, as is illustrated below, it is important to examine what generally happens to the children and what effect this has on the mother.

A study was undertaken by the Pennsylvania Division of the American Association of University Women in 1969, to examine the criminal system in Pennsylvania as it related to women. It was found that 60-77% of the women incarcerated were not married, but 80% had children. More than 50% of the women had more than one child.⁴⁰ It was also learned that the women are often arrested unexpectedly, and, if the children are not at home at the time, the mothers' initial worries in jail focus on the children and the question of whether or not they will be put in foster homes. In one case, the inmate did not know for more than a month where her children had been placed.⁴¹

The placement of the children is left up to the courts, and the standards which are to be used in making determinations are set forth by the legislatures. The courts can terminate the parents' rights permanently, but there is a good deal of uncertainty as to what will happen in any given case. While some states have enacted laws which enable the court to end the parent's right over the child solely because the mother is imprisoned, others equate imprisonment with abandonment, so that the court can end parental control under an abandonment theory. It can be argued that this removal of the child from the mother is an extra punishment, if imprisonment alone is enough to declare her unfit as a mother. In other words, a woman is imprisoned for committing a crime,

but her parental rights are terminated only if she is a mother. Thus, she is doubly punished.⁴²

Nevertheless, the court does make the determination as to the child's placement. The court focuses on the child's "best interests", and looks to possible placement in foster homes, placement with relatives of the incarcerated mother, or resorts to adoption. Permanent placement of the child, if the termination of parental control is considered, is generally based on an examination of the mother's fitness at a custody hearing. The woman's "past conduct" is checked so that a prediction can be made of future conduct. Influential considerations are adultery, drunkenness, abandonment, cruelty, and "previous criminal convictions".⁴³

It has been contended that parental rights should not be terminated solely on the basis of "previous criminal convictions". Rather, if the factor of criminal conviction is used, an additional reason for terminating parental rights should be given because imprisonment alone does not show that a mother is "unfit". "A mother is determined to be fit if she is capable of performing her parental duties and does not subject her child to substantial immoral or debasing influences at home."⁴⁴ In short, the imprisoned mother is usually only in need of temporary placement for her child. The placement should cover the times during which she is incapable of performing her motherly duties: the period during her imprisonment and for the short period upon her release.

The court's holding in *State of Oregon v. Grady*,⁴⁵ lends support to this position. The court concluded that parental rights cannot be terminated until it is shown either that the parent abandoned the child, or that the parent was "unfit by reasons of conduct or conditions seriously detrimental to the child". Incarceration was found not to be equivalent to abandonment, rather, it was only evidence that some arrangements needed to be made for the child while the mother was in prison, and for that period of time after her release which she needed to assure the court of "her stability, reliability and competence to properly care for her baby".⁴⁶ The young mother involved in the case was divorced and had been sentenced on a forgery conviction. Although she was presently imprisoned, the court found the evidence insufficient to establish that she was an unfit mother. It held that her parental rights over her infant daughter could not be terminated.

Despite the conclusion reached by the Oregon court, the possibility exists that if the factor of imprisonment remains a sufficient cause for courts to declare a mother unfit, "every act of criminal indiscretion which leads to penal incarceration could deprive a mother of her parental rights to her children."⁴⁷ To prevent this from occurring, the courts should consider the crime itself, the parental relationship before the mother was imprisoned, all the circumstances surrounding conviction, and the possibility of temporary custody.

Even if it is unlikely that the women's children will be removed from their homes and placed elsewhere while they are in prison, the women are faced with another problem not generally shared by male inmates. Women's prisons are usually located in isolated parts of the state, making

visits by the children infrequent. It is too costly and too time-consuming to travel the distance to the prisons. This has the effect of reinforcing the loneliness experienced by the inmates.⁴⁸ The Superintendent for the Reformatory for Women located in Maryville, Ohio stated, "It's a silly place to begin to get it all together when the root of many women's problems is with their families and loved ones in the city."⁴⁹

If the children do attempt to visit, ridiculous rules are often encountered. At the Sybil Brand Institute for Women, a jail in Los Angeles, biweekly visits are allowed for twenty minutes through glass. Children under eighteen years of age are not permitted to visit, so mothers are effectively prohibited from even touching their children. Such rules apply equally to those awaiting trial and to those already convicted and sentenced. Rules regarding visitation in prisons, as opposed to local jails, are only somewhat less harsh. In many states the women are able to talk over tables, but one inmate can not talk to another inmate's guests. Usually, in the prisons the inmate can hold her children, but this is generally a heartbreaking experience, for the children do not understand why they can not remain with their mothers.⁵⁰

One further problem which is experienced only by female inmates must be mentioned. Not infrequently, women are pregnant upon entrance to prison. After giving birth, the child is removed from the mother within seven to ten days at Frontera, the California Institute for Women. The child is then placed either with a family member or in a foster home.⁵¹ The effect on the mother of this separation from her infant child must certainly be traumatic and may result in serious emotional problems. A study by Serapio Zalba in the 1960's showed that a mother's rehabilitation was "sharply affected by her maternal role and her continuing relationship relative to her children".⁵² If this is so, one can only conclude that removal of the infant from the inmate seriously deters the effectuation of rehabilitation.

Dependency and Loss of Identity

A second major area generating inmate needs which go unattended is, in part, reinforced by the family severance discussed above. However, other factors contribute to the institutionalization of the woman and her complete dependency on the prison system. This dependency, in turn, results in a loss of identity. This loss is encountered immediately upon entrance into the criminal system and raises several problems.

The stripping of the inmate's self-identity begins with the most embarrassing aspect of the entire reception period, the rectal and vaginal search for contraband. A dependency on the staff quickly follows, as the inmate learns that the staff is in control and can directly affect the length of one's imprisonment.⁵³ The inmates do learn ways to get along with matrons, but they are unable to escape from the fact that they are not allowed to make a decision or to take on any responsibility. Choice is prohibited and everything is done in the same way everyday.⁵⁴ The first woman to be a parole examiner for the Washington D.C. Parole Board and one who has worked extensively in prisons commented, "It's true — in jail a woman sleeps, eats, bathes by regulation. Everything she does is

controlled and everything she doesn't do is controlled. Her flexibility and our flexibility can expand only to the walls of the jail or within the confines of the walls."⁵⁵

While it may be an administrative necessity that there be regularity and discipline within the prison, the rehabilitative effect is certainly questionable. Rules are strict and apply to everyone, even though not everyone needs to be controlled in the same way. The atmosphere is tense and oppressive, although the outside physical appearance at many institutions is attractive. "Walls are replaced by personnel, guns are replaced by stringent rules, bars are replaced by constant vigilance."⁵⁶

The psychological deterioration is undoubtedly aided by the fact that for many the prison experience is the first occasion in which the female has been left without the support of a male, whether the male be a father, husband, boyfriend, or brother. The woman is on her own, and having been pulled from her protective society, the inmate frequently finds that she is unable to cope with her new situation. The administrators of the institutions determine what roles the inmates should develop, but this is based on standards which are foreign to the women. This poses a dilemma for the individual woman. If the inmate submits to the administrators and plays according to prison rules, she loses her sense of responsibility, independency, and self-determination. However, if she continues to be expressive and does not play along with the prison officials, she is considered a problem case and will not be as likely to get paroled.⁵⁷

The irony involved apparently goes unnoticed by the prison officials, for the inmate who attempts to preserve some sense of self-identity is the one more likely to adjust quickly to society upon her release. Society will demand that the releasee be responsible, and will force her to make decisions. Yet, if she has been "totally institutionalized", she will have lost the power "to make even a small decision, or harbor an original thought".⁵⁸

"Total institutionalization is synonymous with forced dependency. The controls of prison which attempt to regulate lives, attitudes and behavior are synonymous with those used during infancy."⁵⁹ The prison is the parent and the inmate is the child. Not only does the child-like inmate lose the ability to make decisions for herself, but she is stripped of the right to make decisions about her own children, as was elaborated above. The feelings of helplessness and loneliness which result from total institutionalization and isolation from the family leave the inmate ill-prepared to eventually deal with herself and her children.⁶⁰ The prisons' goal of rehabilitation clearly fails to meet the inmates' emotional and psychological needs.

