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Judge Brenda Murray

We Have Met the Enemy and He Is Us (Pogo)¹ or Move Over Sisyphus

By Brenda Murray

In 1991, when the National Association of Women Judges (NAWJ) formed Women in Prison Committee (WIP), a feminist scholar warned me that we would not solve all the issues in a year. Twenty-one years later, I am beginning to think she was right. I have been a member of the WIP since its inception. This is a brief summary of my view of WIP's efforts to get the issues surrounding incarcerated women the attention **they** deserve.

Background

As of December 31, 2010, there were 112,822 women under the jurisdiction of state and federal correctional authorities in the United States.² As of July 2012, 6.2 percent of the federal Bureau of Prisons (BOP) population, or 12,170 prisoners, were female, and BOP operated 27 female facilities.³

The number of women in prison has increased dramatically over the last 30 years and the rate of female incarcerations is growing faster than that of men. **There are many reasons for this development**, but the result is that more women are confined in institutions created for men, run by men, and with policies designed for men. As a result, these prisons often lack the resources to accommodate female social, mental, and healthcare needs.⁴

In a *New York Times* book review on July 15, 2012, author Dave Eggers calls *Inside This Place, Not of It* a “must read” book and says:

It's a book of oral histories from incarcerated women in the U.S., and every story is shocking—women shackled to beds during childbirth, women given hysterectomies against their will and the omnipresent sexual abuse at the hands of guards.⁵

Success and Failures

When the newly formed WIP met with a judicial think tank **to request assistance in researching** the issue of women in prison, **instead of support** we received a lecture on our three-part governmental system **and were advised** that the **subject of prisons was the responsibility of the Executive and the confinement of women prisoners** was none of the judicial branch's business. One significant accomplishment is that we do not face this argument anymore.

¹ Walt Kelly (1913–73), cartoonist.

² Paul Guerino, Paige M. Harrison, and William J. Sabol, *Prisoners in 2010*, rev. Feb., 9, 2012, Appendix Table 3, U.S. Bureau of Justice Statistics.

³ Information received from BOP on July 20, 2012.

⁴ Acoca, L. “Defusing the Time Bomb: Understanding and Meeting the Growing Health Care Needs of Incarcerated Women in America,” *Crime & Delinquency* 44.1 (1998): 49–69.

⁵ *Inside This Place, Not of It*, edited by Robin Levi and Ayelet Waldman, McSweeney's Books (2011).

Unfortunately, people are **generally** unsympathetic to incarcerated **people** and policy makers do not want to deal with the issue even though it makes economic sense to do so.

Nevertheless, NAWJ members have played a significant role in bringing about the following positive measures.

Alaska

In November 2006, a 20-person steering committee, under the leadership of Alaska Supreme Court Chief Judge Dana Fabe, organized the first "Success Inside & Out" Conference" at the Hiland Mountain Correctional Center, Eagle River, Alaska. The day-long conference for women within one year of release was modeled after the NAWJ annual conference and consisted of inspiring plenary and closing sessions, thirty concurrent sessions on practical subjects, and a one-on-one mentoring session with a woman community leader who helped the inmate draft a plan for post-incarceration housing, job search, transportation, and where to find professional clothes. The committee produced a detailed manual so that the Alaska conference could be replicated by women judges throughout the country. Chief Judge Fabe and the women in Alaska continue this re-entry event every year.

Maryland

In about 1994, members of the WIP organized a series of speakers at the request of the Warden of the Maryland Correctional Institution for Women (MCIW), Maryland's only women's prison, who was concerned that women serving sentences of 20 years or more were ineligible for re-entry programs **and therefore most of the programs that the prison offered were closed to them. We met with the women and organized an eight-week speaker series on: the appellate process in Maryland criminal cases and post-conviction issues; how to conduct legal research; divorce, child custody, support, and visitation; legislation affecting incarcerated persons; and public benefits and educational opportunities.**

The women requested a Book Club/Writing Session series, now in its twelfth session, where professors from area universities volunteer to come inside MCIW to lead a discussion. The sessions are unforgettable for their candor, humor, revelations, and the gratitude the women show for intellectual activity. One woman exclaimed "Wow" when told she got to keep the book. Another, responding to a comment that the survival tactics of the characters in Cormac McCarthy's *The Road* seemed unbelievable, noted "[t]his is prison, we can make a piano out of toothpaste, Kleenex, and toilet paper." High points of **Book Club sessions** include:

