

**Testimony of Piper Kerman before the Senate Committee on Homeland  
Security and Governmental Affairs’  
“Oversight of the Bureau of Prisons: First-Hand Accounts of Challenges  
Facing the Federal Prison System” Hearing  
Tuesday, August 4, 2015**

Mr. Chairman, Ranking Member and distinguished members, I appreciate having the chance to come here today to make the case for adopting gender-specific policies and programs as a way to improve public safety, in a manner that is not inhumane to anyone serving in federal prison.

I spent 13 months from 2004-2005 as a prisoner in the Federal Bureau of Prisons (BOP) system, with most of my time served at the Federal Correctional Institution (FCI) in Danbury, Connecticut.

If you are familiar with my book, *Orange is the New Black*, you know I have committed myself to taking my own experiences in prison and using them to try to make critical improvements to this country’s criminal justice system. Since my release, I have worked with many women and men who are returning citizens, all bound by a common purpose, to get back on our feet, reclaim our rights of citizenship and make positive contributions to our communities. The first-hand experiences of people who have survived prison or jail are essential to understanding the changes needed to reform our criminal justice system so that it improves public safety, without resorting to inhumane treatment of people that lasts long beyond the sentences they are given. I am here today in that capacity, to share my story.

### **Women in BOP Custody**

With more than 200,000 people in its custody, the Federal Bureau of Prisons has grown to become the nation’s largest prison system.<sup>1</sup> The federal prison population has increased more than eight-fold since 1980<sup>2</sup>, reflecting the United States’ unique and regrettable reliance on

---

<sup>1</sup> Federal Bureau of Prisons, Inmate Statistics, July 30, 2015, *available at* [http://www.bop.gov/about/statistics/population\\_statistics.jsp#pop\\_report\\_cont](http://www.bop.gov/about/statistics/population_statistics.jsp#pop_report_cont)

<sup>2</sup> Federal Bureau of Prisons, Past Inmate Population Totals, *available at* [http://www.bop.gov/about/statistics/population\\_statistics.jsp#old\\_pops](http://www.bop.gov/about/statistics/population_statistics.jsp#old_pops)

incarceration to inappropriately and ineffectively address social problems like substance abuse, mental illness and poverty.

Women are the fastest growing population in the American criminal justice system, and their families and communities are increasingly affected by what happens to them behind bars. A significant majority (63%) of women in state prison are there for a nonviolent offense<sup>3</sup>. Many women are incarcerated due to substance abuse and mental health problems, which are overwhelmingly prevalent issues in prisons and jails. For women there is also a staggering, widespread incidence of victimization by sexual abuse or other physical violence before incarceration. However, these issues are not being addressed adequately in the federal prison system. Below I outline some of the ways in which the Bureau could and should improve.

The Bureau of Prisons should adopt gender-specific policies and programs along the lines of best practices in states such as Washington that reduce recidivism rates, and give women opportunities to reintegrate into their communities and succeed post-incarceration.

Gender-responsive correctional approaches are guided by women-centered research. They are strengths-based, trauma-informed, culturally competent, and holistic. These approaches recognize the importance of relationships as a target of intervention for women. Finally, they account for the different characteristics and life experiences of women and men who are involved with the criminal justice system, and respond to their unique needs, strengths and challenges<sup>4</sup>.

Most research in the correctional field has been conducted on men. The research that has been done on women shows that the risk factors I mentioned, and others specific to women, require different approaches than the BOP takes for men in order to reduce women's recidivism and achieve more successful outcomes. This is not unlike findings in other fields

---

<sup>3</sup> In 2012, 37.1% of women in state prison were held for a violent offense, compared with 55.0% of men. E Ann Carson, Bureau of Justice Statistics, Prisoners in 2013, Tbl. 9, September 30, 2014, available at <http://www.bjs.gov/content/pub/pdf/p13.pdf>

<sup>4</sup> National Resource Center on Justice Involved Women, Gender Responsive Discipline and Sanctions Policy Guide for Women's Facilities, Key Definitions, n.d., available at <http://cjinvolwedwomen.org/sites/all/documents/DisciplineGuideSection1Overview.pdf>

such as healthcare, where gender-specific research shows that women experience heart attack symptoms quite differently from men. This understanding in turn led to gender-specific responses to these symptoms.