Indeterminate Sentencing

Dependency and loss of identity are further advanced by the process known as indeterminate sentencing. Here, again, the prisons' goals and inmates' needs conflict. Essentially, indeterminate sentencing bases the inmate's release on individual considerations.⁶¹ This procedure can best

be understood by looking at examples of the sentencing procedures and the purpose behind the sentencing.

Under the auspices of the American Bar Foundation, a study of sentencing and penalties was conducted in 1962. The study covered 11,258 criminal cases in 194 counties in fifty states. Two forms of discrimination were found to exist. The "disadvantaged or disfavored pattern" discriminated against indigents, blacks, and those with an elementary education. The "paternalistic pattern" discriminated particularly against juveniles. While this latter pattern favored the weak, the former pattern revealed a harshness and relative deprivation of groups society considers inferior. In order to make comparisons meaningful, the crime charged against an individual was held constant and the backgrounds of the defendants and the criminal procedures were variables. Under this method, males and females were compared, and females were found to fit within the paternalistic pattern.⁶²

Grand larceny, which is crime against property, and felonious assault, which is a crime against person, were two categories of crime studied. They both reflected a paternalistic discrimination. However, when compared with men, women were jailed more for assault than larceny. This is perhaps due to an attitude that assault is more of a manly crime and women who commit this crime ought to be treated like men.⁶³

In breaking down the stages of crime (see Appendix E), it was found that 76% of the 63 larceny female defendants were released on bail, while only 50% of the 771 male defendants were released on bail. For assault cases, 77% of 43 females were released on bail but only 58% of 615 males were similarly released. At the conviction stage, 64% of the females received suspended sentences or probation for larceny, and 43% of the males were suspended or put on probation.⁶⁴

Differences are again apparent upon examination of the formal safeguards provided in the criminal process, that is, the safeguards of a lawyer and jury trial. Males generally get "better" treatment in this area, and, if juveniles are added to the comparison, the right to an attorney is found to go pretty much unexercised. Specifically, the differences between males and females are small with regard to securing an attorney, but the differences are greater with the right to a jury trial, as women have jury trials in 26% fewer assault cases than do the men.⁶⁵

The paternalistic pattern is perhaps seen best with juveniles and women. One can conclude, then, that female juveniles are given the most paternalistic treatment. H.E.W. published a study in 1970 on "Statistics on Public Institutions for Delinquents". It reinforces the conclusion drawn here, for, on the average, female juveniles were confined two months longer than males. This longer period of confinement is explained by the belief that girls need to be protected, sexually, from the outside.⁶⁶

The patterns which have developed in the studies strengthen the notions about female criminality and the purposes behind the development of women's penal institutions. As was discussed earlier, the female offender was not viewed as dangerous, rather, she was believed to be in

need of protection. The indeterminate sentences evolved as a means for accomplishing this objective. The women were to be released as soon as they were rehabilitated or cleansed. Since the length of time necessary for rehabilitation would vary with the individual offender, legislatures in many states passed laws which did not set a minimum time for release, but only set the maximum time. Each woman could then be released whenever she was rehabilitated. Arguably, protection of the female offender remains the theoretical objective of the law. Although women are not sentenced to prison as often as their male counterparts, the existing indeterminate sentencing statutes result in longer periods of incarceration. Women may be treated on a more informal basis when brought before the judge, but once they are sentenced without any guarantee of a minimum period, they are likely to serve longer than the men.⁶⁷

The effects of indeterminate sentencing are manifested in several ways. This open-ended sentencing raises many questions among the inmates: When can they be paroled? When are they eligible for consideration? When will they receive a definite sentence? When will they be released? The question of time preoccupies the women; everything is uncertain and they do not know what to expect or when to expect it. Since individual treatment is not predictable, no one ever knows what is the basis for decisions made by institutional committees and the parole board. Feelings of frustration and annoyance are expressed by inmates who serve time under indeterminate sentencing. They feel as if they are wasting time, because they do not know how long they will be there and they have "absolutely nothing to work for."⁶⁸

Prison Relationships

In search of answers to their questions, and, in an effort to cope with the existing situation in the prison, the inmates are forced to look to one another for help. However, their loyalty to one another has been found to be less strong than it is among male inmates. In other words, the majority of female inmates will "snitch" or "rat" on another inmate, at least to some degree. Reasons which have been given for snitching includes weakness in the women, the need of some to feel and act like the staff, and the inability of those who do not snitch to put pressure on those who do.⁶⁹

However, an inmate code usually exists in the prisons. At the California Institute for Women at Frontera, several characteristics were found to be important to the women: (1) sticking up for one's rights when confronted by the staff; (2) withstanding whatever the staff inflicts; and (3) sharing material goods with other inmates. In developing statistics of the relationship of the inmate code to different periods of incarceration, nothing was found similar to the U-shaped curve of orientation to prison norms developed by Stanton Wheeler in his study of male inmates. Rather, the study at Frontera revealed that strong acceptance of the code was related to the number of disciplinary reports submitted by the staff. In short, more group loyalty existed among those who had contacts with criminal norms either outside of prison or inside.

Yet, it does not appear that, overall, the inmate code is as strong among women as it is among men.⁷⁰

Only a slight degree of inmate interaction and communication emerges through the inmate code, so the inmates seek other means for expressing their emotional and sexual feelings. Outside of prison their identity is generally based on roles of mother and wife, and they carry these learned roles into prison. Their outside experiences, however, fail to prepare them to cope with prison and its degrading features, its forced loss of affection and support by others. Thus, in an effort to adapt to the depersonalizing situation, a situation in which they must suppress their feelings about their families on the outside, they frequently develop a "family system" within the prison.⁷¹

Marriage units are formed with one inmate playing the female role and another inmate playing the male role. The "homosexual alliance" of the two inmates forms the nucleus for the creation of an entire network of relationships which culminates in a "prison family". Giallombardo defines the "prison family" as follows:

a set of inmates each of whom is linked up with all or some of the other members of the family by ties of kinship, who act together in the service of common interests indicated by reciprocal rights and duties, acting in service roles for other family members, and who act as a family unit in relation to other families or isolated inmates.⁷²

Although there is disagreement as to the extent to which the inmates participate in actual homosexual activity, there seems to be a consensus that a majority of the female inmates participate in role playing. The role playing and the homosexuality are apparently short-lived, however. A former warden of women's prisons stated that most inmates do not give in permanently to the homosexuality encountered in prison, for it is only a part of the process by which inmates seek "to ward off the alienating and disorganizing experience of imprisonment".⁷³ Similarly, David Ward found that homosexuality was a temporary experience at Frontera, and that it was a means of restoring some sense of worth to the inmate.⁷⁴

No matter how temporary the relationships may be, they fulfill some needs which are created by the prison system itself, which deprives the inmates of any significant, sustained relationships with their outside families. Yet, the system simultaneously perpetuates a family-like environment through the use of the cottages which house twenty to thirty women. However, men are absent from these houses, so homosexual behavior develops. The situation is ironic; the needs for which the inmates seek outlets are created by the prison, but the prison officials discriminate against those who find ways to satisfy their needs. Matrons make notes on the records of the inmates whom they believe to be acting out homosexually. These notes become part of the inmates' permanent files. Furthermore, segregation and confinement of those involved in homosexual behavior are commonly imposed forms of punishment. Still, the inmate behavior, the role playing and homosexuality, is not likely to

cease. As long as the prison is creating inmate needs, the needs will continue to require some form of release or expression.⁷⁵