- **a reporter for the Baltimore Sun attended the discussion of *The Immortal Life of Henrietta Lacks*, a local woman, by Rebecca Skloot, and wrote an article which appeared in the newspaper and elicited interest and support from area Book Clubs and a call from Rebecca Skloot;**
- Professor Lillian Doherty, Classics, University of Maryland, for a discussion of Homer's *Ulysses* and *The Penelopiad* by Margaret Atwood,
- Nikki Giovanni, poet and University Distinguished Professor, Virginia Tech University,
- Helen Vendler, A. Kingsley Porter University Professor, Harvard University, to lecture on the poetry of Elizabeth Bishop and Emily Dickinson, and

- Judge Patricia Wald, former Chief Judge, U.S. Court of Appeals for the District of Columbia and member U.N. Tribunal for Crimes in the Former Yugoslavia, for a discussion of *Mountains Beyond Mountains: Healing the World: The Quest of Dr. Paul Farmer*, by Tracy Kidder.

In 2008 and each following year, NAWJ members have followed Alaska's example and organized a "Women Moving Forward Conference" at MCIW. Leaders of this project have included Judges Cathy Serrette, Julie Weatherly, and Brooke Murdock, with participation by several more women judges. U.S. Magistrate Judge Susan Gauvey has managed to find employers willing to conduct job interviews as part of the conference. One year, the inmate fashion show, which is always a high point, featured members of "Girl Scouts Beyond Bars," a troop that meets inside MCIW. Judge Marcella Holland leads the Maryland women judges who actively support the troop, but who draw the line at sleeping on the gym floor on the overnights.

Judge Marielsa Bernard has created and sustained "The Storybook Project," which enables MCIW mothers to read stories to their children. Judge Bernard and volunteers transfer the tape recordings of the mothers reading to disks and send the disks to the children. The books and equipment are all donated.

In 1998, NAWJ WIP members helped incorporate the MCIW College Degree Program, a non-profit whose purpose is to provide college credit classes inside MCIW. Beginning in January 2009, with little financial support from the state, the nonprofit made available to MCIW women each semester developmental math classes and one to three college credit classes that could lead to an AA degree from Anne Arundel Community College. Most classes in subjects like English, Astronomy, College Algebra, and Philosophy and tutoring sessions were led by volunteers or paid for by the nonprofit. Beginning in the fall of 2012, the Goucher Prison Project will begin college classes for a BA degree from Goucher, and the non-profit will continue the developmental classes.

New York

Since 2001, WIP members led by Judge Betty Williams and Judges Cheryl J. Gonzales, Laura L. Jacobsen, and Debra A. James, have organized and facilitated the annual in-prison program, "Beyond the Bars" Holiday Program at the Bayview Women's Correctional Facility in lower Manhattan. The full day of seminars and workshops provides information to incarcerated women on how to successfully re-enter their respective communities. Facilitated by volunteer lawyers and representatives from community based organizations, the workshops cover topics such as Permanent Housing Options/Other Entitlement Benefits; Parole Matters; Foster Care, Custody and Parental Rights; Successful Dressing; How to Overcome Criminal Record Barriers; Financial Planning, Careers in the Construction Industry; and Life Skills/Motivational Workshops. WIP members organize similar events throughout the year at Beacon Correctional Facility (Beacon, NY), Bedford Hills Correctional Facility (Bedford Hills, NY) and Taconic Correctional Facility (Bedford Hills, NY).

The afternoon of the Holiday Program consists of musical entertainment, donating gifts that the incarcerated women can give to their children and grandchildren, and providing gift bags for the women. The gift bags include toiletries (lotion, shampoo, and conditioner), Vaseline,

deodorant (solid only, alcohol free), toothpaste, toothbrush, combs, wash cloths, white socks, note cards, day planners, emery boards, clear nail polish and candy canes. WIP members regularly donate toiletries, clothing, accessories, bags and luggage for incarcerated women at the above cited facilities and, in 2011, donated books to upgrade prison libraries and initiated a book drive for women prison libraries by the national organization.