Female prisoners are different from male prisoners in a number of obvious and less obvious ways. In addition to having a higher percentage of mentally ill people among their ranks, incarcerated women are often single moms with young children. Very high incidences of sexual and physical assault<sup>5</sup> are a reality for women in prison, jail and immigration detention centers, both before and during their incarceration. It is essential to consider this trauma in order to establish rehabilitation that works, and to avoid correctional settings that make things worse.<sup>6</sup>

Instituting gender-responsive policies garners significantly improved outcomes including reductions of inmate-on-staff assaults and inmate-on-inmate assaults, segregation placements, disciplinary reports, one-on-one mental health watches, petitions for psychiatric evaluation, crisis contacts, self-injury incidents and suicide attempts<sup>7</sup>.

These policies clearly make women's correctional facilities safer for prisoners and staff, which is the first step towards creating a rehabilitative environment. If we want to reduce recidivism for women and help them be more successful when they return home, we need to address their specific risk factors and needs – gender-responsive policies and programming, such as the following, account for these differences.

---

<sup>5</sup> In state prison, 57.6% of women reported past physical or sexual abuse, compared to 16.1% of men. In federal prisons, 39.9% of women reported past abuse, compared to 7.2% of men. In jails, 47.6% of women reported past abuse, compared to 12.9% of men. Caroline Wolf Harlow, Bureau of Justice Statistics, *Prior Abuse Reported By Inmates And Probationers 1 (1999)*, available at <http://www.bjs.gov/content/pub/pdf/parip.pdf>. More than a third of women in state prisons or local jails reported being physically or sexually abused before the age of eighteen.

<sup>6</sup> Human Rights Watch, *All Too Familiar: Sexual Abuse of Women in U.S. State Prisons (1996)*, available at <http://www.hrw.org/legacy/reports/1996/Us1.htm>. [hereinafter *All Too Familiar*] (“One of the clear contributing factors to sexual misconduct in U.S. prisons for women is that the United States, despite authoritative international rules to the contrary, allows male correctional employees to hold contact positions over prisoners, that is, positions in which they serve in constant physical proximity to the prisoners of the opposite sex.”).

<sup>7</sup> National Resource Center on Justice Involved Women, *Gender Responsive Discipline and Sanctions Policy Guide for Women's Facilities, Exhibit 1: Benefits of Implementing Trauma-Informed Approaches at MCI Framingham Frequency of Incidents in 2011 and 2012*, n.d., available at <http://cjinvolvedwomen.org/sites/all/documents/DisciplineGuideSection1Overview.pdf>

- Gender-responsive policies, first and foremost, recognize that there are different gender-specific needs and modify facility operations, supervision, management, programs and services to address them.
- They ensure that all staff who work with women are trained in trauma-informed care, understand gender-responsive principles and how justice-involved women are different from men, and at a minimum, have effective communications and intervention skills.
- These policies influence facility culture so that there is a physical environment that is conducive to change (positive messages on walls, positive images), an attitude of respect among staff and inmates, positive encouragement for family visits and interactions, and calming environments (reduced noise level, banging, shouting).
- Practices and procedures are implemented that do not (re) traumatize or trigger women's trauma, such as letting women know ahead of time what is going to happen during a procedure, telling them what is happening during the procedure, and checking in with them after the procedure is conducted. Other similar examples include limited use of solitary confinement or segregation (which may trigger women), more limited use of strip searches (which may be reminiscent of rape), and limited or no use of restraints during pregnancy and delivery.
- Gender-responsive risk and needs assessments (such as the Women's Risk and Needs Assessment developed by Dr. Pat Van Voorhis and colleagues at the University of Cincinnati) should be used to identify specific risk factors such as past trauma, abuse and anger. Treatment programs should be available that address the risks and needs identified through these assessments.