Training Secondary to Prison Maintenance

Another area in which inmate needs conflict with prison goals is vocational training. Prison goals themselves conflict with each other in this category, as treatment and rehabilitation compete for the resources similarly desired for the achievement of the goal of self-sufficiency. Prison officials expect the inmate to work for the benefit of the group, even if her own interests must be subordinated. This policy raises several problems, problems which also arise in male institutions. As already indicated, there is more concern with the maintenance of the prison than the inmates' rehabilitation. Second, equipment in the prisons is generally out-of-date, for the equipment used in the prisons is not like that which is used by employers on the outside. Third, pay for the work is inconsequential. Finally, there are few placement services available for the inmates.⁷⁶

In addition to these common problems, female inmates experience special problems which can be traced, once again, to the single goal of teaching the women to be good mothers and wives. First, while women comprise a large segment of the labor force, on the outside, there is still the problem of conceptualizing women as wage earners. Society has long viewed a woman as a wife and mother first, and as a wage earner second. This view has been and continues to be carried over into the prisons, so that programs of a vocational nature are not readily available. Instead, the prisons focus on sewing, cleaning, and cooking. Second, if some vocational programs do develop, emphasis is placed on "women's work". This emphasis has a purpose which conflicts with the inmates' needs. By labeling activity such as scrubbing floors "vocational", the prisons are able to justify the imposition of inmate work which is traditionally low in status, low paying, and done by women. The work strengthens feelings of insignificance and forced dependency and it has no rehabilitative effect; but the work is a necessity, for it is aimed at the maintenance of the institution itself.⁷⁷

The vocational justification which disguises the real purpose behind the work performed by the inmates has another aspect to it. If prison work is really to help the inmates reintegrate into society, it seems logical that they be trained for jobs they are likely to find upon release. However, because the institution strives to be self-sufficient, the inmates must also work at jobs which fit the "male role" on the outside. The skills acquired on these jobs fail to prepare the women for reintegration in the society because they will generally be unable to find "male work". It seems "ludicrous when you see women working as butchers, truck loaders, janitors and 'maintenance men' ". "How many women do you know on the outside who drive trucks and how many women plumbers do you know on the streets?"⁷⁸ In short, under the guise of vocational training, the inmates either work on menial, traditional women's jobs, or they work and develop skills for jobs which will be unavailable upon release because the work is typically performed by men.

This latter form of inmate "rehabilitation" which results in the maintenance of the institution has persisted to such an extent that the prison business has become enormous; the inmates contribute "undetermined sums to the state economy through their work in a big prison business".⁷⁹ Exemplary of this is the \$2.5 million industrial operation at the Federal Reformatory for Women at Alderson. The work at Alderson is for the federal government, but other prisons produce many goods and services for the states. Yet, the inmates are paid very little for their labor, perhaps \$15 per month. While it costs from \$3,500 to \$7,400 to institutionalize an inmate each year, it is likely that the value of the inmate's labor exceeds this cost. The money should be available for improved training programs, but only four cents of every dollar from the prison budget go toward treatment and rehabilitation through educational, recreational, and vocational training programs. With the old prison equipment and the frequently hazardous working conditions, the prisons continue to limit the boundaries of the women's work experiences and the types of available activities.⁸⁰

The inmates are concerned about employment upon release from prison. They want to develop skills which will be salable in the community; they recognize the need to be trained for jobs which will realistically be available.⁸¹ However, the prison needs to sustain itself through inmate labor. The result is that inmates work on jobs which are demeaning and unrelated to the skills which will be necessary to hold on to jobs in society. These conflicting needs will continue to exist as long as prisons view treatment as a legitimate goal "only when the predominant tasks of maintenance, custody, and internal order are clearly in equilibrium".⁸²

Inadequate Medical Care

The inmates' need for legitimate training is not the only need which continues to be subordinated to the prisons' goals. The inmates' physical and mental health problems are a burden to the prisons and conflict with their efforts to be efficient. Not only do the prisons inadequately handle the medical problems, in large part the prisons create the problems. Dr. Seymour L. Halleck stated, "If you think about what qualities one could define as being conducive to mental health and then take a look at what actually exists in prisons, the argument that the prison is there to create mental illness is well put."⁸³ To be mentally healthy, one must interact with others, express aggressive feelings, and feel autonomous and responsible. In prison intimate contact with others is prohibited, inmates are denied the opportunity to be verbally aggressive, and any sense of dignity or responsibility is crushed. Thus, the inmate's condition leaves her susceptible to a mental breakdown.⁸⁴

The mental health treatment afforded the inmates undoubtedly varies with the individual institution, but it is common to find an inadequate and underpaid supply of doctors. The frequent result is the dispensation of a great quantity of medication, particularly, various sorts of tranquilizers. Those inmates with physical problems are similarly ignored; the staff is paid little, the care is insufficient, and the attitude

among many matrons and nurses is that the inmates feign their illnesses.⁸⁵

In sum, medical care is just one additional area in which the inmates' needs fail to be met. Not only do the prisons fail to provide adequate treatment, they contribute to the development of the medical problems through their degrading internal environments. If the prisons continue to perpetuate the problems through their own institutional policies, there can be little hope of any significant improvements for the inmates in need of medical care.

ACCOMMODATION OF INMATES' NEEDS AND PRISONS' GOALS BY CHANGING THE MEANS FOR EFFECTUATION

The means used to effectuate the prisons' goals conflict with the inmates' many needs, as was demonstrated above. The result is that the female offender is neither rehabilitated for integration into the society, nor is she deterred from the commission of further criminal activity. She leaves prison with little money, no place to go, no usable skills, and a prison record. She is expected to act responsibly, but she does not know where to turn; often, out of desperation she returns to crime.⁸⁶ The assistant Warden at Sybil stated, "We have about seventy per cent recidivism. Yes, they come back, and their daughters come back, and their daughters' daughters."⁸⁷ Consequently, society is left unprotected from the continual criminal activity. Thus, none of the prisons' goals are achieved.

Changes Within the Prison Structure

If one starts from the position that prisons will be in existence indefinitely and that the prisons' goals remain viable, alternative means for accomplishing the goals must be developed. In changing the means the judicial and legislative processes should be explored for solutions. Sociologists, psychiatrists, and the prisons themselves should also be expected to contribute to the creation of ways to meet the needs and problems of the female inmates.

Redefinition of criminal offenses. The problems which confront the inmates as they enter prison can be attacked through legislation. The laws which define the criminal offenses must be re-examined for sex discrimination and social stereotyping. The Equal Rights Amendment would greatly advance the disallowance of a "sexual double standard" in defining crimes, to the benefit of both men and women. But, even without the ERA, the built-in stereotyping found to exist in many state laws can be corrected. Throughout most of the United States, prostitution is by definition a crime which is committed only by women. Typically, the female seller is penalized, but the male patron is not. Additionally, the man who sells is not penalized.⁸⁸ Already, in many parts of the country the states' decisions to penalize the seller alone is being scrutinized. A bill before the Indiana House of Representatives this session is typical of the trend. It is designed to reduce prostitution from a felony to a misdemeanor and to equalize the penalties for men and women.⁸⁹

New laws which define offenses without sex discrimination reflect changing societal attitudes. Perhaps better defined laws will permanently eradicate the myths about the type of woman arrested and the treatment she needs. If this can be accomplished, then the prisons will be able to direct their rehabilitative efforts toward programs with greater significance and usefulness for the inmates.

