

Dislocation and Relocation: Women in the Federal Prison System and Repurposing FCI Danbury for Men

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Aerial photo of Danbury prison and camp. Source: John Pirro, *FCI Danbury Converting Back to Men's Prison*, NEWS TIMES (July 3, 2013), available at <http://www.newstimes.com/news/article/FCI-Danbury-converting-back-to-men-s-prison-4645323.php>.

This Report tracks the lack of progress in keeping federal prison space in the Northeast available for women and the impact of the absence of bed-spaces for women on the implementation of federal policies committed to reducing over-incarceration. The problems began in the summer of 2013, when the federal Bureau of Prisons (BOP) announced plans to transform its only prison for women in the Northeast—FCI Danbury—into a facility for men.¹ The BOP explained that this self-described “mission change” was a response to the need to provide more low-security beds for male prisoners.

At the time of the announcement, the Danbury prison complex was composed, as it had been since 1994, of two separate facilities for women: a low-security Federal Correctional Institution (FCI) and an adjacent satellite camp for minimum-security prisoners. At full capacity, the FCI housed about 1,100 women and the camp held approximately 150 women. Both were often over the stated capacity.

The BOP's 2013 proposal was to fill the main prison with men and to maintain the adjacent smaller camp as the only facility in the Northeast for women in the federal prison system. The BOP planned to transfer women who were at FCI Danbury elsewhere, including to a new federal prison in Aliceville, Alabama, some 1,100 miles from Danbury and therefore, in many cases, far from their homes and families.

This proposal raised concerns, voiced by women prisoners, their families and friends, and lawyers, as well as by the Women in Prison Committee of the National Association of Women Judges (NAWJ); the American Bar Association; the Osborne Association; and professors at Yale Law School, which had provided legal services to inmates at Danbury since the 1970s.² The press also focused on the situation and ran op-eds and editorials questioning the closing of beds in the Northeast for women.³

In August of 2013, eleven senators from the Northeast wrote to the director of the BOP and asked that the plans to use the facility for men be put on hold until the BOP provided Congress with more information about "the rationale behind this dramatic change in the mission of the Danbury facility and the impact it will have on women and families from our states."⁴ In the fall of 2013, the chief judges of twelve federal district courts in the Northeast also asked Attorney General Eric Holder to reconsider the proposed plan.⁵ The judges explained that if "the planned mission change for Danbury goes forward, our ability to recommend incarceration near family members and children for male inmates will continue, but we will have no ability to do the same for female inmates."⁶

On November 4, 2013, two days before a scheduled BOP congressional oversight hearing, Senators Chris Murphy and Richard Blumenthal of Connecticut, joined by Senator Patrick Leahy of Vermont and Kirsten Gillibrand of New York, announced that the BOP had informed them of a revision to its plans for Danbury.⁷ In addition to creating a facility for men, the BOP announced it would convert the existing minimum-security satellite camp into a low-security facility for women, and that it planned to construct a new minimum-security camp for women on the Danbury site. The goal was to have enough beds for women who were U.S. citizens and sentenced from the Northeast; non-citizens from the Northeast would still face the prospect of being incarcerated at great distances from their families. The Senators' press release reported that the "entire transfer and construction process w[ould] take 18 months to complete."⁸ Further, the "agency . . . assured the senators that it [wa]s making every effort to keep the U.S. citizen inmates in the Northeast and maintain the same level of programming available by the end of the process."⁹

Yet, ten months later, at the end of August of 2014, no ground has been broken at Danbury for new construction, and the BOP has declined to provide a detailed timeline for the

completion of the new facility. Indeed, it appears that the requisite environmental impact assessment may just be getting underway. According to current projections, that process could take eight months to complete even if no problems arise, and the construction thereafter could take another fourteen months. Those projections suggest that the new facility might not be completed until 2017. In the interim, many women who were at FCI Danbury have been placed in federal jails (the Metropolitan Detention Center in Brooklyn and the Federal Detention Center in Philadelphia) and in institutions much farther from the Northeast. Others have been sent to Danbury's satellite camp and to residential treatment centers (RTCs), and some have been released.

The current treatment of women incarcerated from the Northeast is at odds with federal criminal justice policy priorities. All branches of the government have recognized the problem of over-incarceration and enacted initiatives to reduce federal prison populations and to ensure that the time inmates spend behind bars—and the funds taxpayers invest in incarceration—are put to good use, equipping women and men for a successful return to their communities.

In 2008, President Bush signed into law the Second Chance Act, which had bipartisan support, as it aimed to “break the cycle of criminal recidivism,” “build ties between offenders and their families, while the offenders are incarcerated and after reentry into the community,” and “to assist offenders reentering the community from incarceration to establish a self-sustaining and law-abiding life by providing sufficient transitional services”¹⁰ The Second Chance Act authorizes the BOP to release inmates into community correctional facilities for as long as the final year of their sentences and to shift individuals to home confinement for as long as the final six months.¹¹

The Executive Branch has also taken up several initiatives aiming to shrink prison populations and to aid inmates' rehabilitation. In June of 2013, the White House issued a call to reduce the collateral consequences of incarceration on inmates' children and families.¹² In August of 2013, Attorney General Eric Holder announced that he was directing federal prosecutors to focus their efforts on serious cases and to consider alternatives to incarceration for non-violent offenders.¹³

In April of 2014, the Department of Justice began an effort to identify non-violent drug offenders with long prison sentences whom it will consider for sentence commutation.¹⁴ To be eligible for this clemency initiative, federal prisoners have to meet several criteria, including that they have served at least ten years of their sentence and likely would have received a substantially lower sentence if convicted today. The goal, according to President Obama, is to help “restor[e] fundamental ideals of justice and fairness” to our penal system by releasing those who “would have already served their time and paid their debt to society,” had they been sentenced under current law.¹⁵

In May of 2014, the United States Sentencing Commission voted to reduce sentences for most drug offenders by about 17 percent.¹⁶ And in July of 2014, the Commission opted to make those reductions retroactive; as a result, it estimates that approximately 50,000 individuals who are currently in federal prison will be eligible to seek a reduction in their sentences.¹⁷

But the BOP's decision to incarcerate women from the Northeast far from their homes and families or in urban jails that lack programming opportunities undercuts these federal policies. To provide just one example, while FCI Danbury provided female inmates with a Residential Drug Abuse Program (RDAP), urban jails do not currently offer this opportunity.¹⁸ RDAP is a 500-hour, nine- to twelve-month intensive drug treatment program; if inmates successfully complete the program, they become eligible for a sentence reduction of up to twelve months, as well as other benefits.¹⁹ Unless RDAP is brought to the jails in Brooklyn and Philadelphia, Northeast women who are currently confined there will face the difficult choice of seeking to be moved further from their homes and families to participate in RDAP or losing the opportunity to obtain the therapeutic and sentence-reducing benefits of the program.

In short, the optimism that greeted the November 2013 announcement of the revised plans for Danbury may not have been warranted. A return to the issue is required by all who are concerned about enabling women in the federal prison system to share equally in the opportunities to remain close to their families and communities while in detention, to participate in programs and work, to have access to the outdoors, and to maximize their opportunities for successful reentries.

Given this problem and the need to renew a focus on women in the federal prison system, the Liman Program at Yale Law School provides this report, which relies on a mix of statistical analyses; interviews with prisoners; research; and information drawn from exchanges with lawyers, judges, Senate staff, academics, and advocates. The report provides one window into the impact of federal prison policies, the degree to which location of prisoners affects their opportunities, and the ways in which women in the federal prison system are currently disadvantaged.

Part I details the impact of placement on incarceration, program opportunities, family ties, and reentry. Part II describes the facilities at Danbury prior to the announcement of the mission change. Part III outlines the BOP's proposal to close Danbury to women and the responses that prompted the shift in course and the agreement to build a new facility for women in Connecticut. Part IV details some of the experiences of women inmates as a result of the BOP's repurposing of Danbury. Over the course of nearly a year, the Liman Program corresponded with prisoners from Danbury as they were transferred to city jails and prisons across the county. Students and faculty spoke with prisoners' family members and interviewed women in Danbury and then in jails in Philadelphia and Brooklyn. As we detail, the dislocation for many women has been profound, as dozens sentenced in the Northeast are being held in crowded city jails with little access to light, the outdoors, or to the programs that could expedite their release.

Part V addresses how the Danbury mission change could become an opportunity for the BOP to respond to women incarcerated in its system. The change in the use of Danbury sheds light on the harms imposed by putting individuals at great distance from their families and communities and the degree to which women are disadvantaged. Taking Danbury as a starting point for a broader conversation about the links between gender and prison geography, we focus on how new construction and "gender-responsive" programming could make the new facility a model for improving infrastructure; increasing access to health care and legal services, programs,

and visitors; and designing an institution attentive to the distinctive issues incarcerated women face.

I. Women in the Federal Prison System: Proximity, Programs, Families, and Reentry

The benefits of keeping prisoners close to their homes are well documented.²⁰ Inmates who participate in educational programs²¹ and who receive visits while incarcerated function better in prison²² and have a better chance of staying out once they are released.²³ As the studies explain, “social connections that are maintained during the period of incarceration can be an important resource in helping released prisoners achieve positive post-release outcomes.”²⁴ Where inmates are incarcerated affects what programs will be available to them, the likelihood that they will interact with volunteers from the surrounding community, and their ability to receive visits. Inmates who are connected to their families, friends, places of worship, and communities and who have opportunities for education and other programs while incarcerated are better able to readjust to life outside prison.