It is critical for the Bureau of Prisons to address the unique situation of women in prison when making choices about policies and programming for institutions that hold them. In addition to the roadmap to system-wide implementation that Washington State offers, the National Resource Center on Justice Involved Women – funded by the U.S. Department of Justice Bureau of Justice Assistance in partnership with the National Institute of Corrections – is an organization that the BOP can collaborate with to work rapidly for adoption of gender-responsive policies and

programs. Additionally, the Adult and Juvenile Female Offenders Network<sup>8</sup> – a national network of corrections workers, academics and community practitioners – has been working for decades to establish gender-responsive policies and programs in American prisons and jails, and its members should prove valuable advisors to the BOP if it wishes to fulfill its responsibilities to the women in its custody.

One of the biggest needs is to keep these women, many of whom are single moms, close to their kids. When I was in Danbury for 13 months, I met women who were raising their children in the visitors' room during brief visits, fending off sexual harassment, and struggling to get a high school education so when they got out they stood a chance at surviving. I saw women denied necessary medical care, and I saw women with mental health issues wait for months to see the one psychiatrist who was available for 1,400 women.

While Danbury FCI and FPC had many questionable and damaging policies, and limited rehabilitative programming, at least for many of the women incarcerated there it was not too far from home. Families from New England, the tri-state area, Pennsylvania and the Capital region could visit via train. Children could see their mothers, who were often the primary caregivers before being imprisoned. And yet, the BOP disregarded this important lifeline to the outside, one of the most powerful factors that decreases recidivism.

In July of 2013, I was shocked to learn that the FCI in Danbury where I served most of my time would be turned into a men's prison. The Danbury facility included a low-security setting, which housed approximately 1,200 women when I was incarcerated, and a minimum-security camp with approximately 200 prisoners, where I served most of my sentence. The BOP planned to keep women prisoners in the minimum-security camp and now house men in the larger, low-security setting.

Women incarcerated in Danbury were designated from their place of residence in the Northeast. There were women from Maine, New

---

<sup>8</sup> Association on Programs for Female Offenders (APFO), an American Correctional Association, available at <http://www.ajfo.org/>

Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania and Washington D.C. – a huge geographic region and a densely populated part of the United States. Suddenly 1,200 of the 1,400 prison beds in the Northeast for women in the federal system would disappear because of the BOP's choice. At the same time, the Bureau planned to open a new facility for women in Aliceville, Alabama – a remote part of the state without easy transportation access.

Many people responded quickly to this bad decision by the BOP, including 11 U.S. Senators who demanded better decision-making and planning for women in federal custody. Ultimately, after public outcry demanded better planning, the BOP decided it would construct new housing for approximately 200 more women at the Danbury facility. I am not aware of any decrease in the number of women being committed into federal custody, and just as I was then, I remain concerned about where the BOP will put 1,000 female prisoners from the Northeast who will no longer have appropriate prison space anywhere near their homes.

I would like to submit for the record the September 2014 report **Dislocation and Relocation: Women in the Federal Prison System and Repurposing FCI Danbury for Men**, prepared by the Arthur Liman Public Interest Program at Yale Law School, and the report of the **National Association of Women Judges (NAWJ) and Women in Prison Committee (WIP)** on their visit to BOP's Metropolitan Detention Center (Brooklyn, New York, March 20, 2015). Both reports detail the significant problems with the BOP decision to change the Danbury FCI to an institution housing primarily men.

Despite assurances to the 11 U.S. Senators who requested better decision-making for female federal prisoners, the BOP has not kept their promises to provide adequate correctional settings for women in the Northeast. The Bureau has not yet broken ground on the additional housing for women at FCI Danbury. During my time in prison, I was transferred from Danbury to the federal Metropolitan Correctional Center in Chicago (MCC) to serve as a witness in a federal trial there. The Chicago MCC is 26 stories high and houses approximately 700 men. There were approximately 35 women in the female unit there – it's the worst place I've ever been in my life. Federal

jails are not intended for long-term housing, and thus lack programming, physical plant and other acknowledged essentials for a person serving a prison sentence, which are intended to hold them accountable and rehabilitate them so they can return safely to the community. Despite this, people often spend long periods of time locked up in federal jails. When I was in the MCC, there was a woman who had been held there for two years.