Rebuilding family relationships. For those inmates with a family, and particularly those with children, the many problems which arise because of their separation may be partially resolved through the implementation of one of several different approaches. The court's role in determining parental fitness has already been discussed. The court, however, does not function independently. The court makes determinations on the basis of legislative guidelines, but by equating the guidelines with "an abandonment of parental responsibilities", laws have been wrongly interpreted and the parental rights of inmates have been terminated without sufficient justification. Thus, alterations need to be made by the legislatures in order to make the legislative standards more lucid. Adoption of the child without the consent of the inmate parent is one particular category in which legislative re-evaluation is essential.⁹⁰

In most states certain conditions must be proven before a parent will be found unfit, thus negating the requirement that the parent's consent be given for an adoption. Courts have interpreted statutory classifications of lack of care and support, actions not in the best interest of the child, and parental unfitness as all falling within the definition of abandonment of parental responsibility. The next step has been to classify all of the statutes which deal with the termination of parental rights as abandonment statutes. Consequently, imprisonment has been equated with voluntary relinquishment of parental rights, so that an imprisoned mother has been held to have abandoned her child and given up her right to prevent an adoption.⁹¹

Arguably, imprisonment as a single factor or category is not enough to decide whether a mother has voluntarily relinquished her parental rights and abandoned her child. However, the statutes which "either equate her imprisonment with being unfit or with having abandoned her child" have been strictly interpreted, while the categories of drunkenness, cruelty, desertion, nonsupport, and adultery, which are also used by the courts in terminating parental rights, have not been similarly construed. The legislatures must examine these unfitness statutes in light of the fact that the removal of the child from the imprisoned mother is an additional punishment and has a questionable rehabilitative effect on the mother. With new legislation the courts will then be better equipped to determine fitness and the placement of inmates' children.⁹²

While the adoption of children constitutes problems for many inmate-mothers, alternative programs and facilities need to be considered and developed in an effort to overcome the numerous difficulties which affect a majority of the inmate-mothers as a result of the temporary separation from their children. First, a program could be developed whereby the inmate's baby remains in prison, especially during the child's formative years of one through three. In California the legislature enacted a statute

in 1971 which allows for the child to remain with its imprisoned mother, if the child is under two.⁹³ The difficulty with the law is that no means for implementation have been developed. Implementation should take account of several factors: (1) a court determination should be made of the mother's fitness and an assessment should be based on conditions other than her imprisonment; (2) separate facilities should be made available within the prison for those inmates with children; (3) the inmate-mother should be responsible for her child, but as a rehabilitative tool, a nursery could be operated alternately by the mothers in order to allow them to receive instruction in child care and nutrition.⁹⁴ It is important to emphasize that any program involving instruction in child care should not be required of all inmates. Rather, it should be used as a means for assisting those inmates who have children and want help in order to be better prepared to cope with their family problems upon release.

Second, visitation privileges could be extended so that any inmate's family, not simply those with children, could visit more frequently. If family relationships can be sustained, the resulting emotional reinforcement of the inmates will aid in their rehabilitation. Additionally, by providing a continuous family relationship for the inmate-mother, the child's best interest will be better served. The present restrictive visiting conditions also could be changed. Separate visiting areas in which families could be more informal would contribute to the rebuilding of family relationships.⁹⁵

Development of independency, responsibility, and salable skills. Extensive counseling is needed by all of the inmates upon entrance to prison, as well as throughout the period of incarceration.⁹⁶ Counseling should be on both an individual and group basis in an effort to overcome feelings of isolation, dependency, and loss of identity. Psychiatrists could help to restore confidence in the inmates and help to avoid the feelings expressed by one inmate upon being released:

I was scared to death of decisions. All decisions had been taken away from me in prison . . . and coming home is so hard. The only thing you've been responsible for is being on the job when you're supposed to work. How can you come out and make a good decision?⁹⁷

However, counseling which soothes anxieties and helps the women cope with their immediate situations will have only limited success, unless additional steps are taken to cure the causes of stress. The prison officials must work to retain the inmates' sense of individual worth and, simultaneously, adequately prepare them to deal with the responsibilities they will face upon release. If the women are to be given any chance or hope of succeeding on the outside, they must be equipped both emotionally and vocationally.

One recently instituted program which provides male inmates with the requisite training for jobs could serve as a useful model for the creation of programs for female inmates. A company lends its training equipment

to the prison so that the inmates can learn to work on equipment used in the industry. The company then hires from among those inmates who are trained at the prison.⁹⁸ However, the creation of an identical program might not be economically or practically feasible in the less populated women's institutions. Legislatures justify the small allotment of funds to women's institutions by stating that large expenditures cannot be granted for only a few women. In other words, an institution's size serves as an excuse to neglect inmates' vocational needs.⁹⁹ Until this legislative position, which undoubtedly is shared by industries, changes, new programs are unlikely to be organized in the women's prisons.

As a substitute for the lack of programs in the female institutions, the inmates could be paid reasonable wages for their labor. Typically, the inmates are released with only a few dollars. "It's impossible to stay out of prison when you leave it with carfare and all your worldly possessions in a paper bag — and no home and no job."¹⁰⁰ Better prison wages would not only enable the women to begin with some financial security upon release, but increased wages might also allow the women to get their families off welfare during their period of imprisonment. To deter those people who might perceive a brief period of imprisonment as a way to make money, inmates could be required to pay for the services provided in prison.¹⁰¹

In conclusion, both legislatures and prison officials have the responsibility to relate prison programs to inmate needs. However, innovative proposals will continually be inhibited, unless the present attitude which subordinates and ignores the needs in thinly populated institutions is changed.

Equality in sentencing. The indeterminate sentencing is another area in which the legislatures can effectuate change. The statutes can be written so that minimum sentences will be fixed by the judge. If the legislatures fail to act, however, the courts will increasingly be confronted with equal protection arguments. The case of *United States ex rel. Robinson v. York*,¹⁰² illustrates the questions being raised. The constitutionality of a Connecticut statute was challenged by Mrs. Robinson, who was sentenced to the Connecticut State Farm for Women for an indefinite term not to exceed three years.¹⁰³ She argued that the statute violated her equal protection rights, since it allowed women to be imprisoned "for periods in excess of the maximums applicable to men guilty of the same substantive crimes".¹⁰⁴ Mrs. Robinson had pled guilty to two separate misdemeanors of breach of the peace and resisting arrest in November, 1966. The maximum sentences were one year and six months respectively. In June, 1967, she was released on parole, then in October, 1967, she pled guilty to being found intoxicated and willful destruction of property. Sentences of these charges were suspended, but Mrs. Robinson was returned to the State Farm as a parole violator under her original sentence.

In order to determine whether the indefinite sentence imposed in Mrs. Robinson's case was a denial of equal protection of the law under the fourteenth amendment, the court examined the purpose of this statute which provided a greater punishment for women. The state argued that

the statute was part of a framework which sought to "provide for women and juveniles a special protection and every reformatory and rehabilitative opportunity".¹⁰⁵ First, the court concluded that even if the legislative intent was good, women were being imprisoned and subjected to the penal system, although they were sent to a State Farm or reformatory. Conditions may be different at a State Farm, but that is no justification for the inequality which results from imprisoning women for longer periods. Second, the court stated that it has not been proven that women require longer periods of imprisonment, and, the offenses involved here were ones which could be committed by males and females. As applied, the statute was held to be invidiously discriminatory.

In sum, the paternalistic attitudes reflected in the sentencing statutes can be attacked by both the legislatures and the courts. If this can be accomplished, the inmates' feelings of anxiety and hopelessness should be lessened, for they will be able to work towards a fixed release date.

Maintenance of heterosexual relationships. The inmates might be better prepared for the readjustment to the outside if they were permitted to continue relationships with men during their periods of incarceration. In an effort to alleviate the problems which have developed by prohibiting the women from communicating with men beyond that which is allowed during visitation periods, alternatives to the existing living arrangements ought to be studied. Prisons could become heterosexual, with the inmates being allowed to share meals, recreational activities, and free time. Particularly in institutions where this may be practically unfeasible, conjugal visits should be considered.¹⁰⁶ If inmates were given the opportunity to maintain their marital relationships, the inmates' families might be more likely to remain together while they are in prison. Additionally, the extensive role playing through prison families and the development of homosexual alliances might be significantly decreased because the women would no longer need to search for new ways to express their feelings.

