



Under Lock and Key: Hidden Realities for Nebraska Women in Jail and Prison

by Scout Richters

Across the country, the female jail and prison population is on the rise. Between 1980 and 2016, the number of women in American jails and prisons grew from 26,378 in 1980 to 213,722 in 2016, marking a 700% increase.¹ On the state level, 120 out of every 100,000 Nebraska women are housed in state prisons, local jails, or federal facilities.² Nebraska ranks as the 5th highest state for the incarceration of girls.³ Given that the majority of those incarcerated nationally and in Nebraska are men and boys, this troubling steep growth in female incarceration specifically and women's unique needs are often overshadowed by our conversations about prison overcrowding and prison conditions more generally.

Last October, the ACLU of Nebraska released *Let Down and Locked Up: Nebraska Women in Prison*, a report detailing not only the statistics related to Nebraska's female prison population, but also an exploration of the paths that drive Nebraska women to prison, challenges the severely overcrowded and under-resourced Nebraska prison system faces when seeking to provide basic care and services to Nebraska women

during their term of imprisonment, as well as the unique challenges women face when they return to our communities.

Now, one year later, we revisit the state of Nebraska's female prison population, and, in particular, the unique and often hidden effects this system has on women across our state. We also examine another aspect of our criminal justice system as it affects Nebraska women: the cash bail system which results in women being held in county jails across the state before they have ever been convicted of a crime.

With women representing only a small subset of our total Nebraska prison and jail population, their unique experiences and the effects of incarceration on these Nebraskans is all too often overlooked. However, the rise in the number of women in jail and prisons across the country tells us that reform is desperately needed—it is clear that Nebraska women in prison, a majority of whom are mothers and incarcerated for non-violent crimes, are not receiving the rehabilitative treatment to help them reform their lives.

Though the ACLU of Nebraska has a robust and active intake program in which we regularly correspond with Nebraskans housed in jails and prisons across the state, we very rarely hear from women in prisons or jails. In an effort to look beyond the numbers and statistics to better understand the realities of life in prison for Nebraska women, in March 2018, we sent surveys to all women in the three state prison facilities that house females. In these surveys, we asked about their lives, their lived experiences with aspects of prison life such as segregation/administrative confinement, medical care, mental health care, substance abuse treatment, the availability of feminine hygiene products, and incidences of sexual assault in prison. We received approximately 60 survey responses and the stories of these Nebraska women were enlightening. The vast majority

Scout Richters



Scout Richters serves as Legal & Policy Counsel at the ACLU of Nebraska. Scout earned her Juris Doctorate from Brooklyn Law School in 2014. During her time in New York, Scout worked as a legal intern for the National ACLU's Women's Rights Project. Prior to joining the ACLU of Nebraska, Scout was a Staff Attorney at Legal Aid of Nebraska.

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of our responses came from women housed at the Nebraska Correctional Center for Women (NCCW). As such, NCCW will sometimes be referred to as “the prison” hereinafter. The stories you will read below are from those survey responses, though names have been changed to protect identities.

Nebraska Women in Prison by the Numbers

According to the Nebraska Department of Corrections (NDCS) Quarterly Data Sheet for April-June 2018, there were 397 women in the custody of the NDCS. NCCW, located in York, Nebraska, is the only secure facility where Nebraska women serve their prison sentences. A small number of women are able to serve their sentences, or a portion of their sentences, at one of the two minimum security facilities. Commonly referred to as work release centers, many women at the Community Corrections Center in Lincoln (CCC-L) and the Community Corrections Center in Omaha (CCC-O) have jobs in the community while they are completing their sentences. Scheduled to be completed in January 2019, a 160-bed addition to CCC-L is intended to house women in community custody. When the unit is completed, all women currently housed at CCC-L and CCC-O will move there.⁴ This means that many women from Douglas County will likely serve their sentences in York, then begin reintegration in Lincoln, away from community connections and family, hurting their opportunities for successful reentry.

Like all of the adult facilities within NDCS, NCCW, CCC-L, and CCC-O remain in a state of overcrowding. As of June 2018, NCCW is at 115.23% design capacity, CCC-L is at 155.12% design capacity, and CCC-O is at 187.14% design capacity. Seventy-five percent (75%) of our survey respondents identified overcrowding as one of the biggest problems within the prison.

