Negative: Dignity for Incarcerated Women Act

By “Coach Vance” Trefethen

***Resolved: The United States Federal Government should significantly reform its policies regarding convicted prisoners under federal jurisdiction***

Case Summary: The AFF plan passes the Dignity for Incarcerated Women Act. “BOP” = federal Bureau of Prisons, the agency that manages federal prisons and prisoners. Most of the DIW Act is already federal policy. But we do agree with AFF about one thing: Women are treated differently in federal prison. They’re treated MUCH BETTER. Women have it easy compared to men.

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Negative: Dignity for Incarcerated Women Act

TOPICALITY

1. No significant reform

Definition of significant

Merriam Webster Online Dictionary copyright 2021. https://www.merriam-webster.com/dictionary/significant

of a noticeably or measurably large amount

Definition of policy

Merriam Webster Online Dictionary copyright 2021. https://www.merriam-webster.com/dictionary/policy

a high-level overall plan embracing the general goals and acceptable procedures especially of a governmental body

Status Quo Bureau of Prisons policy is providing specialized initiatives addressing needs of women

Federal Bureau of Prisons 2021. (article is undated but references material published in May 2021) “Female Offenders” <https://www.bop.gov/inmates/custody_and_care/female_offenders.jsp> (accessed 11 Sept 2021)

Women in Bureau custody are offered many of the same educational and treatment programs that are available to male offenders; however, women in prison differ from their male counterparts in significant ways. For example, women are more likely to be primary caregivers for children, experience economic hardship, employment instability, and have fewer vocational skills as compared with males. They are more likely than men have a history of trauma and abuse, which poses additional challenges for reentry. Therefore, specialized initiatives and programs are offered at female sites which are trauma-informed and address women's specific gender-based needs.

Violation: A little more of the same isn’t significant reform of policy

Status Quo high-level overall plan is to provide special services for women in federal prison. Affirmative agrees with Status Quo policy and advocates doing a little more of it. A substantial reform would have been to abolish the Bureau of Prisons’ special treatment for women.

Impact: No one affirming the resolution means Negative ballot.

Both sides are advocating the Status Quo, so there is no one affirming the resolution for significant reform. If no one affirms the resolution, then no matter who wins the round, you should vote Negative.

INHERENCY

1. Existing programs for women in federal prison

Bureau of Prisons has greatly expanded women’s services: Added over 15 programs like EBBR and PA

Federal Bureau of Prisons 2021. (article is undated but references material published in May 2021) “Female Offenders” <https://www.bop.gov/inmates/custody_and_care/female_offenders.jsp> (accessed 11 Sept 2021)

In meeting the gender specific needs of women, the Bureau has greatly increased the programming and services which are available to women. These initiatives include additions to the First Step Act (FSA) required Evidence Based Recidivism Reduction (EBRR) Programs and Productive Activities (PAs) available for women. The agency provides more than 15 programs specifically for women. We recently added college programming for women as well. More information on EBBR Programs and PAs can be found in the [First Step Act Approved Programs Guide](https://www.bop.gov/inmates/fsa/docs/fsa_program_guide_2107.pdf).

Programs for trauma, drug abuse, mental illness and vocational training have all been added for women in federal prison

Federal Bureau of Prisons 2021. (article is undated but references material published in May 2021) “Female Offenders” <https://www.bop.gov/inmates/custody_and_care/female_offenders.jsp> (accessed 11 Sept 2021)

The Bureau's flagship women's program is the Foundation Program, which assists women in assessing their individual needs and translating the results of that assessment into the selection of programs and plans to meet their goals. It is offered at all female sites. The FIT Program (Female Integrated Treatment Program) is a residential treatment program that offers integrated cognitive-behavioral treatment for substance use disorders, mental illness, and trauma related disorders, as well as vocational training, to female inmates. The Resolve Program which is a non-residential trauma treatment EBRR program for women has also been expanded to all female facilities housing designed women. Additionally, the EBRR National Parenting Program includes gender specific modules added for women. The Bureau also provides a wide range of PAs for women that address gender specific needs including domestic violence survival, aging, pro-social and assertive communication skills, emotional regulation, relationships, job and work force skills, and criminal thinking.