At the Chicago MCC, women were kept locked on the 12th-floor unit for many days at a time; access to the library, to physical recreation and the outdoor area was sporadic at best; no women were allowed to participate in GED programs or any educational opportunities; female prisoners were not allowed to work and earn money; we had no direct access to any medical staff, or in fact any administrative staff; and we were largely reliant on a single correctional officer to get any concerns addressed. Many women on the unit were severely mentally ill. The last two months of my incarceration were exponentially more difficult than the first 11 because of the conditions in the Chicago MCC, and I have many more resources and opportunities than most women incarcerated in federal prisons.

Today, in the wake of the Danbury FCI mission-change decision, many women remain incarcerated in federal jail facilities that are completely unsuitable for serving prison sentences, and that lack programming and rehabilitation for women. Women in federal custody have less access compared to male federal prisoners to important rehabilitative programs like UNICOR (vocational training in prison industry programs that provide the highest compensation among federal prisoner jobs) and the Residential Drug & Alcohol Program (an intensive program that cuts a year from a prisoner's sentence).

Many women have been sent far from their families and communities, much further than the BOP's stated parameter of 500 miles from a prisoner's home.<sup>9</sup> For a family that lives in poverty in New Hampshire, the Bronx or Pennsylvania, a place like Aliceville, Alabama, Dublin, California or Waseca, Minnesota might as well be the moon in terms of children and

---

<sup>9</sup> Federal Bureau of Prisons, Custody and Care: Designations, July 30, 2015, available at [http://www.bop.gov/inmates/custody\\_and\\_care/designations.jsp](http://www.bop.gov/inmates/custody_and_care/designations.jsp)

other family members being able to visit. But these are some of the federal prisons to which women from the Northeast will now be sent, as there is no replacement for approximately 1,000 beds lost in the Northeast in the wake of Danbury FCI's mission change. The majority of women in prison were their children's primary or sole caregiver prior to incarceration.<sup>10</sup> When these women are incarcerated, maintaining any semblance of a relationship with their children largely depends on regular visitation.<sup>11</sup> A child's need to see and hold his or her mother is one of the most basic human needs.

The Danbury situation should be viewed not as an isolated incident but as emblematic of the BOP's indifference to the situation and outcomes of female prisoners. Important things to consider about women in federal custody are disconnection from young children and family who rely heavily on these mothers prior to incarceration; vastly and disproportionately inadequate living conditions compared with male prisoners; and, a marked lack of rehabilitative programming or work opportunity that is tailored to address women's pathways into prison and the best ways to ensure their safe and permanent return home.

To fulfill its public safety mission and to avoid discriminatory practices, the BOP must adopt gender-responsive policies, programs and facility design, following the best practices of corrections departments in states like Washington and Iowa. At the Washington Corrections Center for Women for instance, the Gender Responsiveness Action Plan allows female prisoners to attend seminars focusing on healthy relationships, safety awareness, health, nutrition, handling anger and stress, and goal setting<sup>12</sup>.

And to keep female prisoners, and indeed all prisoners, safe while in custody, the BOP must fully implement the Prison Rape Elimination Act

---

<sup>10</sup> Lauren E. Glaze & Laura M. Maruschak, Parents in Prison and Their Minor Children, U.S. Dep't Of Justice, Of Justice Statistics Special Report, 4, (2008), *available at* <http://bjs.ojp.usdoj.gov/content/pub/pdf/pptmc.pdf>

<sup>11</sup> Susan D. Phillips, The Sentencing Project, Video Visits For Children Whose Parents Are incarcerated: In Whose Best Interests? 1-2 (2012), *available at* [http://sentencingproject.org/doc/publications/cc\\_Video\\_Visitation\\_White\\_Paper.pdf](http://sentencingproject.org/doc/publications/cc_Video_Visitation_White_Paper.pdf) (describing the importance of and barriers to visitation of incarcerated parents).