“It is way too crowded in here...Roommates are too many. They are always someone you don’t get along with.” - Haley

Mirroring national statistics, in Nebraska, women of color and low-income women are disproportionately represented at every stage of the criminal justice system including the female prison population. For example, while Nebraska itself is 88.6% White, 5.1% Black, and 11% Hispanic,⁵ the Nebraska female prison population as of September 27, 2018, was 69.9% White, 13.3% Black, and 7.5% Hispanic.

We know that women are much less likely to commit violent offenses than men.⁶ Women are more likely than men to be incarcerated for drug offenses or property crimes.⁷ The rise in the rates of incarcerated women is undoubtedly connected to deliberate policy changes and state and federal drug enforcement policies that require prison for even relatively low-level drug offenses.⁸

Importantly, evidence suggests that women who are convicted of crimes of violence often commit these acts in self-defense, rather than in a premediated fashion. Further, when women do commit violent acts, they are often against members of their immediate family or their intimate partners.⁹

According to most recent annual report by NDCS, published in 2014, Nebraska women, consistent with national statistics, are primarily in prison for nonviolent offense. According to the 2014 report, almost half of the women in prison are there for drug offenses (30.2%) and theft (14.5%). By contrast, only 6.6% of women in prison are incarcerated for a homicide offense.¹⁰

Nationally, more than 60% of women in state prisons have minor children¹¹ and many of our survey respondents indicated that they were mothers, many of whom were the primary caregivers prior to their incarceration. Given that all women who are sentenced to prison in Nebraska are sent to York to serve their time, it can be difficult for women behind bars, many of whom are from Lincoln or Omaha, to maintain vital connections to their children and families. Though the familial and societal impacts of parental incarceration encompass both men and women who are incarcerated, Nebraska’s system of mass incarceration has grown so unwieldy that today nearly one in ten Nebraska children will have a parent in the criminal justice system at some time in their childhood.¹²

Living Locked Up

Overcrowded and understaffed Nebraska prisons have resulted in a system in which prisoners, including women, are routinely denied adequate medical, dental, and mental healthcare, as well as access to programming and services leaving them ill-equipped for success upon reentry into our communities. Many of our survey respondents reported that they felt as if some staff did not care about those in the prison and also that due to high staff turnover, many who work at NCCW are untrained and/or not knowledgeable about programs or protocol. The following are only a small sampling of some of the overarching issues that Nebraska women in prison face.

Medical Care

Women in prisons across the country receive inadequate medical care. Incarcerated women generally have more health problems than women who are not in custody. One study recently found that 67% of women in jails and 63% of women in prisons report having chronic health conditions or infectious diseases.¹³ Reasons for these high rates of medical problems among female prisoners include lack of access to care prior to incarceration due to poverty, high rates of substance abuse, and poor nutrition.

An overwhelming 69% of survey respondents identified inadequate medical care as one of the biggest problems in

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prison. Survey respondents cited long waits (between two weeks and four months) to see someone, that no doctor regularly visits the prison (generally only nurses or nurse practitioners), and a frequent suggestion that medical problems could be solved by drinking more water.

"I had blood in my urine [. . .] for three days. I sent multiple [grievances] and staff sent 'Non-Emergency.' I was told to drink more water and was in severe pain for 3 days. One the 3rd day, I had to say I was going to call the Ombudsman. Only then was I taken to the ER." - Krystal

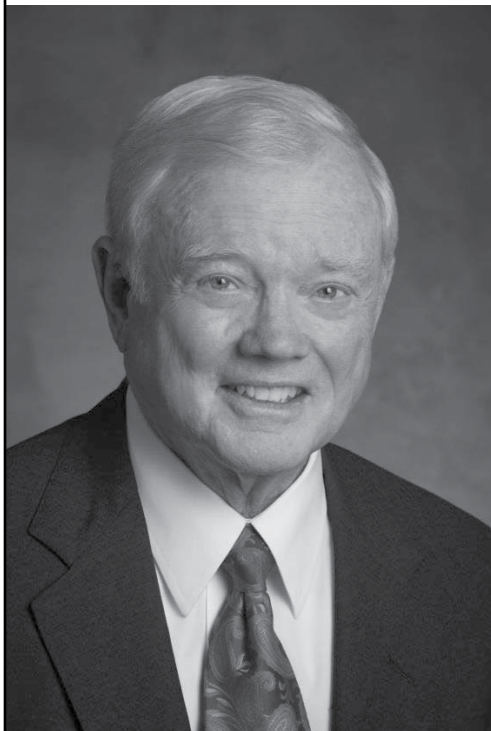
"The lack of medical care for my hip has led to a sedentary lifestyle that's filled with physical and emotional pain, depression and anxiety. I've gained 60 lbs. due to the lack of mobility. I've consistently asked and begged for the institution to (at least) provide adequate pain relief. It's been two years, and -I'm still waiting." - Anne