Programs for pregnancy and childbirth: MINT and RPP

Federal Bureau of Prisons 2021. (article is undated but references material published in May 2021) “Female Offenders” <https://www.bop.gov/inmates/custody_and_care/female_offenders.jsp> (accessed 11 Sept 2021)

Women in prison are often the primary or sole caregivers of children prior to incarceration. For offenders who will give birth during their incarceration, there are two programs offered to assist these mothers before, during, and after childbirth; these include Mothers and Infants Together (MINT) and the Residential Parenting Program (RPP). The MINT Program is a community residential program that aims to assist offenders during the last two months of pregnancy. Eligible inmates are transferred to a Residential Reentry Center and remain there for up to three months after birth to bond with their children before returning to the institution to complete their sentence. Inmates may be permitted to stay longer. MINT locations include Phoenix, AZ; Tallahassee, FL; Springfield, IL; Fort Worth, TX; and Hillsboro, WV. RPP is offered to pregnant inmates through the Washington Department of Corrections (WADOC). RPP allows minimum security inmates with a sentence of less than 30 months the opportunity to reside with their babies after birth in a supervised environment for up to 30 months. During this time, the mothers also receive a variety of services such a mental health, medical care, vocational training, and child care.

More details on the MINT program for pregnant inmates

US Justice Dept. Office of the Inspector General 2018. Sept 2018 “Review of the Federal Bureau of Prisons’ Management of Its Female Inmate Population” <https://oig.justice.gov/reports/2018/e1805.pdf> (accessed 14 Sept 2021)

The Mothers and Infants Nurturing Together (MINT) program, managed by BOP’s Residential Reentry Management Branch, is a community-based residential program in which pregnant inmates prepare for delivery and bond with their infant after giving birth. According to BOP’s Female Offender Manual, pregnant inmates in BOP custody are eligible to serve a portion of their sentence at a MINT program site if they are pregnant upon incarceration with an expected delivery date prior to release, have less than 5 years remaining on their sentence, are eligible for halfway house placement, and assume financial responsibility for their child’s care. Female inmates are generally eligible to transfer to a MINT program site during the last 2 months of pregnancy. After birth, the Female Offender Manual requires BOP to allow participating inmates at least 3 additional months to bond with their infant, although the manual recommends 6 months. Once an inmate completes the MINT program, BOP returns the inmate to a BOP institution for the remainder of her sentence.

2. Strip searches

INH: Status Quo prohibits opposite gender strip searches  
MINOR REPAIR: Minor change to staffing would solve remaining issues

US Justice Dept. Office of the Inspector General 2018. Sept 2018 “Review of the Federal Bureau of Prisons’ Management of Its Female Inmate Population” <https://oig.justice.gov/reports/2018/e1805.pdf> (accessed 14 Sept 2021)

We found that BOP’s practice of assigning Correctional Officers to posts solely by seniority has resulted in male Correctional Officers being assigned to posts at which staff must regularly conduct searches of female inmates. Because the Prison Rape Elimination Act of 2003 and BOP policy prohibit cross-gender searches of female inmates, female Correctional Officers must leave other assigned posts to conduct these searches, leading to an inefficient use of Correctional Officer resources. Both female and male institution staff suggested that a small number of posts in female institutions, particularly some of the posts in the Special Housing Unit (SHU)—a unit used to separate inmates from the general population for protective or disciplinary purposes—and the visiting room, be reserved for female staff to ensure that they can conduct inmate searches without disrupting other operations. We agree that BOP should implement this or another approach to ensure the availability of female staff at locations in female institutions where inmate searches are common.