Prisoners are not the only people who benefit from proximity; their families do as well. As of 2008, the United States imprisoned more than 810,000 parents, and children under the age of 18 who had an incarcerated parent numbered more than 1.7 million.²⁵ During the last few decades, the number of children with a mother in prison has more than doubled,²⁶ and mothers entering prisons were far more likely than fathers to have lived with their children in single-parent households.²⁷ Studies also detail that children of prisoners often have behavioral and emotional problems, experience difficulties at school, and become involved in the juvenile and criminal justice systems themselves.²⁸

Compounding these hardships, available information about the geography of federal prisons demonstrates that children have difficulty visiting their incarcerated parents. The obstacles to visiting are acute for children of women prisoners. Some years ago, a study found that mothers in the federal prison system were incarcerated an average of 160 miles further from family than their male counterparts.²⁹ More recently, in an October 2010 report titled *Mothers Behind Bars*, the National Women’s Law Center concluded:

[T]he number of women incarcerated in the Federal Bureau of Prisons (BOP) system increased from 1,400 to over 9,000 between 1980 and 1998. There were 13,746 women in Federal BOP custody as of June 2009, according to the most recent data available. Approximately 56% of these women have children. Because there are only twenty-eight federal facilities for women, most women are too far from their families to receive regular visits.³⁰

Not surprisingly, a study focused on mothers at a maximum-security state prison concluded that “perhaps the most significant determinant of whether an inmate receives visits is the distance between her home county and the prison to which she is committed.”³¹

The Bureau of Prisons itself recognizes the importance of proximity to reducing recidivism and maintaining family ties. In 2013, the Department of Justice (DOJ), with White

House support, launched what it termed an “aggressive campaign” to mitigate the harms that incarceration of parents imposes on children.³² The DOJ website explained: “Research shows that maintaining contact and healthy relationships in spite of the barriers represented by prison walls is not only possible but beneficial, for both the children and their parents. We owe these children the opportunity to remain connected to their mothers and fathers.”³³ Accordingly, the Justice Department directed the BOP to support “programs to enhance family relationships, improve inmate parenting skills, and redesign visitation policies in its system.”³⁴ On June 19, 2013, the Director of the BOP sent a memo to every inmate incarcerated in the federal system in which he encouraged them to visit with their children; he explained that “there is no substitute for seeing your children, looking them in the eye, and letting them know you care about them.”³⁵

The Bureau of Prisons also has a program statement on location: it states that the BOP aspires to incarcerate inmates within a “reasonable” proximity to the areas of their “anticipated release.”³⁶ Specifically, BOP Program Statement 5100.08, issued in 2006, provides in part:

The Bureau of Prisons attempts to place each inmate in an institution that is reasonably close to the anticipated release area. Ordinarily, placement within 500 miles of the release area is to be considered reasonable, regardless of whether there may be an institution closer to the inmate’s release area.³⁷

One question is whether the 500-mile range offers a “reasonable” opportunity for visits and connections enabling pre-release planning. Another question is how that goal is implemented for women and men in the federal system. The data summarized below show that, as of 2013, people in BOP custody, and particularly women in BOP custody, were often placed further than 500 miles from their homes.

As of August 24, 2013, the BOP incarcerated 218,864 prisoners. The vast majority (204,289, or 93.3 percent) of prisoners were men. Women numbered 14,575, or 6.7 percent. A small percentage of federal prisoners were pre-conviction, but most (190,142) were post-conviction. Again, the post-conviction population is made up mostly of men—178,242, or 93.7 percent; and 11,900, or 6.3 percent, were women.

The BOP divides its system into six regions,³⁸ and provides information on the facilities and the beds available in each of these six regions.³⁹ In addition, data from the United States Sentencing Commission detail how many men and women are sentenced in each judicial district in the federal system.⁴⁰ Federal prisons are not distributed evenly across the country, nor are they placed proportionately to the districts in which people are sentenced. Further, the locations of BOP facilities do not permit many federal prisoners to be proximate to the communities where they were sentenced, and women have more limited placement opportunities than do men. The Bureau of Prisons does not provide the relevant data; what can be understood – largely based on data from the U.S. Sentencing Commission – is the relationship between where prison facilities are located and the jurisdictions from which individuals are sentenced. Specifically, as of August of 2013 – before FCI Danbury closed to women:

- Fifteen percent of the men and 9 percent of the women in the federal system were housed in the Northeast Region. Of the people who received federal

sentences, 13 percent of the men and 13 percent of the women received sentences in the Northeast.

- Nineteen percent of the men and 22 percent of the women in the federal system were housed in prisons in the Southeast Region. In contrast, ten percent of the men and 13 percent of the women sentenced in the federal system received sentences in the Southeast.
- Sixteen percent of the men and 17 percent of the women in the federal system were housed in the Mid-Atlantic Region; 11 percent of the men and 13 percent of the women in the federal system received sentences in the Mid-Atlantic Region.
- Twelve percent of the men and 11 percent of the women in the federal system were housed in the North Central Region. The numbers sentenced in this Region come close to the numbers incarcerated in the Region: 12 percent of the men and 14 percent of the women were sentenced in the North Central Region.
- Twenty-four percent of the men and 23 percent of the women in the federal system were housed in the South Central Region. Here again, the numbers are close to parallel: 28 percent of the men and 26 percent of the women were sentenced in the South Central region.
- Thirteen percent of the men and 18 percent of the women in the federal system were housed in the Western Region; in contrast, 26 percent of the men and 22 percent of the women were sentenced in the Western Region.

Closing FCI Danbury to women exacerbated the imbalance in the Northeast. The BOP defines the Northeast Region to include ten states: Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, and Vermont. The Northeast Region has 28 facilities for men that house about 27,600 men. Before 2014, the Northeast had only two facilities for women: FCI Danbury and its adjacent minimum-security camp. Today, no federal prisons for women remain, and the camp, which has a rated capacity of 146 but often houses 200 women, is overcrowded.⁴¹

II. Conditions at Danbury until 2013

Understanding the impact of the closure of Danbury requires a brief overview of its use prior to its repurposing. Below, we sketch the history of the facility, the relevance of its location to visits and volunteers, the kinds of programs and work opportunities available, and the difficulties that women incarcerated there faced in terms of deteriorating infrastructure and the limited medical care. In brief, FCI Danbury offered a great deal but also was in need of significant improvements.

When FCI Danbury first opened in 1940, it housed male inmates.⁴² The adjacent minimum security camp opened in the early 1980s, and it also housed men.⁴³ In the early 1970s, Yale Law School began a clinical program that assisted inmates there, and the school's law professors and students have been visiting Danbury ever since.

By the late 1970s, the number of federal facilities had grown, but women in the federal prison system had few housing options, and none were in the Northeast. In October of 1979, the House Subcommittee on Courts, Civil Liberties and the Administration of Justice held hearings on “The Female Offender.” In his introductory remarks, Representative Robert W. Kastenmeier described the hearings as the first to focus on the problems and needs of women in the federal prison system. In testimony, concerns were raised—including from participants in the Yale Law School clinical program—about the lack of facilities for women in the Northeast and in other regions from which many women prisoners were sentenced.⁴⁴

In 1994, in recognition of the growing population of women prisoners nationwide and of the absence of a facility for them in the Northeast, the BOP repurposed FCI Danbury and its camp as facilities for women.

That change was important because prisoners at Danbury benefit from its location in several respects. Danbury has ample outdoor space: at one point, the facility had handball and tennis courts, a soccer field, a baseball diamond, and a running track.⁴⁵ Moreover, Danbury is located only 70 miles from New York City; 150 miles from Boston, and 60 miles from Hartford. The facility is accessible by car and by public transit; the MetroNorth train stops less than four miles away, and four Amtrak stations are within 30 miles.⁴⁶

Visitors could come to spend time with inmates on weekends and one weekday.⁴⁷ In addition, until 1999, Danbury hosted a regularly scheduled “Children’s Day” program, which permitted prisoners and their children to interact in the Danbury yard, where activities for children were available. Religious groups sponsored buses from New York City to bring the visitors, and volunteer groups provided musical performances, puppet shows, and the like.

Danbury had several kinds of programs. It offered a Residential Drug Abuse Program that provided inmates with help in recovering from addiction and a route to earn time off from their sentences. Prisoners could also participate in the “Bridge Program,” which offered inmates with post-traumatic stress disorder opportunities for group therapy, and the popular “puppy program” to train dogs who then were assigned to federal agencies. Educational opportunities included classes to help prisoners earn a G.E.D., and a paralegal certificate class to enable women to do some of their own legal research and develop marketable skills. The facility’s chaplain led faith-based activities, and outside volunteers offered other programs. In addition, Yale Law School faculty and students provided legal assistance to a small number of inmates.