"The medical department is really irritating. The staff are rude. You're lucky to be able to get it. I have seen a woman faint, get taken up to medical in a wheelchair to have them say it's your blood pressure not give her nothing and told to write a kite [grievance]. 'Oh, and drink plenty of water.' . . . Also, when your meds get ordered it sometimes take two weeks to get them. It's sad to see people get treated the way we do. We are human too!" - Mindy

Mental Health Care

Women prisoners are significantly more likely than male prisoners to report being victims of physical or sexual abuse as children and adults. Some investigations have found that as many as 98% of incarcerated women have had histories of trauma. One national study found that as many as 73% of women in prison exhibit mental health problems. As such, effective mental health services for women during their time in prison is vital to ensuring their success upon their release.

In regard to mental health services for women in prison in Nebraska, our survey provided fascinating insight. To begin, nearly half of survey respondents identified mental health services as one of the biggest issues in the prison. Several common themes emerged from survey responses with regard to the mental health services available at NCCW. While several respondents wrote highly of their therapists, some cited two to three month long wait times to see a therapist, as well as mental health grievances being intercepted by a staff member who, instead of offering medication and medication management, offered only mood management classes. Additionally, survey responses indicated that generally prisoners are only able to see a therapist once a month, medications are sometimes taken away abruptly, and that staff only wants to medicate people, rather than help them work through problems using other methods.



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When asked about mental health care in prison. *“It is a joke—they want to feed people pills not help them...I chose not to continue with [the mental health care program] ... [you can get medications] if you want to stand in the snow/rain to get them.”* - Shayla

Staff vacancies and high turnover rates are common throughout NDCS. This is true for behavioral health staff at facilities including NCCW. As of June 2018, NCCW had four vacancies for behavioral health positions. These vacancies include two Mental Health Practitioner II positions, one Chemical Dependency Counselor, and one Psychologist.¹⁴

Access to Substance Abuse Treatment and Programming

A recent multi-site analysis of women in jails found that 82% of women met the lifetime criteria for drug or alcohol abuse or dependence. Additionally, women are twice as likely as men to have co-occurring substance abuse disorders and mental illness.¹⁵ Our survey of Nebraska women in prison showed that waitlists for substance abuse treatment programs can be six months to a year or even longer. Some respondents told us that relationship classes, money management courses, greater opportunities for work release, and more educational programs should be offered.

“Although subtle changes have been made (i.e. classes) toward programming, classes are often cancelled. Staff have been facilitating classes. Some/most are not qualified or prepared. Even after following the grievance procedures, if changes occur they are limited and almost never last. The only consistency is inconsistency.” - Carmen

“Work release should be available a lot sooner than it currently is. I have been incarcerated for 8 years. I just started working a job [in March] with real money...” - Tammy

“I was sexually assaulted as a child by my uncle. I was sexually assaulted and verbally and mentally assaulted by him until I was 38 years of age.... I have been so excited about graduating so I can go to work release in Lincoln! Now I’ve learned that my uncle was transferred to Lincoln Work Release last week!! . . . I’m a drug addict Not a Rapist and he gets more privileges than me!!” - Jan

Nebraska Women in Jail

In recent years, women have been jailed at staggering rates.¹⁶ “Between 1970 and 2014, the number of women in jails increased from under 8,000 to nearly 110,000.”¹⁷ Eighty-two percent (82%) of women are in jail for nonviolent offenses such as drug, theft, and public order violations.¹⁸

Across the country and in Nebraska, our system of cash bail has led to a reality in which people are forced to stay in jail simply because they cannot afford to pay their bond. Although they have not been convicted of a crime, people who can’t pay their bond sit in jail for often low-level offenses and risk losing their jobs, their housing, and even their children.