3. Pregnancy programs exist but under-utilized

INH: Plenty of remaining capacity in federal prison pregnancy programs, they just lack awareness  
MINOR REPAIR: Raise awareness and enforce existing regulations

US Justice Dept. Office of the Inspector General 2018. Sept 2018 “Review of the Federal Bureau of Prisons’ Management of Its Female Inmate Population” <https://oig.justice.gov/reports/2018/e1805.pdf> (accessed 14 Sept 2021)

In addition to female inmates being unable to use BOP trauma treatment programs, we estimate that only 37 percent of sentenced pregnant inmates participated in BOP’s pregnancy programs between fiscal year (FY) 2012 and FY 2016. Further, we confirmed that these programs had additional capacity to include more pregnant inmates during this period. We believe that participation is low because BOP inmates and staff lack awareness of these programs. We also determined that BOP staff may apply eligibility criteria more restrictively than intended by BOP headquarters officials and that BOP lacks data to assess inmate interest and participation in its pregnancy programs.

4. Trauma awareness / recovery

**[One of the concerns about women in prison is their past history of exposure to trauma and not getting counseling for it. This is supposedly a big issue, that they’re not getting special trauma recovery that women supposedly need differently from men.]**

Resolve Program at 14 out of 15 federal women’s prisons

US Justice Dept. Office of the Inspector General 2018. Sept 2018 “Review of the Federal Bureau of Prisons’ Management of Its Female Inmate Population” <https://oig.justice.gov/reports/2018/e1805.pdf> (accessed 14 Sept 2021)

The Resolve program, managed by BOP’s Psychology Services Branch and offered at 14 of BOP’s 15 female institutions, is a national treatment program for female inmates with a history of trauma-related mental illnesses. According to the Psychology Services Branch, the objective of the Resolve program is to promote positive behavioral changes that decrease the incidence of trauma-related psychological disorders and improve inmates’ level of functioning. Psychology Services staff emphasized the importance of this program because of the high number of female inmates with a history of trauma or victimization prior to incarceration. All inmates undergo an intake interview with a Psychologist at the beginning of their BOP incarceration. If a female inmate describes a history of trauma during this intake interview, the Psychologist will recommend that she sign up for the Resolve program’s introductory workshop. Participation in the Resolve program is voluntary.

New pilot program underway: the FIT program at Danbury facility

US Justice Dept. Office of the Inspector General 2018. Sept 2018 “Review of the Federal Bureau of Prisons’ Management of Its Female Inmate Population” <https://oig.justice.gov/reports/2018/e1805.pdf> (accessed 14 Sept 2021)

In the fall of 2017, the Psychology Services Branch, in coordination with the Women and Special Populations Branch, piloted the Female Integrated Treatment (FIT) program at BOP’s low security female institution in Danbury, Connecticut. According to BOP, the FIT program offers evidence-based treatment for trauma, substance abuse, and mental health in a comprehensive, holistic program. The program begins with a 4-month educational curriculum that includes a Trauma in Life workshop as well as basic drug and mental health education.

5. Provisions of Dignity for Incarcerated Women already current policy

SQ policy: Gender specific approach to corrections, health services, feminine hygiene, female officers strip searching

US Justice Dept. Office of the Inspector General 2018. Sept 2018 “Review of the Federal Bureau of Prisons’ Management of Its Female Inmate Population” <https://oig.justice.gov/reports/2018/e1805.pdf> (accessed 14 Sept 2021)

The BOP defines gender-responsive approaches to corrections as those that are based on an understanding of the ways female inmates are different from male inmates and that specifically aim to address those differences. In particular, BOP has established gender-specific policies pertaining to access to female and reproductive health services, to the provision of feminine hygiene products, and to the implementation of regulatory requirements that ensure female inmates are physically searched only by female BOP employees.