With approval from the New York State Advisory Committee on Judicial Ethics, individual WIP members, in collaboration with the Correctional Association of New York, supported the successful passage of the legislation affecting incarcerated persons in New York State: Medicare Suspension Bill; Adoption and Safe Families Act Expanded Discretion Bill; Anti-Shackling of Pregnant Prisoners Bill; and DOH Oversight of HIV/AIDS and Hepatitis Care in the Prisons. WIP members support passage of the Domestic Violence Survivors Justice Act, which would allow judges to consider the violence suffered by domestic violence survivors at the time of sentencing and grant judges discretion to impose either shorter determinate sentences or place survivor defendants in alternative-to-incarceration programs when abuse was a “significant contributing factor” to the committed crime.

With several other organizations, the WIP sponsored:

A symposium called “From Protection to Punishment: Barriers to Justice for Domestic Violence Survivor-Defendants in New York State,” which included a discussion of the AVON Global Center’s report and a dialogue on legislative efforts to allow judges to take domestic violence into consideration when sentencing survivors convicted of crimes as a result of abuse.

The preview screening of “Strength of a Woman,” which examines the connection between domestic violence and criminal behavior, with a discussion at Columbia University.

A showing of the documentary “Mothers of Bedford” at the Association of the Bar of the City of New York with a panel discussion including the film maker and formerly incarcerated mothers featured in the film.

A seminar, “Collateral Consequences to a Criminal Conviction,” at Taconic Correctional Facility.

A performance of “The Castle,” the highly acclaimed Broadway play on the lives of four formerly incarcerated New Yorkers and their re-entry into their respective communities, at the Castle, the nickname for Fortune Academy, the Fortune Society’s residential housing and multi-service facility in West Harlem that provides a broad array of services to assist people transition from prison.

Washington, DC

In 2000, with support from the National Institute of Corrections, NAWJ produced “Sentencing Women Offenders: A Training Curriculum for Judges,” a six-hour course with lesson plans.

Since at least 1999, the WIP has met with the Director of the BOP and other government officials where it raises issues such as: adequate health care; shackling during childbirth; an in-house nursery following the example of some states that would allow women to keep their new

babies for a number of years; the lack of resources for women's programs, training, and education; increased drug treatment; use of community sentencing; and the importance of visits by children and family.

Discussions with BOP and other government officials are always friendly but unproductive. For example:

(1) a 2001 request that the Attorney General set up a group from inside and outside government to focus on women in prison got little response;

(2) in 2004, BOP represented that it could find no instance where a woman inmate had been "restrained or secured" during childbirth, but it refused to agree to change its policies and procedures that allow shackling. In 2008, BOP changed its procedures at the behest of other organizations;

(3) a few years ago, after six or seven years of negotiations and within a month or so of a planned opening, BOP reneged on a commitment to open an in-house nursery in an institution; and

(4) in 2012 or 2013, BOP will begin operating a women's prison and camp, capacity 1,750, in Aliceville, Alabama, an isolated location, with an approximate population of 2,400. **Visit by inmate family will be expensive and almost impossible, available health care in the community is minimal, and volunteer services to assist in re-entry efforts are non-existent. When legislation that would provide operating funds for Aliceville was before the Senate, WIP sent a letter to the attention of every United States Senator, except those from Alabama, which contained a Fact Sheet detailing why a new federal prison for women in Aliceville, reportedly to stimulate the local economy, would not serve the interests of women prisoners. WIP did not receive any response or inquiries as a result of the mailing.**

Conclusion

There is no question that some women committed heinous crimes and are a threat to society. It is also true that most incarcerated women are not a threat to society and that all incarcerated persons should be treated fairly, with care for their particular situation. For women this means, at a minimum, a prohibition against shackling and restraints in child birth, adequate health care, incarceration at locations that permit visits by minor children, and a fair share of correctional training funds.

Pogo has expired, but the concern of NAWJ for women in prison has not. Like Sisyphus, we will continue to raise awareness about the **issues surrounding the incarceration of women** and the impact conditions have on them, their children, and society.