Not all of these programs were in place nor fully staffed by 2013; further, inmates reported other problems related to staff procedures and health care. Children’s Day and the Bridge Program had both been discontinued, and some of the educational offerings were limited. The physical plant was a source of concern. In 2013, women at Danbury reported frequent plumbing problems, including flooding and sewage backups, and they worried about mold. Staff procedures were also problematic. For many years, the BOP was an outlier in permitting cross-gender pat searches in non-emergency situations, a practice that created particular difficulties for women who had been victims of sexual trauma or who had religious objections to being touched by men.⁴⁸ In 2010, a woman alleged this practice offended her religious beliefs; assisted by law students and faculty at Yale, she succeeded in obtaining federal court

protection.⁴⁹ Access to healthcare was another challenge, and students and faculty working with inmates described examples of cases in which women with serious illnesses received inadequate care.⁵⁰

In short, Danbury offered a good deal and suffered from significant limitations. A key benefit was that FCI Danbury enabled some 1,300 women to remain in the Northeast, close enough to home to maintain ties with their families, to have access to programs and volunteers, and to permit them to remain proximate to many of the communities to which they would return.

III. The BOP's Decision to Use FCI Danbury for Men

In the summer of 2013, the Bureau of Prisons announced that it planned to transform FCI Danbury into a facility for men.⁵¹ As described, the initial plan was to keep the camp as a minimum-security institution for women and to turn the FCI into a men's prison; some women were to be sent more than a thousand miles away to a new, and remote, federal prison in Aliceville, Alabama.

Concerns came from many sectors. In July, *Slate* published an op-ed by Yale Law Professor Judith Resnik, who questioned the wisdom and fairness of the plan;⁵² in early August, eleven senators from the Northeast wrote to the BOP and asked the BOP to put the mission change on hold until questions were answered.⁵³ The *New York Times* Editorial Board raised concerns,⁵⁴ as did former Danbury inmate Piper Kerman, who wrote an op-ed published in the *Times* and described the proposal to move women far away as imposing a "second sentence."⁵⁵ The chief judges of twelve federal district courts in the Northeast urged Attorney General Eric Holder to reconsider the proposed plan.⁵⁶

Representatives from the National Association of Women Judges (NAWJ) met with the BOP and the Department of Justice; the NAWJ issued a resolution raising concerns about the mission change and calling on Congress to hold hearings about the BOP's treatment of women prisoners.⁵⁷ As noted, several other groups—including the American Bar Association, the Osborne Association, the Corrections and Community Reentry Committee of the New York City Bar Association, the Human Rights Defense Center, and others—spoke out against removing women from FCI Danbury.⁵⁸ Students in the Liman Program at Yale Law School joined with faculty to study the potential effects of the change on incarcerated women. Further, some of the women incarcerated at Danbury contacted lawyers, politicians, advocacy groups, and judges to seek their assistance in avoiding transfers far from home.

On November 4, 2013, Senators Murphy, Gillibrand, Leahy, and Blumenthal announced that the BOP had changed its plan for Danbury.⁵⁹ The BOP explained to the Senators that it had reconsidered and would construct a new facility for women at the Danbury site.

According to the Senators' press release, the BOP would still turn FCI Danbury into a facility for men. In addition, the BOP would reconfigure the satellite camp into a low-security prison for women, which would be capable of housing all low-security women sentenced in the Northeast. BOP would also build a new camp for women on adjacent land. The bed space was to be allocated to citizens sentenced from the Northeast. The BOP projected an 18-month timeline

for completion of the entire transfer and construction process.⁶⁰ As a consequence of this announcement, many understood that the new facility for women was to be completed by the spring of 2015 – that is, 18 months from the announcement.

Because the BOP continued to plan to relocate women, albeit some temporarily, students and faculty in the Liman Program sought to understand how the BOP decisions would be implemented and the effects of the dislocation and relocation on women prisoners and their families. We were able to learn about some of the challenges that women experienced as a result of the BOP's decision to use FCI Danbury primarily for men. Through corresponding with many inmates and their families, and by visiting and interviewing more than a dozen of the women incarcerated at Danbury and thereafter at FDC Philadelphia and MDC Brooklyn, we detail some of their experiences.

IV. The Dislocation of Relocation

Assignment to a prison is difficult for anyone; once placed, prisoners learn to manage the challenges of incarceration. The BOP decision to move women out of Danbury imposed greatly on the women who had – some for years – made constructive use of their time there. As detailed below, the way the BOP has managed the move thus far has imposed significant, and often unnecessary, dislocations.

A first observation is that the repurposing of the facility has caused anxiety and dislocation, some of which could have been ameliorated by the provision of information through formal channels. Prisoners are dependent on the Bureau for official information. Yet we have learned that the BOP has not regularly given updates on the status of plans for FCI Danbury and its adjacent facilities. Indeed, often citing “security concerns,” the BOP does not generally give women advance notice of their own transfers, nor has the BOP worked cooperatively with inmates to minimize the problems.

Specifically, from June 2013, when the prospect of FCI Danbury closing to women first emerged, until March 2014, when the FCI was emptied of women, rumors abounded, and those in detention were unsure of what was happening to them. Moreover, the transferred women have not—as of this writing—been given clear information by the BOP about the expected timeline for the reopening of Danbury.

Second, like other federal facilities, the population at Danbury included women from a variety of places. As of September 2013, the BOP estimated that about 58 percent of the women that it housed at Danbury were from the Northeast or the Mid-Atlantic regions.⁶¹ Danbury was, therefore, not the facility most proximate to the home communities of a significant group of women. The change at the FCI resulted in BOP decisions to move some women closer to their families. Further, in light of the concerns raised, the Bureau reviewed those in detention at Danbury, and the BOP released some to halfway houses or to their homes. In short, for some in detention, the change at Danbury helped them gain release or relocation that helped them. Yet it is not clear that the BOP has continued the appropriate intensive review of individual cases to identify other women who could be sent to halfway houses or home.

Third, those who hoped to stay in the Northeast have faced—and continue to face—many challenges. The glimpse we provide below, which draws on information from a small fraction of women at Danbury, helps to bring some of these experiences to the fore.⁶²

Danbury: The Fall of 2013 until March 2014: A common theme was women’s frustration with the BOP, which had stated its interest in fostering strong family ties and yet planned to move Northeastern women further from their homes. Women described visits as an invaluable connection to the outside world; as bringing a “burst of new energy”; and as making them feel and act “like a new person.” One woman noted, “I want my incarceration to have the least impact on my family, on my daughter, as possible. But that’s just not how it works.” Given that reality, maintaining as strong a relationship as possible with her young daughter remained a top priority. Another woman concluded: “We’re a business. It’s not reentry or . . . family ties. They don’t care.”

A second theme was confusion about who was leaving, where they were going, and when. In early November of 2013, a number of women at Danbury were told to “pack out,” but their transfer was cancelled shortly thereafter. By mid-November, there was a rumor among some Danbury prisoners that the facility would be emptied between December 1 and January 15, with all non-citizens going to FCI Aliceville, a prison in Alabama, and about 100 women from the Northeast going to MDC Brooklyn, a city jail.

When students visited Danbury in November, prisoners reported that they were not receiving clear information from staff, and that some of the staff had told them that they too learned about transfers just hours ahead of when they were to occur. For example, one woman said that eighty to ninety women were boarded onto a bus to Aliceville, but fifteen were removed from the bus without explanation just before it left. As our interviewees explained to us, non-citizens were sent to Alabama, and prisoners from Washington, D.C. also left Danbury—reportedly most were transferred to Hazelton, a prison in West Virginia, and a few went to a federal jail in Philadelphia.

We were told that the BOP also released some women who had twelve months or less remaining on their sentences and were therefore eligible for placement in halfway houses. As described, the Second Chance Act authorizes the BOP to send eligible inmates into residential reentry centers for the last year of their sentences and to home detention for the final six months.⁶³ Nevertheless, as we understand it, prior to the mission change, it was unusual for women to get more than six months of halfway house time.⁶⁴ Yet, we were told, the increased use of the Second Chance options was short-lived. Several women indicated that the BOP stopped using those provisions once the facility had been emptied to a sufficiently low capacity to permit BOP to proceed with the mission change.

Given the announcement of an 18-month construction timeline, women in Danbury expected to see signs of planning or construction beginning for the new facility. But when no evidence of such work emerged, women complained that the proposed return was likely ephemeral. In November of 2013, a prisoner described the plans as a “smoke and mirror show” and reported that her supervisors had told her that there had not yet been a bidding process, or even a survey, for the construction of a new facility.

Around Christmas of 2013, several women at Danbury reported that the BOP had begun renovations to the FCI to prepare for the men; improvements were underway in the living spaces, hallways, and bathrooms. As rebuilding began, the women reported that staff had restricted their movements and, at times, imposed lockdowns. Women also told interviewers that their access to resources and programming was reduced, and that in December, the general library closed and the law library was open only one hour a day. Programs related to education and dog training shut down, we were told, in late December.

However, a group of women remained at Danbury, and their work continued through much of the winter. Prisoners reported being removed from their regular paying jobs and assigned to physically intense work such as ripping up tiles and removing beds. We were later told that if women refused to do “mission change work,” they were sent to the Solitary Housing Unit. By March of 2014, women interviewed estimated that there were about 150 women prisoners left at the FCI, and that they had been consolidated into two units. We heard complaints about the lack of working plumbing and other facilities.