One inmate concisely states the current problem as follows: "To deal with society you have to interact with society. We only know how to interact with one society — and that's prison society."¹⁰⁷ If the inmates are to learn how to interact with the heterosexual society they will encounter upon release, they need to retain their identity as women in prison. The conjugal visit would be one means to accomplish this objective.

Changes Outside the Prison Structure

Alternative means for accomplishing the prisons' goals may also be effectuated by working without the prison structure as it is now known. The prisons strive to return the female offender to the community as a rehabilitated individual, as one who will not resort to criminal activity but will, instead, participate in the community. If the aim is toward community interaction, the prison approach which isolates and forces the inmates to be dependent, and generates emotional instability, is hindering the attainment of this objective.¹⁰⁸ If the inmate is realistically expected to survive in the community, community interaction must begin before

the date of release from prison. The Ohio Commissioner of Corrections stated, "It's just impossible and illogical that you take a person away from normal society and put them in an abnormal society and expect them to adjust to the community. You just can't live inside the way we live outside."¹⁰⁹

However, an initial problem must be corrected in many institutions before some forms of community programs can be implemented. Institutions which are isolated from communities will need to relocate, in order to be more accessible to the available community resources which make work-release, "mother-release", and volunteer programs possible. While the costs of such an undertaking may seem prohibitive to prison officials, the small populations in women's institutions ought to make relocation and experimentation quite feasible.¹¹⁰

For those institutions already situated near communities, prison officials will probably find a more receptive community for the reintegration of female offenders than it would for males, because the women are perceived as less dangerous.¹¹¹ In an effort to rehabilitate the inmates and educate the public about inmates' needs, community volunteer programs could be instituted so as to enable the inmates and citizens of the community to become better acquainted. Inmates might even be permitted to spend weekends with families.¹¹²

Work-release programs allow inmates to work and make money. Additionally, they enable the inmates to reintegrate gradually into the society. The programs could be operated in several ways, depending upon the needs of the individual inmates and the availability of resources. The inmates could work in the community during the day and then return to their cells at night, or, through the use of halfway houses, inmates could work in the community during the day, but then return to these houses, rather than the prison itself, at night. Another method would permit the inmates to work and live outside the prison full time, but require that they interact as a group on a regularly scheduled basis. Similar alternative methods of implementation could be devised for those inmates interested in furthering their education through study-release programs.¹¹³

Although no proof exists to demonstrate that such programs do rehabilitate female offenders, it is certainly unproven that they do not. One thing is clear; "Unless society is willing to keep a very large and growing number of its 'offenders' in permanent custody, it must begin to accept greater responsibility in the areas of social control and correction."¹¹⁴

Whether the inmates have been gradually integrated into the community or released with \$25 in their pocket, financial instability is of great concern to the inmates. An additional means for community involvement could be channeled through the extension of financial loans. The loans would alleviate the inmates' initial concerns of support upon release, and when a job is located, the money would be paid back. However, a loan program would not necessarily have to proceed from the public; inmate contributions could be applied to inmate loans. While

several states have, at least, recognized that finances are a serious problem for the releasee, they have not devised any practical remedies. State loans consisting of only \$10 indicate that legislation is needed to facilitate the development of realistic loan programs.¹¹⁵

Another method for preparing inmates to cope with society and its pressures could be implemented through the use of "community treatment centers" which house twenty to twenty-five women. The security of each center would vary and women would be sent to the one appropriate for their individual needs. This is in sharp contrast to the reformists' "cottage plan" and to the current systems which employ strict security systems for all inmates, although it is usually required for only a few. The centers would be located in urban areas where community services, including educational institutions, hospitals, job training, counseling, and recreational facilities, are already available. For those women unready to go into the community, assignments would be to the centers with services made available on the premises of the centers. With such an arrangement the staff would be smaller, as well as the budget. The women would be exposed to persons other than those who are similarly institutionalized and this should aid in the lessening of their feelings of loneliness and isolation.¹¹⁶ In varying degrees, all of these programs could help prepare the women to face society when released. The programs force the inmates to assume responsibilities gradually, rather than all at once. Additionally, they should restore confidence and a sense of individual worth within the women.

The "mother-release" program is one further example of a way to build responsibility. A "mother-release" program would allow the inmate-mother to be released in order to assume her parental responsibilities. If the goal is to rehabilitate the mother and to provide what is best for the child, the idea has merit, for it helps the inmate to re-enter the community slowly and it allows the family relationship to be maintained. Either one of two approaches could be utilized to achieve the objectives. First, the women could be returned completely to their families, but with a probation officer supervising regularly and frequently. Alternatively, the women could be placed in part-time jobs, with the remainder of their time being spent with their families. This second method would enable the mothers to gain some financial security, and simultaneously, allow them to stay with their children.¹¹⁷

This latter idea has not been well accepted, possibly because it is distressing to some that the inmates may find gratification of their "personal interests" within the family setting. If the prison goal is something other than rehabilitation, then perhaps one should be concerned about the inmates' return to their children and the restoration of sexual relationships.¹¹⁸ However, if the possibility exists that the mother can be rehabilitated by spending time with her family, the concern about sexual gratification should be irrelevant. It is important to note that a "mother-release" program has not been approved, but it is of greater significance to discover why this is so. If it is because rehabilitation is not the prison goal, then the implication is that other inmate programs may have been similarly delayed or found unacceptable

because of concerns which indirectly reflect that rehabilitation is not the prison goal.

FAILURE TO ACHIEVE THE PRISONS' GOALS THROUGH THE EMPLOYMENT OF MEANS NOT AIMED AT THE ARTICULATED GOALS

Alternative means for the effectuation of the prisons' goals have been examined, but perhaps the emphasis has been in the wrong direction. The means currently used by prisons are conceivably aimed at some other goal, and for that reason inmate needs are not being met now, nor will they be met in the future. It may be that retribution is the unexpressed prison and societal goal which serves to deter the experimentation and implementation of programs which might rehabilitate the female offender. In short, while the articulated goal is rehabilitation of the inmate, punishment may be deemed necessary and deserving for the offender; "a community blood lust" may be satisfied by punishing the female offender.¹¹⁹ Certainly, this is one feasible explanation for the unresolved conflicts between the inmates' needs and the prisons' articulated goals.

Another possible explanation for the continuing conflict is that the prison goals are not viable. It was recently advocated that since inmate rehabilitation is not achieved, the money expended for rehabilitation would be better spent by improving the quality of prison food! While this position seems to assume that everything possible has been done to effectuate the inmates' rehabilitation and deterrence from further criminal activity, it may be that if custody is the single prison goal, then the 5% expenditure of the correction budget for rehabilitative services would be better spent by improving the quality of prison life.¹²⁰

CONCLUSION

Societal myths about the female offender and her needs, and the increase in the commission of crimes by both males and females and the subsequent costs to society, contribute to the conclusion that prisons are unlikely to disappear from the American scene. However, this does not lead to the conclusion that additional prisons should be built. Rather, if the conflicts between inmates' needs and prisons' goals are to be resolved, a re-evaluation must be made of what it is prisons seek to accomplish and the society must be educated as to its responsibility.

The correctional goals need to be reassessed, but attention needs to be given to the types of crimes which lead to the imprisonment of the female offenders. In so doing, the means for effectuating the goals can be made to parallel more nearly the inmates' many needs, especially their needs to maintain relationships with families and to retain their self-identity.