In response to the injustice of the cash bail system, the ACLU of Nebraska worked to help pass LB 259 in 2017 to reform these practices. However, much of the legislation has yet to be implemented in practice. In July of 2018, the ACLU of Nebraska started the Lancaster County Bail Fund in which bail is posted for individuals who are held pre-trial in the Lancaster County Jail. When individuals benefiting from the bail fund appear for trial, the money is returned to the fund and recycled to assist other Lincoln residents.

In just the short time the bail fund has been in operation, we have seen firsthand how the money bail system hurts Nebraskans, many of whom are women. As of mid-September 2018, nearly 40 individuals, including 14 women, have received bail assistance through the fund. Consistent with the data, many of these women, who are alleged to have committed low-level offenses, are the primary caregivers for their children. Being forced to sit in jail simply because they could not afford bail caused problems with regard to child care, work, and housing for many of these individuals.


Improving the System for Women

The growing number of women in jails and prisons across the country and in our state require that we undertake specific action and meaningful reform to address the problem.¹⁹ Things like alternatives to arrest and the end of the money bail system should be prioritized. Additionally, women in prison are disproportionately more likely to be sexual and physical abuse survivors, have extensive trauma histories, have mental health disorders, and have substance abuse problems. As such, as we know from both national and state statistics, as well as our recent survey sent to all female prisoners in Nebraska, improvements to programming and services within facilities is desperately needed in order to support successful reentry. Meaningful contact with children must be facilitated in order to encourage family connections. The ACLU recently worked with partners to pass LB 776 to ensure that those who are in jails across the state can afford to call loved ones without being subjected to exorbitant rates and fees. Feminine hygiene products must be available in the number and type to meet the needs of the women in prison. NDCS should be recognized for recently implementing a new protocol in which women are provided with free tampons and pads, yet facilities must ensure they are providing sufficient quantities as well as an adequate range of tampons and pads.

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Additionally, NDCS should review and update relevant rules and regulations to ensure clarity in upholding a woman's right to terminate a pregnancy while incarcerated. Further, pregnant women should not be subjected to solitary confinement. Anti-shackling laws for pregnant prisoners during pregnancy, birth, and post-partum are crucial. An examination on existing prenatal care standards including accommodations for clothing, nutrition, care, labor and delivery is necessary. An analysis of rules and regulations to ensure breastfeeding and lactation support should also be made a priority.

Conclusion

Although women make up a small percentage of our overall jail and prison population, we cannot ignore them in our larger conversations about criminal justice system reform, especially in light of the increase in rates of female incarceration over the last decades. Nebraska women feel the impacts of our criminal justice system every day and we must give them the tools they need to prosper when they return as our neighbors in communities across our state. 

"Just because we made mistakes doesn't mean we shouldn't be provided with proper medical care, procedures and the way we are treated by certain members that are employed here."

- Maria

"I hope things get up to par because I'm just passing through, but the ladies that this is their home deserve good things."

- Mindy

Endnotes

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- 9 *Id.*
- 10 *40th Annual Report and Statistical Summary*, NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES (2014), https://corrections.nebraska.gov/sites/default/files/files/46/2014_ndcs_annual_report_reduced.pdf.

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- 15 RESOURCE CENTER ON JUSTICE INVOLVED WOMEN, *supra* note 6.
- 16 See Elizabeth Swavola, Kristine Riley, Ram Subramanian, *Overlooked: Women and Jails in an Era of Reform*, VERA INSTITUTE OF JUSTICE (2016), <http://www.safetyandjusticechallenge.org/wp-content/uploads/2016/08/overlooked-women-in-jails-report-web.pdf>.
- 17 *Id.*
- 18 *Id.*
- 19 ACLU National recently published a series of reports providing state-specific strategies to reduce the jail and prison population. See *Blueprint for Smart Justice Nebraska*, AMERICAN CIVIL LIBERTIES UNION (2018), <https://50stateblueprint.aclu.org/assets/reports/SJ-Blueprint-NE.pdf>. Additionally, in October 2017, the ACLU of Nebraska published a report detailing pathways into the criminal justice system in Nebraska and approaches to improving the now unwieldy system. See Anna Holmquist & Spike Eickholt, *Statehouse to Prison Pipeline*, ACLU NEBRASKA (Oct. 2017), https://www.aclunebraska.org/sites/default/files/field_documents/statehouse_to_prison_pipeline.pdf.

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