We were told that, in their last weeks at Danbury, the remaining women were not given official news on their impending transfers; some learned of their moves the night before they occurred. Information passed informally; rumors were that a group of approximately seventy women were transferred to FCI Waseca, a prison in Minnesota, and another group of about sixty to the MDC in Brooklyn. By mid-March, the transfers were complete.

After Danbury: March 2014-August 2014, and Federal City Jails As our interviewees told us, most women from the Northeast who are U.S. citizens were transferred from Danbury to federal detention centers in Brooklyn and Philadelphia. Further, as we—and the women with whom we spoke—understand it, the women are slated to remain in these jails until the construction of new facility on the FCI Danbury grounds is complete. The difficulties these women have reported make plain that large urban jails are not designed for long-term stays or for facilitating reentry, nor can they be easily reorganized to do so.

MDC Brooklyn and FDC Philadelphia are both high-rise facilities located in urban centers. As of this writing, Brooklyn houses 2,002 inmates, while Philadelphia houses 988.⁶⁵ BOP institutions are classified into one of five security levels: minimum, low, medium, high, and administrative.⁶⁶ Brooklyn and Philadelphia are both administrative institutions and, thus, they house inmates of all custody levels and all security point scores. Because of the wide variation in the criminal histories and charges or convictions of those housed in administrative facilities, women placed there are in a higher level of security than they were when at FCI Danbury.

Our interviewees reported that about sixty women were transferred from Danbury to MDC Brooklyn; some said that the facility was “completely unprepared” for their arrival. We heard that staff at MDC Brooklyn had not received prisoners’ medical records, ordered meals for them, or prepared basic necessities such as shower shoes and pajamas. Further, the women told us that they were placed in a unit that had not been used for a long time, and hence was in poor physical shape. The women transferred to a jail in Philadelphia arrived in a more staggered fashion, and those we met in Philadelphia did not describe the kind of disarray that we heard from women in Brooklyn.

Prisoners in both Brooklyn and Philadelphia have had to adjust to conditions very different than those at Danbury: they have greatly reduced privacy, outdoor time, and access to natural light in the jails. We heard from women at the federal jail in Brooklyn that their unit had an open floor plan, with cameras throughout, and that the lights were left on 24 hours a day. We were told that male staff walked through the unit to count prisoners at 3:00 a.m. and 5:00 a.m., times when the women were asleep.

Privacy issues in the city jails are exacerbated by the fact that women cannot go outside. We are told that the recreation “yard” in Brooklyn is an indoor room across the hall from the women’s sleeping area, and that it has a few windows high on the walls. In Philadelphia, we heard that the “outdoor” space consists of a room with concrete walls with very small windows at the top.

Women reported that they experienced more barriers to obtaining legal services in the jails than they had at Danbury. In Philadelphia, they said, no separate legal library exists and the only law-related book in the general library is Black’s Law Dictionary. In Brooklyn, as of spring 2014, we heard that women had not been able to go to the law library.

Women incarcerated at both facilities reported that they were not able to be involved in the same programs—nor comparable programs—in their new placements as they had been able to do at Danbury. At Brooklyn, we were told that women have access to G.E.D. classes, a basic banking class, and non-residential drug treatment programs. Women in Philadelphia told us that aside from a communication/meditation class and a “job fair” course, no programs existed for them. Both at Brooklyn and Philadelphia, women reported that their work opportunities were in the laundry and, in Brooklyn, also as orderlies, responsible for keeping their own units clean.⁶⁷

Two key programmatic deficiencies stand out: the lack of access to RDAP and the absence of apprenticeships and UNICOR jobs. As we have discussed, RDAP offers intensive drug treatment, and successful completion produces various benefits, including the potential for a reduction of up to a year from a sentence.⁶⁸ UNICOR is the trade name of Federal Prison Industries, Inc. (FPI), a wholly owned federal government corporation that provides work opportunities to inmates of the Federal Bureau of Prisons (FBOP).⁶⁹ Studies have shown that inmates who participate in UNICOR are 14 percent more likely to be employed one year following their release from prison than are non-participants.⁷⁰ They are also 24 percent less likely to recidivate for up to 12 years following their release from prison.⁷¹ Inmates who work UNICOR jobs may earn up to \$1.15 per hour, and perhaps slightly more if they are eligible for premium pay. While these wages are modest, they are higher than those offered by other types of prison employment, which pay between twelve and forty cents per hour.⁷²

On the other hand, the transfers to city jails have eased access to visits and family for some women. Both facilities afford better visiting hours than Danbury did. At MDC Brooklyn, we are told that phone calls cost less than at Danbury and many women are closer to where their families live. As one woman put it, “I’m closer to home, and that’s what matters to me.”

What the women do not know is how long they will be at the urban jails. If the current projections hold true, their stays may last several years.

V. Using the Changes for Danbury as an Opportunity for Improving Facilities for Women in the Federal System

Recall that in 1979, the House of Representatives Subcommittee on Courts, Civil Liberties and the Administration of Justice convened a hearing, described as the first time “that Congress has focused on the problems and needs of women offenders, and particularly those in the Federal Prison System.”⁷³ The Chair of the Subcommittee expressed concern over “charges that women are getting short-changed when it comes to facilities, rehabilitation, health services, and job training.”⁷⁴

Thirty-five years later, these concerns persist. In addition to pressing for return of women to Danbury by 2015, the new construction at Danbury should be used as an opportunity to build a model women’s facility that meets the federal goals of incarceration—easing reentry through programming and fostering ongoing connections to the communities and families of inmates. To do so, we provide a series of recommendations both to respond to the immediate challenges that women face during the transition and to make lasting improvements for the future. Underlying all of these recommendations is one central goal: the BOP should endeavor to construct the new facility at Danbury as expeditiously and thoughtfully as possible so that women can return to and flourish in it.

Interim Recommendations

As the details of the experiences of women in transition make plain, the transfer of women into urban jails has created a number of urgent needs, which should be addressed as quickly as possible.

First, in light of the limitations of the urban jails, the overcrowding in BOP facilities,⁷⁵ and the BOP’s recognition that “female offenders are less likely to be violent or attempt escape,”⁷⁶ all efforts should be made to identify women who can benefit from alternative placements. The BOP ought to use its authority under the Second Chance Act to release eligible women into halfway houses for the final twelve months of their sentences and to home confinement for the final six months. By exercising that authority, the BOP could reduce overcrowding, improve educational opportunities for inmates, and strengthen family relationships.⁷⁷ Moreover, as a 2012 report estimated, were the BOP to increase by three months the time that inmates spend in “home confinement,” the BOP could save at least \$111.4 million each year.⁷⁸

Second, in light of the President’s new clemency initiative, and the Sentencing Commission’s decision to make recent drug sentence reductions retroactive, access to legal services has become all the more important. Staff at the facilities to which women have been transferred should provide guidance to enable eligible women to obtain legal assistance and facilitate contacts as well as communications with lawyers from the districts where women were sentenced.

Third, for those women who remain incarcerated, access in the Northeast to RDAP, health care, apprenticeships, educational programs, and UNICOR jobs is critical. Moreover, wage-earning opportunities are an essential aspect of keeping in touch with family; by earning money, women can pay for stamps and phone calls as well as to make necessary purchases at the commissaries.

Fourth, given the limitations of urban jails as facilities for housing women and that new prisoners from the Northeast will be entering the BOP system, the BOP should make options available in addition to two city jails. The BOP lists fourteen federal correctional institutions in its Northeast region.⁷⁹ Two of these FCIs, Fort Dix in New Jersey and Otisville in New York, are centrally located within two hours or less from New York City. Fort Dix is a low security facility, as Danbury was;⁸⁰ Otisville is listed as medium security.⁸¹ Another low security facility, Allenwood, is in Pennsylvania, about three hours from New York City.⁸² Thus, while women are not able to be at Danbury, the BOP should explore all options – from release and halfway houses to other placements – to enable women prisoners from the Northeast to have access to programming, to jobs, to lawyers, and to reentry planning, as well as to visits from their families.

Long-Term Recommendations

Use the Construction Opportunity Wisely and Design a Facility for Women: The building of a new facility creates an opportunity for longer-term thinking about how best to serve the needs of incarcerated women, both in the Northeast and elsewhere. As social commentators from Jeremy Bentham to Michel Foucault have argued, architecture matters. A new prison means that new decisions could be made about facilities, housing arrangements, work and outdoor activities, and visiting rooms.

The most consistent problems women cited in our interviews were conditions of the physical facilities at both the FCI and the camp at Danbury, and then at the urban jails. If the camp is to continue housing women while the FCI building is converted to a men's facility, basic structural problems—mold, flooding, and sewage problems—need to be addressed. In addition, the camp currently lacks an attorney visiting room. Ensuring that the camp facilities enable women to have adequate access to legal services is essential.