Society's role in this undertaking is crucial, for it can be instrumental in enabling the inmates to return to the outside as responsible women; but to accomplish this, the inmates must be permitted to interact with the community prior to their release. Prior interaction with the community forces the community to assume additional responsibility, but the

willingness to assist the inmates in their transition will have to be preceded by education of the female offenders' problems. Education will develop a better community understanding of who the inmates are and they types of programs needed. The financial costs of the programs will likely be no greater than those involved in reconvicting and resentencing women because of their inability to cope with their situations upon release, and the benefits of successfully reintegrating the women into the community will far outweigh any additional costs.¹²¹

Although the legislatures and courts can take active roles in resolving the conflicts between inmates' needs and prisons' goals, the community can best serve to accommodate the antagonism which exists between the needs and the goals. If the inmates are to be returned to the community, it is only logical that the community work to advance the reintegration process. The imperativeness of community involvement is best summed up by a former inmate:

I'm not hollering about going to prison. I'm hollering that nothing happens there except that you are giving your money to make people so bitter that they will come out bigger and better criminals who can rob you more efficiently. You can't stop with changes inside. We gotta change it out here — start opening doors for people. *You gotta change yourselves* — offering to help us live out here, with you, not against you.¹²²

In short, one can only hope that the problems which currently confront female offenders during imprisonment will be resolved through educated community participation.

APPENDIX A

Table 31.—Total Arrests, Distribution by Sex, 1971

[5,649 agencies; 1971 estimated population 155,446,000]

Offense Charged	Number of persons arrested			Percent male	Percent female	Percent of total ¹		
	Total	Male	Female			Total	Male	Female
Total	6,966,822	5,923,052	1,043,770	85.0	15.0	100.0	100.0	100.0
Violent crime:								
(a) Murder and nonnegligent manslaughter.....	14,549	12,184	2,365	83.7	16.3	.2	.2	.2
(b) Manslaughter by negligence.....	2,768	2,420	348	87.4	12.6	(?)	(?)	(?)
Statutory rape.....	16,582	16,582	-----	100.0	-----	.2	.3	-----
Aggravated assault.....	101,728	95,293	6,435	93.7	6.3	1.5	1.6	.6
Sexual assault.....	140,350	121,729	18,621	86.7	13.3	2.0	2.1	1.8
Armed robbery—breaking or entering.....	315,376	299,870	15,506	95.1	4.9	4.5	5.1	1.5
Armed robbery—stealing.....	674,997	485,087	189,910	71.9	28.1	9.7	8.2	18.2
Auto theft.....	130,954	123,160	7,794	94.0	6.0	1.9	2.1	.7
Property crime ²	273,209	245,788	27,421	90.0	10.0	3.9	4.1	2.6
Property crime ⁴	1,121,327	908,117	213,210	81.0	19.0	16.1	15.3	20.4
Subtotal for above offenses	1,397,304	1,156,326	240,978	82.8	17.2	20.1	19.5	23.1
Other offenses:								
Sexual assaults.....	307,107	265,226	41,881	86.4	13.6	4.4	4.5	4.0
Sexual offenses.....	11,154	10,084	1,120	90.0	10.0	.2	.2	.1
Forgery and counterfeiting.....	45,340	34,223	11,117	75.5	24.5	.7	.6	1.1
Kidnapping.....	95,610	68,233	27,377	71.4	28.6	1.4	1.2	2.6
Sexual harassment.....	7,114	5,342	1,772	75.1	24.9	.1	.1	.2
Sexual offenses; buying, receiving, possessing.....	75,516	68,495	7,021	90.7	9.3	1.1	1.2	.7
Sexual offenses; selling.....	121,850	112,279	9,571	92.1	7.9	1.7	1.9	.9
Sexual offenses; carrying, possessing, etc.....	114,569	106,475	8,094	92.9	7.1	1.6	1.8	.8
Prostitution and commercialized vice.....	52,916	11,807	41,109	22.3	77.7	.8	.2	3.9
Sexual offenses (except forcible rape and prostitution).....	50,695	44,626	6,069	88.0	12.0	.7	.8	.6
Statutory drug laws.....	400,606	336,476	64,130	84.0	16.0	5.8	5.7	6.1
Child abuse.....	86,698	79,582	7,116	91.8	8.2	1.2	1.3	.7
Sexual offenses against family and children.....	56,456	51,594	4,862	91.4	8.6	.8	.9	.5
Sexual offenses; driving under the influence.....	489,545	456,043	33,502	93.2	6.8	7.0	7.7	3.2
Other offenses:								
Sexual offenses.....	231,192	199,966	31,226	86.5	13.5	3.3	3.4	3.0
Sexual offenses.....	1,491,782	1,383,913	107,869	92.8	7.2	21.4	23.4	10.3
Sexual offenses.....	621,057	522,815	98,242	84.2	15.8	8.9	8.8	9.4
Sexual offenses.....	80,180	62,631	17,549	78.1	21.9	1.2	1.1	1.7
Sexual offenses (except traffic).....	869,270	727,618	141,652	83.7	16.3	12.5	12.3	13.6
Sexual offenses.....	54,374	46,421	7,953	85.4	14.6	.8	.8	.8
Sexual offenses and loitering law violations.....	101,943	80,297	21,646	78.8	21.2	1.5	1.4	2.1
Sexual offenses.....	204,544	92,631	111,913	45.3	54.7	2.9	1.6	10.7

¹ Because of rounding, the percentages may not add to total.

² Less than one-tenth of 1 percent.

³ Violent crime is offenses of murder, forcible rape, robbery and aggravated assault.

⁴ Property crime is offenses of burglary, larceny and auto theft.

APPENDIX B

Table 33.—Total Arrests by Race, 1971—Continued

Offense charged	Arrests 18 and over ¹						Percent distribution						
	Total	White	Negro	Indian	Chinese	Japanese	All others	White	Negro	Indian	Chinese	Japanese	All others
TOTAL	4,702,824	3,232,010	1,302,891	121,733	2,316	2,345	41,630	68.7	27.7	2.6			0.9
Criminal homicide:													
(a) Murder and nonnegligent manslaughter.....	11,255	4,142	6,853	77	7	4	172	36.8	60.9	.7	.1		1.5
(b) Manslaughter by negligence.....	2,299	1,066	5,363	17		6	28	73.8	24.1	.7		.2	1.2
Forcible rape.....	11,682	5,704	6,702	111	1	4	110	46.3	46.8	1.0			.9
Robbery.....	54,220	18,854	34,263	466	14	29	694	34.8	34.8	.8		.1	1.1
Aggravated assault.....	100,536	42,024	46,282	1,200	48	30	954	51.7	45.0	1.2			.9
Burglary—breaking or entering.....	135,645	85,574	1,169	1,269	61	59	1,269	63.3	34.8	.9			.9
Larceny—theft.....	302,438	198,124	97,813	2,659	369	312	3,169	60.0	32.3	1.0	.1	.1	1.0
Auto theft.....	83,777	31,491	29,799	611	111	47	768	58.0	38.6	1.1	.2	.1	1.4
Violent crime ¹	177,695	80,784	93,100	1,844	70	67	1,830	45.5	52.4	1.0			1.0
Property crime ²	491,868	315,489	165,785	4,439	541	418	5,186	64.1	33.7	.9	.1		1.1
Subtotal for above offenses.....	671,852	397,909	290,438	6,300	611	490	7,044	59.2	38.6	.9	.1	.1	1.0
Other assaults.....	229,119	140,173	83,787	2,113	60	45	1,971	61.4	34.7	.9			.9
Arson.....	4,404	2,492	1,454	44	12	2	50	64.5	33.0	1.0	.3		1.1
Forgery and counterfeiting.....	35,140	23,029	11,155	239	7	11	99	67.2	31.7	.7			.3
Fraud.....	85,968	64,725	20,610	322	16	9	277	75.3	24.0	.4			.3
Embezzlement.....	5,773	4,269	1,459	20			34	73.8	23.8	.3			.6
Stolen property; buying, receiving, possessing.....	36,860	23,095	14,181	222	21	15	326	61.5	37.0	.6	.1		.8
Vandalism.....	30,832	21,055	8,304	315	14	11	383	70.5	27.2	1.0			1.3
Weapons; carrying, possessing, etc.....	83,379	38,190	43,587	642	40	22	928	45.3	52.2	.8			1.1
Prostitution and commercialized vice.....	40,353	14,721	26,142	144	22	14	320	36.5	52.3	.4	.1		.8
Sex offenses (except forcible rape and prostitution).....	36,535	28,073	7,281	524	31	36	520	77.8	19.8	.8		.1	1.4
Narcotic drug laws.....	257,938	191,841	62,697	742	165	258	1,790	74.5	24.3	.3	.1		.7
Gambling.....	72,084	19,703	49,489	71	176	420	2,225	27.3	68.7	.1	.2		3.1
Offenses against family and children.....	50,156	34,511	14,998	360	8	6	287	68.8	26.9	.7			.6
Offenses under the influence.....	449,285	300,389	78,194	8,456	126	338	2,783	66.0	17.4	1.9	.6	.1	.6
Liquor laws.....	131,613	108,890	19,338	2,680	22	53	730	82.7	14.7	2.0			.6
Drunkenness.....	1,395,020	1,022,061	280,982	84,345	496	178	7,488	73.2	20.1	6.0			.5
Disorderly conduct.....	466,541	293,225	195,016	6,791	197	86	8,366	62.8	33.9	1.6			1.8
Vagrancy.....	50,207	36,215	12,677	963	18	16	318	72.1	26.2	1.9			.6
All other offenses (except traffic).....	833,974	382,500	190,023	6,483	254	324	6,410	71.6	26.0	1.2	.1		1.0
Suspicion.....	35,184	23,344	11,271	318	60	10	131	66.3	32.0	.9	.2		.5
Curfew and loitering law violations.....													
Runaways.....													