<sup>12</sup> Jennifer Sullivan, Female Inmates Treatment is Evolving, The Bulletin, November 7, 2013, *available at* <http://www.bendbulletin.com/news/1262705-151/female-inmates-treatment-is-evolving>



(PREA) regulations and ensure compliance with rigorous, independent audits for all facilities.

When you cut people off from their families it is tragic. And when you cut people off from employment, you condemn them to a sentence much longer than the one they got in court.

The BOP's practice of incarcerating people far from their homes, which is true regardless of gender but even more acute for female prisoners, shows their disregard for their role in making sure prisoners have a chance to re-enter society and get a second chance. Unlike in some state systems such as Ohio, where rehabilitative programs including vocational training are directly linked to churches, employers, and other organizations in the communities where prisoners will eventually return, the BOP truly cuts people off from the outside world. The very limited program opportunities I encountered or observed while incarcerated that focused on readiness to work were either contained within the BOP with no ties to the outside economy or employers, or purely theoretical. As a result, these programs were very difficult for most prisoners who had limited education and experience in the mainstream economy to put into practice.

The BOP must make a broader and more substantive commitment to keeping prisoners close to their community, and individual federal prisons must foster relationships with community organizations and employers from the places where most of their prisoners call home. A good starting point would be national employers like Home Depot, Target and Walmart who already "Ban the Box" and employ returning citizens<sup>13</sup>. BOP regional directors should have responsibility for establishing substantive relationships and programs similar to these with regional businesses who recognize that second chances are important. Organizations like the Center for Employment Opportunities and the National Employment Law Project are well prepared and experienced to help facilitate creating effective partnerships on a national scale to get people returning from federal prison working, and reduce recidivism. A substantive approach to re-entry

---

<sup>13</sup> Breaking: Sentencing Commission Grants Full Retroactivity for Amendment 3, FAMM, July 18, 2014, available at <http://famm.org/breaking-sentencing-commission-grants-full-retroactivity-for-amendment-3/>

preparation would be a sea change within the Bureau of Prisons, and is one by which the Bureau should be measured and held accountable. This isn't just a benefit to the prisoners who will need to find work when they get out. It is a benefit to society to have people returning with the wherewithal to resume their place among the ranks of hard-working people.

Before we even think about where women should be incarcerated, we should consider IF they should be incarcerated. There are other ways for them to serve their time that result in less damage to them and their families. When we look to the states, we see such innovations, such as JusticeHome in New York. JusticeHome allows some women who plead guilty to felonies to remain in their homes with their children. The women report regularly in court and are visited weekly by case managers to make sure they receive supervision and guidance about jobs, education and management of their homes and children. Some must receive treatment for drug addiction and mental illness. The cost of JusticeHome is about \$17,000 per family. What is priceless about this program, as opposed to the BOP's Danbury decision, is that it is working hard to keep families together which we know is an effective way to reduce crime, and to stop a cycle that can condemn entire families to the penal system.

Returning to the example of Danbury, the BOP's desire to empty the FCI of women led them to examine prisoners' sentences and exercise BOP discretion granted by the Second Chance Act. As such, dozens of women were released from prison custody to community confinement in halfway houses, or even to home confinement to complete their sentences<sup>14</sup>.

While the BOP used the Second Chance Act in Danbury, BOP has not utilized all of its authority under that Act to enable as many eligible prisoners as possible to return to their communities elsewhere. The BOP does not place all eligible prisoners in halfway houses at the earliest available dates, nor does the BOP use compassionate release and sentence reduction programs as much as it could. The result is overcrowding – BOP is

---

<sup>14</sup> Maurice Emsellem & Michelle Natividad Rodriguez, National Employment Law Project, *Advancing a Federal Fair Chance Hiring Agenda*, January 2015, *available at* <http://www.nelp.org/content/uploads/2015/01/Report-Federal-Fair-Chance-Hiring-Agenda.pdf>

currently 25% over its capacity<sup>15</sup> – which has made keeping staff and prisoners safe significantly more difficult.