Nor should the BOP settle for constructing a facility that is merely habitable. Recently constructed state prisons for women—such as institutions in Iowa and Washington—aim to create a distinctive setting in which to facilitate rehabilitation.⁸³ The new Mitchellville prison in Iowa, for example, incorporates outdoor classroom space into its design. The idea, which was the result of a collaboration between landscape architecture students at Iowa State University and the officers and inmates who would live and work in the new facility, was that time spent outside could “benefit and improve the mental, physical and emotional well being of the offenders, staff, and visitors.”⁸⁴ Indeed, women at Danbury valued their access to the outdoors, which the prison's physical layout made possible. The new facility should expand opportunities to spend time outside and consider how to renovate the landscape as well as create a new structure to house inmates.

Attention should also be paid to the indoor spaces. In interviews at Danbury before the mission change, some women expressed distress about barracks-style housing that limited women's privacy from each other and from male officers. These concerns are especially acute for women with a history of abuse and those for whom modesty is a religious requirement.

Ensure Access to Counsel, Courts, and Legal Resources: The federal system now offers those in prison the possibilities of release through the Second Chance Act, clemency, and sentence reductions for certain kinds of offenses. In addition, many women face child custody and other family law issues, which are governed by state law. Women thus need access to both federal and state legal resources. Such access should be provided through multiple avenues, including materials in law libraries, legal classes for inmates, and access to community-based advocacy and legal service providers. Danbury once offered a paralegal certificate class, a model of the kinds of programs that can and should be reintroduced.

Facilitate Contact with Home and Family: Among all prisoners, women are particularly likely to have children and to have been the primary caregivers in their families.⁸⁵ One study of the federal system concluded that most of the women were the parents of minor children.⁸⁶ Yet visiting can be difficult,⁸⁷ and the remote locations of prisons, limited hours for visiting, a lack of transportation, and the inability of caregivers to arrange visits create impediments.⁸⁸ Enabling children and parents to visit is central to helping women while they are incarcerated and to facilitate their successful transition out of prison.⁸⁹ These programs also benefit the children, who are themselves at higher risk of becoming involved in the juvenile and criminal justice systems.⁹⁰

The BOP has already begun to shape an agenda around children. As noted, in June of 2013, the BOP Director sent a letter to inmates about the importance of maintaining family connections. And in December of 2013, the BOP held its first universal Children's Day; more than 4,000 inmates across the country were able to spend time with their children and participate in activities such as "storytelling, face painting, parenting workshops, family worship services and holiday-themed arts and crafts."⁹¹

Children's Day is an example of the kinds of programs needed at the reconstructed Danbury, and it also prompts questions about what more the BOP can do to facilitate family closeness. Models abound, such as the Children's Center at Bedford Hills. That facility, funded by the New York Department of Correctional Services and administered by Catholic Charities, offers parenting classes and enables children to spend time with their mothers during the summers for five-day-long sessions, during which they can play and share lunch together. The Center also sponsors birthday celebrations so that children can celebrate their birthdays in a playroom in the prison. Further, the Children's Center organizes a holiday program for women to select presents from donated toys to give to their children during visits.⁹² Volunteers were and are central to these programs, which depend on community involvement: volunteers provide transportation for visits and help to mentor children and women.

Incorporate Insights From Gender-Responsive Programming: In recent decades, correctional officials and social scientists have developed the concept of gender responsiveness

in prison programming to reflect that women differ from men in the paths that bring them into prison, as participants in family structures, and in their behavior once incarcerated. These gender responsive approaches are based on a growing body of knowledge about women in detention: they are less likely than men to have committed violent crimes and are more likely to have committed property or drug offenses.⁹³ “Women’s most common pathways to crime involve survival efforts that result from abuse, poverty, and substance abuse.”⁹⁴ Thus, in 2003, the National Institute of Corrections (NIC) found that incarcerated women have disproportionately high rates of prior physical and sexual abuse; substance abuse; medical problems; and mental health disorders.⁹⁵ The NIC reported that “[w]omen offenders are disproportionately low-income women of color who are undereducated and unskilled, with sporadic employment histories.”⁹⁶

Many programs should be available to both women and men, but some programming should address the distinctive circumstances correlated with gender. The BOP can draw on models from other systems, as well as its own history of successful programs. For example, because women in prison have high rates of mental health disorders and substance abuse, often interrelated with experiences of trauma,⁹⁷ the availability of substance abuse treatment programs, particularly those that enable sentences to be shortened, should be a priority. The Residential Drug Abuse Program is one such program. Nonresidential drug treatment is also needed.

Further, as noted, three-quarters of incarcerated women have histories of severe physical and sexual abuse in their adulthood and/or childhood.⁹⁸ Danbury once offered a pilot program—the “Bridge Program”—that provided residential group therapy for inmates with post-traumatic stress disorder. We understand that the number of women involved was small, in part because of the limited availability of trained staff. Programs such as this one ought to be reinstated and expanded, and coupled with guidelines for psychologist-patient confidentiality and training for staff to help them understand the needs of inmates with histories of trauma and abuse.

In addition to programs for women, facilities need to attend to women’s hygienic needs and offer sex-specific commissary items. Many women expressed frustration with failures to meet their basic hygienic needs, for example through the inadequate supply of toilet paper and sanitary products. In addition, women may require additional commissary items, such as hygienic products and other toiletries that differ from men’s needs. Examples come from state programs; Washington State has recently developed a list of commissary items to meet women’s specific needs.⁹⁹

Provide Employment and Skill-Building Opportunities: Women enter prison with more limited employment histories and fewer job skills than men. Additionally, “[w]omen are less likely than men to have engaged in vocational training before incarceration, and those who have received vocational training in the community have tended to focus on traditional women’s jobs, such as cosmetology, clerical work, and food service.”¹⁰⁰ Moreover, according to a 2003 National Institute of Corrections study, “[m]ale prisons typically provide a greater variety of educational and vocational programs and training for more skilled (and better compensated) occupations.”¹⁰¹

As described above, UNICOR jobs were highly valued by the women we interviewed. We were also told that demand for apprenticeships exceeded the available places at Danbury. These programs should be more than just jobs that inmates do while in prison; they should offer certificates that could be recognized outside of prison, as the culinary program at Danbury once did. Moreover, the BOP should ensure that its apprenticeship offerings do not replicate gender stereotypes. For example, Washington State has recently expanded apprenticeship programs as part of its gender responsiveness initiative, offering an Electrician Apprentice Program and a program enabling inmates to become certified nursing assistants.¹⁰² In addition, training should be offered in computer technology.

The Need for Renewed Attention and New Commitments

In sum, the decision to move women out of FCI Danbury has had negative effects on many women who were detained there and the lack of appropriate facilities for women in the Northeast poses a problem for those yet to be sentenced. The aims of this report are to facilitate the prompt return of women to FCI Danbury, to obtain appropriate settings and programs for them in the interim, and to use the plans to construct new bed-space as an opportunity to attend to the needs of women in the federal prison system. Given that so little progress has been made since November of 2013, the challenges faced by women federal prisoners once again requires the involvement of all branches of the federal government, as well as organizations and individuals devoted to ameliorating the difficulties faced by prisoners, their families, and the communities to which inmates return.

Endnotes

* This report is a joint product of students in the Liman Program at Yale Law School and of Megan Quattlebaum, Senior Liman Fellow in Residence, Hope Metcalf, the Liman Director, and Judith Resnik, Arthur Liman Professor of Law at Yale Law School. Our affiliations are provided for identification purposes only. Our thanks to incoming Liman Director, Professor Johanna Kalb, as well as Professors Brett Dignam and Dennis Curtis, and Bonnie Posick, Kathi Lawton, and Katarina Krasulova. The Liman Program was created to honor Arthur Liman, a 1957 Yale Law graduate, who aspired to help shape a more just and humane criminal justice system. In recent years, the Liman Program has published a fifty-state survey of policies on visiting prisoners, Chesa Boudin, Trevor Stutz, & Aaron Littman, *Prison Visitation: A Fifty State Survey*, 32 YALE L. & POL'Y REV. 149 (2013), and an analysis, based on a survey of administrative segregation policies, of the criteria and procedures for detention in segregation for thirty days or more. HOPE METCALF, JAMELIA MORGAN, SAMUEL OLIKER-FRIEDLAND, JUDITH RESNIK, JULIA SPIEGEL, HARAN TAE, ALYSSA WORK, & BRIAN HOLBROOK, LIMAN PUBLIC INTEREST PROGRAM, ADMINISTRATIVE SEGREGATION, DEGREES OF ISOLATION, AND INCARCERATION: A NATIONAL OVERVIEW OF STATE AND FEDERAL CORRECTIONAL POLICIES (July 2013), *available at* www.papers.ssrn.com/abstract=2286861.

¹ John Pirro, *FCI Danbury Converting Back to Men's Prison*, NEWS TIMES (July 3, 2013), available at <http://www.newstimes.com/news/article/FCI-Danbury-converting-back-to-men-s-prison-4645323.php>.