HARMS / SIGNIFICANCE

1. Pregnancies in federal prison are insignificant

Link: 180 pregnant prisoners in a single year, 94 gave birth in prison

US Dept of Justice 2021. (Bureau of Justice Statistics) Feb 2021 “Federal Prisoner Statistics Collected under the First Step Act, 2020” <https://bjs.ojp.gov/content/pub/pdf/fpscfsa20.pdf> (accessed 11 Sept 2021)

Of the 180 pregnant prisoners in federal custody in 2019, a total of 94 gave birth in custody and 74 were released before giving birth (table 2).

Link: 153,000 federal prisoners total

Zoukis Consulting Group 2020. (Christopher Zoukis, MBA, is the Managing Director of the Zoukis Consulting Group, a federal prison consultancy that assists attorneys, federal crimial defendants, and federal prisoners with prison preparation and in-prison matters ) (article is undated but references material published in 2020) “Federal Bureau of Prisons” <https://prisonerresource.com/federal-prisons/> (accessed 11 Sept 2021)

The Federal Bureau of Prisons incarcerates 153,248 federal prisoners across 37 states. These inmates are held in 127 stand-alone federal prisons, 68 satellite prison camps, and 12 private prisons.

Impact: Do the math. Impact of the plan on the resolutional topic is miniscule, not significant

180 pregnant prisoners out of a population of 153,248 = 0.12%  
94 giving birth out of a population of 153,248 = 0.06%

Exactly 1 case of front-hand restraints of a pregnant prisoner in 2019

US Dept of Justice 2021. (Bureau of Justice Statistics) Feb 2021 “Federal Prisoner Statistics Collected under the First Step Act, 2020” <https://bjs.ojp.gov/content/pub/pdf/fpscfsa20.pdf> (accessed 11 Sept 2021)

In 2019, there was one instance of a pregnant prisoner being placed in front-hand restraints for disruptive behavior.

2. A/T “Women have it harder than men in federal prisons” – Quite the opposite. They have it easier

Women have shorter sentences than men. Average of ½ as long

US Justice Dept. Office of the Inspector General 2018. Sept 2018 “Review of the Federal Bureau of Prisons’ Management of Its Female Inmate Population” <https://oig.justice.gov/reports/2018/e1805.pdf> (accessed 14 Sept 2021)

Female inmates also tend to have shorter sentences than male inmates. For example, as of September 2016, the median total sentence length for female inmates in BOP custody was 5 years, whereas the median total sentence length for male inmates was 10 years.

Nearly all women are in low or minimum security facilities

US Justice Dept. Office of the Inspector General 2018. Sept 2018 “Review of the Federal Bureau of Prisons’ Management of Its Female Inmate Population” <https://oig.justice.gov/reports/2018/e1805.pdf> (accessed 14 Sept 2021)

BOP has four security classification levels for inmates: high, medium, low, and minimum. Nearly all sentenced female inmates are classified as low or minimum security. BOP does not classify female inmates as medium security but does classify a small number as high security. BOP institutions are also assigned security levels, and BOP generally assigns inmates to institutions that correspond with their security level.

Minimum security Dublin Federal Prison Camp for women: It’s relaxed and sounds like Summer Camp!

Michael Santos 2021 (professor of criminal justice at San Francisco State Univ.; served 25 years in federal prison) 18 May 2021 “Women’s Federal Prison Camp” <https://prisonprofessors.com/womens-federal-prison-camp/> (accessed 15 Sept 2021)

The camp is small, but staff members operate it in a relaxed way. Some may feel that there is not a whole lot to explore, that it is boring, and not many resources. But a person can easily pass time at the camp by participating in all their programs, working out, doing hobby craft projects, watching TV, reading drawing, writing. I recommend that people use the time to work on self-development and personal growth.