The BOP could exercise this discretion, granted in the Second Chance Act, and apply it to all BOP prisoners as a matter of policy and practice, which could move thousands out of federal prison facilities to complete their sentences in their communities. In addition to reducing overcrowding, utilizing the Second Chance Act would keep incarcerated people closer to their homes, creating benefits for prisoners and their communities. They would be following the precedent of the U.S. Sentencing Commission’s 2014 decision to reduce the length of time that certain federal prisoners are spending in incarceration.<sup>16</sup>

Currently the BOP chooses not to exercise this authority unless it is expedient to them, as in the case of Danbury FCI. In light of the fact that a huge percentage of BOP prisoners have been convicted of nonviolent offenses (like the overwhelming number of the women I did time with) and that federal sentences have been disproportionately harsh for decades, the Bureau should use every opportunity available to move people back to their communities to complete their sentences while taking measures to protect public safety like appropriate monitoring, rehabilitation programs, and job training courses for prisoners. Reducing the number of people who currently fill our federal prisons will make the prospect of substantive rehabilitation more plausible in those facilities. Whenever possible, we should be building accountability measures that are community based to strengthen public safety rather than imagining that the exile of a prison sentence is what will change harmful behaviors or make victims of crime whole again.

## **BOP Leadership and Innovation**

The Bureau of Prisons will soon have a leadership change when Director Samuels retires this year. I urge the President and the Department of

---

<sup>15</sup> Judi Garrett, Bureau of Prisons, Email Interview, July 30, 2015.

<sup>16</sup> Hearing before the Senate Judiciary Committee, Oversight of the Bureau of Prisons Hearing, Liman Statement for the Record, November, 12, 2013, *available at* [http://www.law.yale.edu/documents/pdf/Liman/Senate\\_Judiciary\\_Committee\\_BOP\\_Oversight\\_Hearing\\_Liman\\_Statement\\_for\\_the\\_Record\\_Nov\\_12\\_2013.pdf\\_website.pdf](http://www.law.yale.edu/documents/pdf/Liman/Senate_Judiciary_Committee_BOP_Oversight_Hearing_Liman_Statement_for_the_Record_Nov_12_2013.pdf_website.pdf)

Justice to look outside of the Bureau for strong candidates to lead the BOP to a place of innovation, and to a future in which the federal government operates a model correctional system committed to rehabilitation and accomplishing public safety in a humane way. To achieve safety and security in correctional systems and also accomplish the rehabilitation that the American public expects, prisoners must have increased access to meaningful activities and rehabilitation, to work opportunities, and to incentive-based programs including those that can earn sentence reductions. This is good for institutions as a whole – prisoners, staff and administration – and proves the point of getting good outcomes in correctional systems. It is always a question of strong leadership and recognition that it is human beings that fill our prisons and jails.

The BOP should empower Alix McLearn, Administrator of the Female Offender Branch, to make recommendations that they will implement by the end of the year to address issues raised here, and Congress should hold the BOP responsible for violating their own policies by reviewing if women are within 500 miles of home, if mental and substance abuse issues are being handled in a humane way, and if sexual assault and harassment is on a serious decline.

I appreciate that there are many fine people working in the BOP who want positive outcomes for their hard work, but the truth is that in recent decades, innovation and any systemic efforts toward productive change within the walls of prisons or jails has been seen in the states, not in the federal system. My observation as a former prisoner and someone who continues to spend a lot of time behind the walls of prisons and jails is that how those facilities function, whether well or poorly, is overwhelmingly a leadership question. Indifference and neglect are attitudes and values that come from the top down, and they are all too visible in American prisons and jails. However, individual wardens and other correctional leaders can also foster an incredible culture change for both prison workers and prisoners. I have seen this with my own eyes, and it gives me continued hope for progress in transforming our troubled prisons and transforming the lives of the Americans who fill them.

I close with the words of Thomas Mott Osborne, the legendary prison warden and reformer who served in New York in the 1900's. In 1913, Osborne went undercover as a prisoner for a week to make sure he understood the work and responsibilities of the people who run prisons. During his tenure as warden of Sing-Sing prison and as a staunch opponent of harsh punishment, Osborne famously posed the question: "Shall our prisons be scrap heaps or human repair shops?" Today, with the biggest prison population in human history housed here in the United States, we must insist on an answer to this question.