² See, e.g., Letter from Allegra Glashausser, Chair, Corrections and Community Reentry Committee, Association of the Bar of the City of New York, to Charles E. Samuels, Jr., Director, Federal Bureau of Prisons (Sept. 24, 2013); Letter from Patti B. Saris, Chief District Judge, and Rya W. Zobel, Mark L. Wolfe, and Michael A. Ponsor, District Judges, U.S. District Court for the District of Massachusetts, to Charles E. Samuels, Jr., Director, Federal Bureau of Prisons (Sept. 23, 2013); Letter from Avraham C. Moskowitz, Partner, Moskowitz & Book, LLP, to Charles E. Samuels, Jr., Director, Federal Bureau of Prisons (Aug. 29, 2013); Letter from Alex Friedmann, Associate Director, Human Rights Defense Center, to Senator Patrick Leahy (Aug. 28, 2013); Letter from Elizabeth Graves, Executive Director, The Osborne Association, to Charles E. Samuels, Jr., Director, Federal Bureau of Prisons (Aug. 20, 2013); Letter from NY Initiative for Children of Incarcerated Parents, to Charles E. Samuels, Jr., Director, Federal Bureau of Prisons (Aug. 15, 2013); Letter from Thomas M. Susman, Director, Governmental Affairs Office, American Bar Association, to Charles E. Samuels, Jr., Director, Federal Bureau of Prisons (Aug. 6, 2013). The National Association of Women Judges issued a resolution on the topic. See National Association of Women Judges, *Resolution Calling for Oversight Hearings to Examine the Treatment of Federal Female Inmates* (Aug. 19, 2013). And the Ms. Foundation circulated a petition asking the BOP to “keep women prisoners close to home.” See <http://www.change.org/petitions/charles-samuels-jr-director-federal-bureau-of-prisons-keep-women-prisoners-close-to-home>.

³ See Judith Resnik, Op-ed, *Harder Time: Why Are the Federal Prison Beds for Women in the Northeast Going to Men—While the Women Get Shipped to Alabama?*, SLATE (July 25, 2013); Editorial, *Bad Prison Policy for Women*, N.Y. TIMES (Aug. 9, 2013); Piper Kerman, Op-ed, *For Women, A Second Sentence*, N.Y. TIMES (Aug. 13, 2013); Nancy Gertner & Judith Resnik, Op-ed, *Keep Female Prisoners Close to Family*, THE BOSTON GLOBE (Sept. 3, 2013).

⁴ See Letter to Charles E. Samuels, Jr., Director, Federal Bureau of Prisons from Christopher Murphy, U.S. Senator Connecticut; Kristen E. Gillibrand, U.S. Senator New York; Richard Blumenthal, U.S. Senator, Connecticut, Patrick Leahy, U.S. Senator, Vermont; Charles E. Schumer, U.S. Senator, New York; Jeanne Shaheen, U.S. Senator, New Hampshire; Robert P. Casey, Jr., U.S. Senator, Pennsylvania; Bernard Sanders, U.S. Senator, Vermont; Angus S. King, Jr., U.S. Senator, Maine; Elizabeth Warren, U.S. Senator, Massachusetts; and Edward Markey, U.S. Senator, Massachusetts (Aug. 2, 2013).

⁵ See Letter to Eric H. Holder, Jr., Attorney General of the United States, from Hon. Loretta A. Preska, Chief Judge, U.S. District Court for the Southern District of New York; Janet Hall, Chief Judge, U.S. District Court District of Connecticut; Gregory Sleet, Chief Judge, U.S. District Court for the District of Delaware; John Woodcock, Chief Judge, U.S. District Court for the District of Maine; Deborah Chasanow, Chief Judge, U.S. District Court for the District of Maryland; Patti B. Saris, Chief Judge, U.S. District Court for the District of Massachusetts; Joseph Laplante, Chief Judge, U.S. District Court for the District of New Hampshire; Jerome B.

Simandle, Chief Judge, U.S. District Court for the District of New Jersey; Carol B. Amon, Chief Judge, U.S. District Court for the Eastern District of New York; William M. Skretny, Chief Judge, U.S. District Court for the Western District of New York; Christopher C. Conner, Chief Judge, U.S. District Court for the Middle District of Pennsylvania; and Mary M. Lisi, Chief Judge, U.S. District Court for the District of Rhode Island (Oct. 2013).

⁶ *Id.* at 1-2.

⁷ Press Release, Senator Chris Murphy, *Senators Announce Changes to FCI Danbury Transfer* (Nov. 4, 2013).

⁸ *Id.*

⁹ *Id.*

¹⁰ Second Chance Act of 2007, 42 U.S.C. § 17501(a)(1)-(5) (2010), enacted in 2007, signed into law in 2008, and codified in parts of Title 18 and Title 42.

¹¹ This portion of the Second Chance Act amended 18 U.S.C. § 3624(c)(1)-(2) (2010). The BOP was also required to submit annual reports to Congress regarding its “utilization of community corrections facilities.” *Id.* at § (c)(5). The report was to:

set forth the number and percentage of Federal prisoners placed in community corrections facilities during the preceding year, the average length of such placements, trends in such utilization, the reasons some prisoners are not placed in community corrections facilities, and any other information that may be useful to the committees in determining if the Bureau is utilizing community corrections facilities in an effective manner. *Id.*

¹² Deputy Attorney General James M. Cole, Remarks at the Children of Incarcerated Parents Initiative “Champions of Change” Event (June 12, 2013), *available at* <http://www.justice.gov/iso/opa/dag/speeches/2013/dag-speech-130612.html> .

¹³ DEP’T OF JUSTICE, SMART ON CRIME: REFORMING THE CRIMINAL JUSTICE SYSTEM FOR THE 21ST CENTURY (Aug. 2013).

¹⁴ Press Release, U.S. Dep’t of Justice, Announcing New Clemency Initiative, Deputy Attorney General James M. Cole Details Broad New Criteria for Applicants (Apr. 23, 2014), *available at* <http://www.justice.gov/opa/pr/2014/April/14-dag-419.html>.

¹⁵ Deputy Attorney General James M. Cole, Remarks at the Press Conference Announcing the Clemency Initiative (Apr. 23, 2014), *available at* <http://www.justice.gov/iso/opa/dag/speeches/2014/dag-speech-140423.html>.

¹⁶ Press Release, U.S. Sentencing Comm’n, U.S. Sentencing Commission Votes to Reduce Drug Trafficking Sentences (Apr. 10, 2014), *available at* http://www.ussc.gov/sites/default/files/pdf/news/press-releases-and-news-advisories/press-releases/20140410_Press_Release.pdf.

¹⁷ Press Release, U.S. Sentencing Comm’n, U.S. Sentencing Commission Unanimously Votes to Allow Delayed Retroactive Reduction in Drug Trafficking Sentences (July 18, 2014), *available at* http://www.ussc.gov/sites/default/files/pdf/news/press-releases-and-news-advisories/press-releases/20140718_press_release.pdf.

¹⁸ According to conversations with our interviewees, RDAP was offered at the main FCI at Danbury. Women from the camp who wished to participate were required to transfer to the main facility.

¹⁹ *See* 18 U.S.C. § 3621(e)(2)(B) (2010) (“The period a prisoner convicted of a nonviolent offense remains in custody after successfully completing a treatment program may be reduced by the Bureau of Prisons, but such reduction may not be more than one year from the term the prisoner must otherwise serve.”). In addition to a sentence reduction, an inmate could also receive other benefits for successfully completing RDAP; included were financial awards, consideration for the maximum period of time in a community-based treatment program, preferred living quarters, and special recognition. BOP Prog. Statement 5330.11, Psychology Treatment Programs, at 19-21 (Mar. 16, 2009). Further, those who decline to participate when eligible may become ineligible for furlough or a Federal Prison Industries work assignment, and their choice may also be taken into consideration when deciding how much time they will be able to spend in community confinement. *Id.* at 21-22.

²⁰ This discussion draws heavily on the testimony that the Liman Program submitted in November of 2013 to the Senate Judiciary Committee. *See* Liman Program Statement Submitted for the Record, Oversight of the Bureau of Prisons and Cost-Effective Strategies for Reducing Recidivism, Hearing before the Senate Comm. on Judiciary, 113th Congress (Nov. 12, 2013).

²¹ LOIS M. DAVIS, ROBERT BOZICK, JENNIFER L. STEELE, JESSICA SAUNDERS & JEREMY N.V. MILES, *EVALUATING THE EFFECTIVENESS OF CORRECTIONAL EDUCATION: A META-ANALYSIS OF PROGRAMS THAT PROVIDE EDUCATION TO INCARCERATED ADULTS* xvi (RAND 2013). This meta-analysis of data on correctional education concludes that taking educational courses while incarcerated reduces an individual’s risk of recidivism by 13 percent.

²² *See, e.g.*, Karen Casey-Acevedo & Tim Bakken, *The Effects of Visitation on Women in Prison*, 25 INT’L J. COMP. & APPL. CRIM. JUST. 48 (2001); Nancy E. Schafer, *Exploring the Link Between Visits and Parole Success: A Survey of Prison Visitors*, 38 INT’L J. OFFENDER THERAPY & COMP. CRIMINOLOGY 17 (1994); John D. Wooldredge, *Inmate Experiences and Psychological Well-Being*, 26 CRIM. J. & BEHAVIOR 235 (1999).

²³ *See, e.g.*, DAVIS, BOZICK, STEELE, SAUNDERS & MILES, *supra* note 21, at xvi; *see also* William D. Bales & Daniel P. Mears, *Inmate Ties and the Transition to Society*, 45 J. OF RESEARCH IN

CRIME AND DELINQUENCY 287 (2008); Mark T. Berg & Beth M. Huebner, *Reentry and the Ties that Bind: An Examination of Social Ties, Employment, and Recidivism*, 28 JUST. Q. 382 (2010).