See if you can work up sympathy for the women at Dublin Federal prison camp over their “awful” conditions…

Federal prisoner “Tina” (no last name given) 2021. (prisoner at Dublin Federal Prison Camp, California) 18 May 2021 “Women’s Federal Prison Camp” <https://prisonprofessors.com/womens-federal-prison-camp/> (accessed 15 Sept 2021)

On the weekends the girls try and get a volleyball tournament together and we all go out there and cheer them on like we are a high school cheerleading squad.  The music is cranked up loud and we have a good time.  A lot of the girls go out and sit in the sun, remember we are in California and read a book or just close their eyes and meditate to bring them some peace.  Right now, in this age of Covid, Dublin is one of the smaller camps.  We have around 90 women.  That is small compared to other facilities.  We all know each other, live with each other day in and day out and become sort of a family.  During the holidays are the hardest.  All of us try and keep each other in the spirit of the holiday season and we put on choir concerts, have a holiday party, where the ladies cook for all of the inmates with food we purchased on Commissary.

SOLVENCY [See also the Generic NEG brief from Monument Publishing on “Rehabilitation Fails”]

1. No reduction in recidivism

Every program that’s ever been tried has failed to reduce recidivism

Leonard Adam Sipes, Jr. 2019 (Retired federal senior spokesperson. Thirty-five years of award-winning public relations for national and state criminal justice agencies. Former Senior Specialist for Crime Prevention for the Department of Justice’s clearinghouse. Former Director of Information Services, National Crime Prevention Council. Former Adjunct Associate Professor of criminology and public affairs-Univ. of Maryland) 3 June 2019 Nothing Works For Offender Rehabilitation? <https://www.crimeinamerica.net/nothing-works-for-offender-rehabilitation/> (accessed 9 Sept 2021)

But the issue isn’t the Second Chance Act, it’s EVERY program evaluated by the US Department of Justice and most from other sources. They either don’t reduce recidivism, make things worse or have a marginal impact of less than ten percent. What this means is that when there are reductions in recidivism, over ninety percent of people fail. They are rearrested or reincarcerated. Some multiple times. If over ninety percent of people taking an experimental drug showed no results, the CDC would stop the experiment immediately; continuance would be harmful to society.

DISADVANTAGES

1. More important issues neglected. Like Mental Health

Link: Trauma counseling (the Resolve program) takes resources away from mental health treatment

US Justice Dept. Office of the Inspector General 2018. Sept 2018 “Review of the Federal Bureau of Prisons’ Management of Its Female Inmate Population” <https://oig.justice.gov/reports/2018/e1805.pdf> (accessed 14 Sept 2021)

The Chief of Mental Health Services described this staffing model as “not ideal” and noted that it worked better at camps, which typically have populations of around 300 female inmates, than at larger institutions. She further explained that BOP had not added staff to the Resolve program as of the time of our review because it had to balance competing priorities for psychological resources and had chosen in recent years to prioritize the treatment of serious mental illness.

Impact: Untreated mental illness violates the 8th Amendment and is as cruel as physical injury

Samantha M. Caspar and Artem M. Joukov 2020 (Joukov - has served as a prosecutor both in Alabama and in Florida; currently a Ph.D. student at the University of Southern California. Caspar is an attorney with the law firm of Squire Patton Boggs LLP in Cincinnati) Spring 2020 “MENTAL HEALTH AND THE CONSTITUTION: HOW INCARCERATING THE MENTALLY ILL MIGHT PAVE THE WAY TO TREATMENT,” NEVADA LAW JOURNAL <https://scholars.law.unlv.edu/cgi/viewcontent.cgi?article=1815&context=nlj> (accessed 9 July 2021)

From time to time, prison reform advocates and even federal agencies may argue that a jail or prison is so poorly run that the whole locale violates the Eighth Amendment. Complaints may be raised because the food is nearly inedible or the living conditions so oppressive and dangerous that placing anyone within the facility would constitute cruel and unusual punishment. These claims may prompt action on the part of the offending county or state, and the correctional facilities may then restore a modicum of civility, bringing everything back to normal. Yet for many inmates, improving the menu or eliminating the rodent infestation does not solve the problem. For individuals suffering from severe mental illnesses, being placed in a facility where their psychological needs remain unaddressed might be as cruel, if not more cruel, than allowing them to become physically injured and refusing to provide treatment.