¹ Violent crime is offenses of murder, forcible rape, robbery and aggravated assault.

² Property crime is offenses of burglary, larceny and auto theft.

³ Data used only when adult and juvenile race furnished.

Source: 1972 Uniform Crime Reports for United States 129 (1972).

APPENDIX C

Offense Charged	1970		1971		Female Change	1971		1972		Female Change
	M	F	M	F		M	F	M	F	
Homicide	85.6	14.4	83.7	16.3	+ 1.9	83.7	16.3	84.6	15.4	.9
Robbery	93.9	6.1	93.7	6.3	+ .2	93.7	6.3	93.5	6.5	+ .2
Aggravated Assault	87.4	12.6	86.7	13.3	+ .7	86.7	13.3	86.8	13.2	.1
Burglary	95.3	4.7	95.1	4.9	+ .2	95.1	4.9	94.8	5.2	+ .3
Larceny	72.1	27.9	71.9	28.1	+ .2	71.9	28.1	70.3	29.7	+1.6
Forgery & Counterfeiting	90.8	9.2	75.5	24.5	+15.3	75.5	24.5	75.2	24.8	+ .3
Embezzlement	72.9	27.1	75.1	24.9	2.2	75.1	24.9	73.7	26.3	+1.4
Prostitution & Commercialized Vice	20.7	79.3	22.3	77.7	1.6	22.3	77.7	25.9	74.1	-3.6
Sex Offenses	87.2	12.8	88.0	12.0	.8	88.0	12.0	91.0	9.0	-3.0
Runaway	48.4	51.6	45.3	54.7	+ 3.1	45.3	54.7	43.6	56.4	+1.7

FOOTNOTES

- ¹K. BURKHART, *WOMEN IN PRISON* 399 (1973) [hereinafter cited as BURKHART].
- ²*Id.* at 398-99.
- ³L. ORLAND, *JUSTICE, PUNISHMENT, TREATMENT: THE CORRECTIONAL PROCESS* 188 (1973) [hereinafter cited as ORLAND].
- ⁴R. GIALLOMBARDO, *SOCIETY OF WOMEN: A STUDY OF A WOMEN'S PRISON* 6-17 (1966) [hereinafter cited as GIALLOMBARDO].
- ⁵Klein, *The Etiology of Female Crime: A Review of the Literature*, 8 *ISSUES IN CRIMINOLOGY*, No. 2, 3, 4 (1973) [hereinafter cited as Klein].
- ⁶*Id.* at 5.
- ⁷S. GLUECK & E. GLUECK, *FIVE HUNDRED DELINQUENT WOMEN* 186 (1934) [hereinafter cited as GLUECK].
- ⁸Goldman, *Women's Crime in a Male Society*, 22 *JUVENILE CT. J.*, No. 2, 33 (1971) [hereinafter cited as Goldman]; S. HALLECK, *PSYCHIATRY & THE DILLEMMAS OF CRIME* 138 (1971); Chesney-Lind, *Judicial Enforcement of the Female Sex Role: The Family Court and the Female Delinquent*, 8 *ISSUES IN CRIMINOLOGY*, No. 2, 51, 54 (1973).
- ⁹BURKHART, *supra* note 1, at 54.
- ¹⁰*Id.* at 55, 72.
- ¹¹Klein, *supra* note 5, at 5-6; Goldman, *supra* note 8, at 33.
- ¹²Bustamante, *The Nature of Female Criminality*, 8 *ISSUES IN CRIMINOLOGY*, No. 2, 117 (1973) [hereinafter cited as Bustamante].
- ¹³*Id.* at 119.
- ¹⁴*Id.* at 120.
- ¹⁵*Id.* at 121-23.
- ¹⁶*Id.* at 123.
- ¹⁷*Id.* at 123-24.
- ¹⁸*Id.* at 125-26.
- ¹⁹*Id.* at 126-27.
- ²⁰*Id.* at 128.
- ²¹*Id.* at 129.
- ²²*Id.* at 129-31.
- ²³*Id.* at 131.
- ²⁴BURKHART, *supra* note 1, at 83.
- ²⁵*Id.* at 72; Comment, *Women's Prisons: Laboratories of Penal Reform*, *WIS. L. REV.* 210, 211 (1973) [hereinafter cited as *Women's Prisons*].
- ²⁶J. EYMAN, *PRISONS FOR WOMEN: A PRACTICAL GUIDE TO ADMINISTRATION PROBLEMS* (1971) [hereinafter cited as EYMAN].
- ²⁷*Women's Prisons*, *supra* note 25, at 219.
- ²⁸*Id.* at 213.
- ²⁹BURKHART, *supra* note 1, at 253.
- ³⁰EYMAN, *supra* note 26, at 28-33.
- ³¹GLUECK, *supra* note 7, at 10-21; GIALLOMBARDO, *supra* note 4, at 56-67.