²⁴ CHRISTY A. VISHNER, VERA KACHNOWSKI, NANCY LA VIGNE & JEREMY TRAVIS, URBAN INSTITUTE, BALTIMORE PRISONERS' EXPERIENCES RETURNING HOME 2 (Mar. 2004), available at http://www.urban.org/UploadedPDF/310946_BaltimorePrisoners.pdf.

²⁵ LAUREN E. GLAZE & LAURA M. MARUSCHAK, U.S. DEP'T OF JUSTICE, BUREAU OF JUSTICE STATISTICS, PARENTS IN PRISON AND THEIR MINOR CHILDREN 1 (Aug. 2008), available at <http://www.bjs.gov/content/pub/pdf/pptmc.pdf>.

²⁶ *Id.*

²⁷ *Id.* at 2. In terms of the federal prison population, in a review from more than a decade ago, about half of the women who were mothers of small children had lived with those children prior to entering prison. LAWRENCE A. GREENFELD & TRACY L. SNELL, U.S. DEP'T OF JUSTICE, BUREAU OF JUSTICE STATISTICS, WOMEN OFFENDERS 8 (1999), available at <http://www.ojp.usdoj.gov/bjs/pub/pdf/wo.pdf>.

²⁸ *See, e.g.*, Thomas E. Hanlon, Robert J. Blatchley, Terry Bennett-Sears, Kevin E. O'Grady, Marc Rose & Jason M. Callaman, *Vulnerability of Children of Incarcerated Addict Mothers: Implications for Preventive Intervention*, 27 CHILDREN & YOUTH SERVICES REV. 67 (2005); Heath C. Hoffmann, Amy L. Byrd & Alex M. Kightlinger, *Prison Programs and Services for Incarcerated Parents and Their Underage Children: Results from a National Survey of Correctional Facilities*, 90 PRISON J. 397 (2010); Beth M. Huebner & Regan Gustafson, *The Effect of Maternal Incarceration on Adult Offspring Involvement in the Criminal Justice System*, 35. J. CRIM. JUST. 283 (2007); Joseph Murray & David P. Farrington, *Parental Imprisonment: Effects on Boys' Antisocial Behavior and Delinquency Through the Life-Course*, 46 J. CHILD PSYCHOL. & PSYCHIATRY 1269 (2005). One study reports that children who have an incarcerated parent are six times more likely to be incarcerated. Patricia Gonzalez, Tony Romero & Christine B. Cerbana, *Parent Education Program for Incarcerated Mothers in Colorado*, 58 J. CORRECTIONAL EDUC. 357 (2007).

²⁹ The Honorable Jack C. Coughenour, *Separate and Unequal: Women in the Federal Criminal Justice System*, 8 FED. SENTENCING REP. 142 (1995); Judge Coughenour summarized materials collected by the Ninth Circuit Gender Bias Task Force, which he chaired. *See* John C. Coughenour, Proctor Hug, Jr., Marilyn H. Patel, Terry W. Bird, Deborah R. Hensler, M. Margaret McKeown, Judith Resnik & Henry Shields, Jr., *The Effects of Gender in the Federal Courts: The Final Report of the Ninth Circuit Gender Bias Task Force*, 67 S. CAL. L. REV. 745 (1994).

³⁰ NATIONAL WOMEN'S LAW CENTER & THE REBECCA PROJECT FOR HUMAN RIGHTS, MOTHERS BEHIND BARS: A STATE-BY-STATE REPORT CARD AND ANALYSIS OF FEDERAL POLICIES ON CONDITIONS OF CONFINEMENT FOR PREGNANT AND PARENTING WOMEN AND THE EFFECT ON

THEIR CHILDREN 33 (2010), *available at* <http://www.nwlc.org/sites/default/files/pdfs/mothersbehindbars2010.pdf>.

³¹ Casey-Acevedo & Bakken, *supra* note 22 at 49.

³² U.S. Dep't of Justice, *Giving a Boost to Kids of Incarcerated Parents*, THE JUSTICE BLOG (JUNE 12, 2013), *available at* <http://blogs.justice.gov/main/archives/2950> (last visited Nov. 5, 2013).

³³ *Id.*

³⁴ *Id.*

³⁵ Memorandum from Charles E. Samuels, Jr., Director, Federal Bureau of Prisons to All Bureau Inmates (June 19, 2013), *available at* http://www.bop.gov/news/press/press_releases/Parenting_Message_English.pdf (last visited Sept. 21, 2013).

³⁶ BOP Program Statement No. 5100.08, Inmate Security Designation & Custody Classification (Sept. 12, 2006).

³⁷ *Id.*

³⁸ *About Regional Offices*, FEDERAL BUREAU OF PRISONS, *available at* <http://www.bop.gov/about/ro> (last visited Nov. 5, 2013).

³⁹ *See Weekly Population Report*, FEDERAL BUREAU OF PRISONS, *available at* http://www.bop.gov/news/weekly_report.jsp (last visited Oct. 3, 2013).

⁴⁰ *See* U. S. SENTENCING COMMISSION, 2012 SOURCEBOOK OF FEDERAL SENTENCING STATISTICS, *available at* http://www.ussc.gov/Research_and_Statistics/Annual_Reports_and_Sourcebooks/2012/sbtoc12.htm (last visited Nov. 10, 2013). Because the Sentencing Commission data do not differentiate among sentence types and include individuals who received sentences that do not include incarceration in jails or prisons, as well as sentences that do, the analysis here likewise includes individuals receiving all types of sentences.

⁴¹ To obtain information about the current population, we visited the BOP website. *See* Federal Bureau of Prisons, Statistics, *available at* http://www.bop.gov/news/weekly_report.jsp (last visited Aug. 25, 2014). Information on rated capacity—the amount of bed space in a given prison—is not made readily available to the public by the BOP. Accordingly, we used information obtained by an attorney, E.J. Hurst, who received data from the BOP in response to a Freedom of Information Act (FOIA) request in 2013. *See* Jay Hurst, Bureau of Prisons Inmate Capacities, <http://jayhurst.net/capacities/> (last visited Aug. 27, 2014).

⁴² Pirro, *supra* note 1.

⁴³ Richard Cendo, *The View From: The U.S. Prison At Danbury: Doing Federal Time And Making Cable*, N.Y. TIMES, Dec. 6, 1987.

⁴⁴ *The Female Offender: Hearing Before the H. Subcomm. on Courts, Civil Liberties, & the Administration of Justice*, 96th Cong. 1-2 (1979) (statement of Rep. Robert W. Kastenmeier, Chairman, H. Subcomm. on Courts, Civil Liberties and the Administration of Justice). *See also The Female Offender: Hearing Before the H. Subcomm. on Courts, Civil Liberties, & the Administration of Justice*, 96th Cong. 135-66 (1979) (statement of Judith Resnik, Acting Dir., The Daniel & Florence Guggenheim Program in Criminal Justice at Yale Law School).

⁴⁵ Cendo, *supra* note 43.

⁴⁶ Google Maps (2014). Amtrak stations exist in Bridgeport, CT, Croton-on-Hudson, NY, New Haven, CT, and Stamford, CT. *See* Amtrak Northeast Stations, *available at* <http://www.amtrak.com/northeast-train-bus-stations>.

⁴⁷ BOP INSTITUTION SUPPLEMENT DAN 5267.08G: FCI/FCP Visiting Regulations (2014).

⁴⁸ *See, e.g.,* SANDRA NORMAN-EADY & GEORGE COPPOLO, CONNECTICUT GENERAL ASSEMBLY OFFICE OF LEGISLATIVE RESEARCH, CROSS-GENDER BODY SEARCHES IN CORRECTIONAL INSTITUTIONS (Mar. 12, 2011), *available at* <http://www.cga.ct.gov/2001/rpt/2001-R-0321.htm>.

⁴⁹ *Forde v. Baird*, 720 F. Supp. 2d 170 (D. Conn. 2010). Under the Prison Rape Elimination Act (PREA), cross-gender searches such as the one at issue in *Forde* are to be eliminated. *See* 42 U.S.C. § 15601 et seq. According to PREA standard 115.15(b), as of August 20, 2015, staff in BOP facilities may no longer perform cross-gender pat down searches of female inmates, absent exigent circumstances.

⁵⁰ A vivid example has been provided to us by Professor Brett Dignam: she and her students at Columbia Law School represent a client who, after suffering from uterine bleeding for almost a decade at Danbury, had a scheduled hysterectomy canceled when she was told that her recently diagnosed breast cancer was a higher priority. Despite the fact that she had been recommended for release in June 2014, she was transferred to Carswell Medical Center (1,500 miles from her family in New York) where the limited window for effective chemotherapy was allowed to lapse. As of this writing, the woman remains on a “medical hold” at Carswell; although she had a double mastectomy and began breast reconstruction at Danbury, she has received neither chemotherapy nor reconstruction since her transfer.

⁵¹ Pirro, *supra* note 1.

⁵² Resnik, *Harder Time*, *supra* note 3.

⁵³ *See supra* note 4.

⁵⁴ See Editorial, *supra* note 3.

