

Civil Rights Commission Takes Stand for Female Inmates

AMANDA OTTAWAY February 26, 2020

(CN) — The U.S. Commission on Civil Rights issued a report Wednesday that condemned how state and federal prisons treat female inmates, saying a broad range of disparities in areas from medical care to discipline show that correctional facilities are not designed for or tailored to women’s needs.

In a press call this morning, Commissioner David Kladney said adequate gynecological care for women in prison tops his organization’s list of priorities, as does compliance with the 2003 Prison Rape Elimination Act.

The [233-page report](#) emphasizes the “extremely” high rates of female inmates reporting histories of physical, sexual and mental trauma, and says prisons should adjust accordingly.

“Prisons should implement evidence-based, trauma-informed discipline policies to avoid harsh punishments for minor infractions, and recognizing the significant harms that can result from placement in restrictive housing,” the report states.

As the report says: “Prisoners are one of the few groups in the United States who have a constitutionally protected right to adequate healthcare.”

What investigators have found, however, is that medical services for female inmates in prison are often inadequate, particularly for inmates who are pregnant or have specific psychological needs. The commission addressed its report to President Donald Trump, Vice President Mike Pence and House Speaker Nancy Pelosi, saying institutions that fall short of health care standards should face harsher penalties.

“Change for these women is only possible through public pressure,” said Kladney in the press call.

In addition to improving gynecological, prenatal and mental health care, the report urges officials to prioritize putting women in facilities close to their families.



Razor wire protects a perimeter of the Lee Correctional Institution in Bishopville, S.C.
(AP Photo/Sean Rayford)

More than a quarter of women in federal prisons are staying over 500 miles from their primary residence — a problem complicated by the fact that men, as compared to women, have more facilities available to them, about two men's prisons per state.

Women meanwhile are three times more likely than men to have been the primary caregiver for their children before incarceration. Those who are unable to place their children with family members during their incarceration meanwhile risk losing their parental rights if the children go into foster care.

The report makes other key recommendations including accurate security classifications; free video and low-cost phone services; and free access to feminine hygiene products.

"We look forward to continued work and ensuring justice for women in prison," Commission Chairwoman Catherine Lhamon said on Wednesday's press call.

Another area the commission tackled is the unequal access women have, as compared to men, to prison-diversion programs such as boot camp, educational and drug-treatment programs, halfway houses, and rehabilitation training.

The report credits the Justice Department's actions to date with having helped somewhat to mitigate the sexual abuse perpetuated against incarcerated women, often by prison staff. In some cases, however, investigators found that women who report sexual misconduct continue to experience retaliation.

Sexual abuse of women by prison guards is widespread, and the report underscores the evolving nature of the law on this issue. Due to the balance of power between guards and inmates, consent to sex is impossible — but trial courts have allowed guards to use consent as a defense to sexual assault charges, and the Supreme Court has not yet ruled on the issue.

"Americans don't condone rape and fear as a punishment," Kladney said in the press call.

Women are more likely than men to end up in prison because of nonviolent drug and economic offenses, with nonviolent drug offenders making up 56% of the federal women's prison population and just 47% of the men's.

The report also highlights research that women tend to land in prison

Because of stricter sentencing for women than for men with similar offenses.

At least 50% of women entering prison had experienced physical or sexual abuse prior to their incarceration. Some studies say that number could be as high as 90%.

Female inmates are also much more likely than male ones to be poor: 72% had incomes below \$22,500 before incarcerations, compared to 58% of men. They are less likely to have had full-time jobs.

The report says transgender women placed in men's prisons are at particular risk. According to a Texas federal court ruling cited in the report, this population is nine times more likely than other prisoners to be sexually assaulted.

Many are placed in solitary confinement, also termed "protective custody," allegedly for their own safety, but the report says seclusion can have "severe psychological and physical effects" on inmates.

"While advocates stress the importance of transgender inmates being housed based on their gender identity, most prisons house transgender inmates either by their sex assigned at birth or according to their current genital characteristics," the report states. "This can be highly risky, and increases the probability they will be abused."



Investigators determined that black women represent another population disproportionately put into restrictive housing.

The report calls it common sense that women have the right to facilities and programs that are equal to facilities and programs available to men.

Despite this, the D.C. Circuit Court of Appeals once rejected an equal-protection claim over access to prison programs after finding that women had less access because there are fewer of them incarcerated and because they are generally in prison for shorter periods of time.

In terms of disciplining inmates, the report says gender-responsive and trauma-informed training is still the exception, not the rule — even though it can help the prison overall.

“Through the course of this project, we were reminded over and over not to forget the humanity of incarcerated people,” Kladney said in a statement following the report.

“This important call has been echoed by moral leaders throughout history, and bears repeating. It is all too easy to mentally categorize prisoners as people not worthy of our concern. We must resist this careless pattern of thinking and policy making.”

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