- ³²BURKHART, *supra* note 1, at 295.
- ³³GLUECK, *supra* note 7, at 20-21.
- ³⁴EYMAN, *supra* note 26, at 44-56.
- ³⁵D. WARD & G. KASSEBAUM, *WOMEN'S PRISON: SEX AND SOCIAL STRUCTURE* 28 (1965) [hereinafter cited as WARD].
- ³⁶*Id.* at 70.
- ³⁷*Id.* at 14.
- ³⁸*Id.* at 15; *Women's Prisons*, *supra* note 25, at 224-25.
- ³⁹*Women's Prisons*, *supra* note 25, at 225; WARD, *supra* note 35, at 15; BURKHART, *supra* note 1, at 410-14.
- ⁴⁰Comment, *The Prisoner-Mother and Her Child*, 1-3 CAPITAL U. L. REV. 127, 127-28 (1972-74) [hereinafter cited as *The Prisoner-Mother*].
- ⁴¹BURKHART, *supra* note 1, at 259-63.
- ⁴²*The Prisoner-Mother*, *supra* note 40, at 128-29.
- ⁴³*Id.* at 129-30; Goldman, *supra* note 8, at 35.
- ⁴⁴*The Prisoner-Mother*, *supra* note 40, at 132.
- ⁴⁵231 Oregon Reports 65, 371 P. 2d 68 (1962).
- ⁴⁶*Id.* at 69.
- ⁴⁷*The Prisoner-Mother*, *supra* note 40, at 133.
- ⁴⁸BURKHART, *supra* note 1, at 382; *Women's Prisons*, *supra* note 25, at 225.
- ⁴⁹BURKHART, *supra* note 1, at 201.
- ⁵⁰*Id.* at 260-64.
- ⁵¹WARD, *supra* note 35, at 15.
- ⁵²EYMAN, *supra* note 26, at 123.
- ⁵³WARD, *supra* note 35, at 10-14.
- ⁵⁴BURKHART, *supra* note 1, at 124-26.
- ⁵⁵*Id.* at 236.
- ⁵⁶*Women's Prisons*, *supra* note 25, at 220.
- ⁵⁷WARD, *supra* note 35, at 14; BURKHART, *supra* note 1, at 131.
- ⁵⁸WARD, *supra* note 35, at 14.
- ⁵⁹BURKHART, *supra* note 1, at 129.
- ⁶⁰*Women's Prisons*, *supra* note 25, at 125.
- ⁶¹BURKHART, *supra* note 1, at 257-58.
- ⁶²Nagel & Weitzman, *Women as Litigants*, 23 HASTINGS L. J. 171, 171-73 (1971-72) [hereinafter cited as Nagel].
- ⁶³*Id.* at 176.
- ⁶⁴*Id.*
- ⁶⁵*Id.* at 177-78.
- ⁶⁶*Id.* at 177 n. 17.
- ⁶⁷BURKHART, *supra* note 1, at 253-57; Nagel, *supra* note 62, at 178, 181-82.

- ⁶⁸WARD, *supra* note 35, at 18-21.
- ⁶⁹*Id.* at 26-28, 32-36.
- ⁷⁰*Id.* at 37-52; ORLAND, *supra* note 3, at 174-78.
- ⁷¹WARD, *supra* note 35, at 69-75; BURKHART, *supra* note 1, at 363-65.
- ⁷²GIALLOMBARDO, *supra* note 4, at 163.
- ⁷³EYMAN, *supra* note 26, at 139.
- ⁷⁴WARD, *supra* note 35, at 75-76.
- ⁷⁵BURKHART, *supra* note 1, at 366-76.
- ⁷⁶GIALLOMBARDO, *supra* note 4, at 62-67; *Women's Prisons*, *supra* note 25, at 225.
- ⁷⁷BURKHART, *supra* note 1, at 295-309; *Women's Prisons*, *supra* note 25, at 225-26; GIALLOMBARDO, *supra* note 4, at 61-62.
- ⁷⁸BURKHART, *supra* note 1, at 296-97.
- ⁷⁹*Id.* at 283.
- ⁸⁰*Id.* at 283-306; GIALLOMBARDO, *supra* note 4, at 65.
- ⁸¹EYMAN, *supra* note 26, at 12-14; BURKHART, *supra* note 1, at 296.
- ⁸²GIALLOMBARDO, *supra* note 4, at 73.
- ⁸³BURKHART, *supra* note 1, at 132.
- ⁸⁴*Id.*
- ⁸⁵*Id.* at 327-63.
- ⁸⁶*Id.* at 396-408.
- ⁸⁷*Id.* at 271.
- ⁸⁸Brown, Emerson, Falk & Freedman, *The Equal Rights Amendment: A Constitutional Basis for Equal Rights for Women*, 80 YALE L. J. 871, 954-65 (1971).
- ⁸⁹Elmendorf, *Prostitution Bill Would Trick Tricks*, *Indiana Daily Student*, February 14, 1975, at 3, col. 1.
- ⁹⁰*The Prisoner-Mother*, *supra* note 40, at 134.
- ⁹¹*Id.* at 135-37.
- ⁹²*Id.* at 137-38.
- ⁹³CAL. PENAL CODE ANN. § 3401 (Deering 1971) provides:
- If any woman received by or committed to said institution to have a child under two years of age, or gives birth to a child while an inmate of said institution, such child may be admitted to, and retained in, said institution until it reaches the age of two years, at which time said board may arrange for its care elsewhere; and provided further, that at its discretion in exceptional cases said board may retain such child for a longer period of time.
- ⁹⁴*The Prisoner-Mother*, *supra* note 40, at 139-40.
- ⁹⁵*Id.* at 142-43.
- ⁹⁶EYMAN, *supra* note 26, at 4.
- ⁹⁷BURKHART, *supra* note 1, at 91-92.
- ⁹⁸*The Ex-Con's Unhappy Lot*, *Newsweek*, February 25, 1975, at 86-87.

⁹⁹*Women's Prisons, supra* note 25, at 219-20, 226; Gauper, *New Programs*, AM. CORRECTIONAL ASS'N. 227 (1971).

¹⁰⁰*Working To Stay Out Of Jail*, McCall's, July, 1974, at 35.

¹⁰¹BURKHART, *supra* note 1, at 290-91.

¹⁰²281 F. Supp. 8 (D. Conn. 1968).

¹⁰³C.G.S.A. § 17-360 (1961), *as amended*, C.G.S.A. § 18-65 (1972) provides:

Women over sixteen years of age belonging to any of the following classes may be committed by any court of criminal jurisdiction to said institution: First, persons convicted of, or who plead guilty to, the commission of felonies; second, persons convicted of, or who plead guilty to, the commission of misdemeanors, including prostitution, intoxication, drug-using and disorderly conduct; third, unmarried girls between the ages of sixteen and twenty-one years who are in manifest danger of falling into habits of vice or who are leading vicious lives, and who are convicted thereof in accordance with the provisions of section 17-379; fourth, women sentenced to jails. . . . The court imposing a sentence on offenders of any class shall not fix the term of such commitment. . . . The duration of such commitment, including the time spent on parole, shall not exceed three years, except when the maximum term specified by law for the crime for which the offender was sentenced exceeds that period, in which event such maximum term shall be the limit of detention under the provisions of this chapter, and, in such cases, the trial court shall specify the maximum term for which the offender may be held under such commitment.

¹⁰⁴281 F. Supp. at 11.

¹⁰⁵*Id.* at 14.

¹⁰⁶ORLAND, *supra* note 3, at 371-72.

¹⁰⁷BURKHART, *supra* note 1, at 399.

¹⁰⁸R. CLARK, *CRIME IN AMERICA: OBSERVATIONS ON ITS NATURE, CAUSES, PREVENTION AND CONTROL* 219-22 (1970) [hereinafter cited as CLARK].

¹⁰⁹BURKHART, *supra* note 1, at 42.

¹¹⁰*Id.* at 201; *Women's Prisons, supra* note 25, at 228-31.

¹¹¹*Women's Prisons, supra* note 25, at 228-31; CLARK, *supra* note 106, at 236.

¹¹²*Juanita Baker: Warden with a Conscience*, *Ebony*, September, 1973, at 70-76.

¹¹³*Id.*; Empery, *Postincarceration Period*, in *ISSUES IN CORRECTIONS: A BOOK OF READINGS* 182, 188-92 (E. Eldefonso, ed. 1974) [hereinafter cited as Empery].

¹¹⁴Harlow, Weber, & Wilkins, *Community-based Correctional Programs*, in *ISSUES IN CORRECTIONS: A BOOK OF READINGS* 337, 372 (E. Eldefonso, ed. 1974).

¹¹⁵*Empery, supra* note 111, at 185-86.

¹¹⁶*Women's Prisons, supra* note 25, at 232.

¹¹⁷*The Prisoner-Mother, supra* note 40, at 140-42.

¹¹⁸*Id.* at 140.

¹¹⁹H. PACKER, *THE LIMITS OF THE CRIMINAL SANCTION* 37 (1968).

¹²⁰CLARK, *supra* note 106, at 213.

¹²¹EMPERY, *supra* note 111, at 182-84.

¹²²BURKHART, *supra* note 1, at 259.