⁵⁵ Kerman, *supra* note 3.

⁵⁶ See *supra* note 5.

⁵⁷ See National Association of Women Judges, *supra* note 2.

⁵⁸ See *supra* note 2.

⁵⁹ See Press Release, *supra* note 7.

⁶⁰ *Id.*

⁶¹ Letter to Chris Murphy, U.S. Senator for Connecticut from Charles E. Samuels, Jr., Director, Federal Bureau of Prisons (Sept. 27, 2013).

⁶² From October through December 2013, the Liman Program interviewed 11 women housed at Danbury FCI and the camp. In March of 2014, the Liman Program spoke with four women at Danbury FCI and the camp; in March and April of 2014, we met with nine women, some housed at MCC Philadelphia and others at MDC Brooklyn; we met again with a woman at MDC Brooklyn in June 2014. Each woman provided informed consent to have her comments included in this report. For purposes of protecting women's privacy, names and identifying details are not included.

⁶³ 18 U.S.C. § 3624(c)(1)-(2) (2010).

⁶⁴ New concerns about how women gained access to the Second Chance Act emerged in March of 2014, when one of Danbury's corrections counselors was arrested and charged with aiding and abetting a bribery scheme in which she took cash from inmates and their families in exchange for recommending them for halfway house release. See <http://www.fbi.gov/newhaven/press-releases/2014/fci-danbury-employee-charged-with-participating-in-inmate-early-release-bribery-scheme> (last visited Aug. 27, 2014).

⁶⁵ See <http://www.bop.gov/locations/institutions/bro/>; <http://www.bop.gov/locations/institutions/phl/> (last visited Aug. 27, 2014).

⁶⁶ BOP Prog. Statement 5100.08, Inmate Security Designation & Custody Classification (Sept. 12, 2006).

⁶⁷ METROPOLITAN DETENTION CENTER BROOKLYN, NEW YORK ADMISSION AND ORIENTATION MANUAL FOR PRE-TRIAL, AND HOLDOVER INMATES 14 (Nov. 2009), available at http://www.bop.gov/locations/institutions/bro/BRO_aohandbook.pdf.

⁶⁸ See *supra* note 19.

⁶⁹ See Jaclyn Harris, *Women, Prisons, and Labor: An Examination of the Work Opportunities Provided to Women Prisoners Through UNICOR* (2014) (student manuscript, summer 2014, on file with the authors).

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² See http://www.bop.gov/inmates/custody_and_care/work_programs.jsp?.

⁷³ See Statement of Rep. Robert W. Kastenmeier, *supra* note 44.

⁷⁴ *Id.*

⁷⁵ Letter to Christopher Murphy, United States Senator from Charles E. Samuels, Jr., Director, Federal Bureau of Prisons, at 3 (Sept. 27, 2013). As of December 2011, federal prisons were operating at 139 percent capacity. U.S. GOV'T ACCOUNTABILITY OFFICE, GAO-12-743, BUREAU OF PRISONS: GROWING INMATE CROWDING NEGATIVELY AFFECTS INMATES, STAFF, AND INFRASTRUCTURE 12 (2012), available at <http://www.gao.gov/assets/650/648123.pdf>.

⁷⁶ See *Female Offender Programs*, FEDERAL BUREAU OF PRISONS, available at http://www.bop.gov/inmate_programs/female.jsp (last visited Nov. 5, 2013).

⁷⁷ For additional discussion of back-end means to reduce overcrowding, see JULIE SAMUELS, NANCY LA VIGNE & SAMUEL TAXY, URBAN JUSTICE CENTER STEMMING THE TIDE: STRATEGIES TO REDUCE THE GROWTH AND CUT THE COST OF THE FEDERAL PRISON SYSTEM (Nov. 2013), available at <http://www.urban.org/UploadedPDF/412932-stemming-the-tide.pdf>.

⁷⁸ THOMAS W. HILLER, II, MICHAEL NACHMANOFF, & STEPHEN R. SADY, FEDERAL PUBLIC & COMMUNITY DEFENDERS, GAO REPORT REVEALS MULTIPLE WAYS TO END THE WASTE OF MILLIONS ON UNNECESSARY OVERINCARCERATION (Apr. 4, 2012), available at <http://or.fd.org/Case%20Documents/Defender%20GAO%20with%20Attachment%204.4.12.pdf>.

⁷⁹ See *Northeast Regional Office*, FEDERAL BUREAU OF PRISONS, available at http://www.bop.gov/locations/regional_offices/nero/. This number includes privately-run facilities and excludes hospitals and administrative facilities.

⁸⁰ See <http://www.bop.gov/locations/institutions/ftd/>.

⁸¹ See <http://www.bop.gov/locations/institutions/otv/>.

⁸² See <http://www.bop.gov/locations/institutions/alf/>.

⁸³ See Washington State Dep't of Corrections, *Gender Responsive Initiative: Our Accomplishments in 2013*; William Petroski, *New \$68 Million Mitchellville Women's Prison to Offer "Softer, Gentler" Environment for Inmates*, DES MOINES REGISTER (Oct. 25, 2013); Vanessa Peng, *Students, Prison Inmates Building First-of-its-Kind Space*, KCCI NEWS 8 (Aug. 12, 2013).

⁸⁴ Press Release, Iowa State University, *ISU Landscape Architecture Students and Mitchellville Prison Inmates and Staff Collaborate on New Prison's Grounds* (May 16, 2011), available at <http://www.news.iastate.edu/news/2011/may/LA-prison>.

⁸⁵ BARBARA BLOOM, BARBARA OWEN, STEPHANIE COVINGTON, & MYRNA RAEDER, GENDER-RESPONSIVE STRATEGIES: RESEARCH, PRACTICE, AND GUIDING PRINCIPLES FOR WOMEN OFFENDERS, NATIONAL INSTITUTE OF CORRECTIONS, U.S. DEP'T OF JUSTICE 2 (2003).

⁸⁶ *Id.* at 2.

⁸⁷ *Id.*

⁸⁸ *Id.* at 7.

⁸⁹ Zoann K. Snyder, Teresa A. Carlo & Megan M. Coats Mullins, *Parenting from Prison: An Examination of a Children's Visitation Program at a Women's Correctional Facility*, 32 MARRIAGE & FAM. REV. 33 (2002).

⁹⁰ See *supra* note 28.

⁹¹ The Dep't of Justice, *Bureau of Prison's Universal Children's Day*, THE JUSTICE BLOG (Dec. 13, 2013), available at <http://blogs.justice.gov/main/archives/3480>.

⁹² Hour Children's Centers of Bedford Hills and Taconic Correctional Facilities, Hour Children (last visited May 1, 2014), available at http://hourchildren.org/?page_id=123.

⁹³ BLOOM, OWEN, COVINGTON, & RAEDER, *supra* note 85, at 56.

⁹⁴ *Id.* at 8.

⁹⁵ *Id.* at 5-7. "BJS reported that about half (48 percent) of women in jail (but only 13 percent of men) and half (48 percent) of women in state and federal prisons (but only 12 percent of men) had been physically or sexually abused before incarceration." *Id.* at 5. Studies conducted in state prisons found abuse rates as high as 80 percent. *Id.* at 5. On the issue of substance abuse, "[a]pproximately 80 percent of women in state prisons have substance abuse problems," and "[a]bout half of women offenders in state prisons had been using alcohol, drugs, or both at the time of their offense." *Id.* at 6. On the issue of medical problems, "It is estimated that 20 to 35 percent of women go to prison sick call daily compared with 7 to 10 percent of men," and women additionally have "more medical problems related to their reproductive systems than do

men,” including high-risk pregnancies. *Id.* at 6. Women prisoners are also “50 percent more likely than male prisoners to be HIV positive.” *Id.* at 7. On the issue of mental health disorders, “[o]ne-quarter of women in state prisons have been identified as having a mental illness. The major diagnoses of mental illness are depression, post-traumatic stress disorder (PTSD), and substance abused.” *Id.* at 7. Among women who have “serious mental illness,” “[a]pproximately 75 percent” have “co-occurring substance abuse disorders.” *Id.* at 7.

⁹⁶ *Id.* at 2.

⁹⁷ BLOOM, OWEN, COVINGTON, & RAEDER, *supra* note 85, at 80.

⁹⁸ MERRY MORASH, TIMOTHY S. BYNUM, & BARBARA A. KOONS, WOMEN OFFENDERS: PROGRAMMING NEEDS AND PROMISING APPROACHES, NATIONAL INSTITUTE OF CORRECTIONS RESEARCH IN BRIEF 1 (1998); *see also* SURVIVORS OF ABUSE AND INCARCERATION, CORRECTIONAL ASSOCIATION OF NEW YORK, *available at* <http://www.correctionalassociation.org/issue/domestic-violence>.

⁹⁹ Jennifer Sullivan, *Female Inmates’ Treatment is Evolving*, *The Seattle Times* (Nov. 7, 2013).

¹⁰⁰ BLOOM, OWEN, COVINGTON, & RAEDER, *supra* note 93, at 8.

¹⁰¹ *Id.* at 23.

¹⁰² Washington State Dep’t of Corrections, *Gender Responsive Initiative: Our Accomplishments in 2013*.