

*California Prison Crisis*

# Kinder, Gentler, Gender Responsive Cages: Prison Expansion Is Not Prison Reform

by Rose Braz\*

In June 2005, officials in California declared the end of an unprecedented 20-year prison-building boom with the opening of the Delano II prison, announcing that it would be the state's "last prison." Fourteen months after this historic declaration, Governor Arnold Schwarzenegger—who spoke of closing prisons in his first budget address in January 2004—opened a special session of the legislature with just one proposed "solution" to the debacle that is the California prison system—to build, build, and build some more.

The problem: California's \$8 billion-per-year prison system confines too many people, provides horrendous health and mental healthcare (a federal court has placed the healthcare system into receivership), underfunds and cuts programming and services, and consistently fails to deliver on its promise of public safety. The Governor's short-sighted answer? To make this disaster even bigger by adding at least two new full-scale state prisons and 35 to 50 new smaller prisons scattered around the state, including up to 40 new prisons dubbed "community correctional facilities" specifically for women.

## Building a Whole New System of Imprisonment

Governor Schwarzenegger has not couched his building plan as tough on crime. A May 2006 poll of California voters found that 61% supported the notion that "we have built enough jails in California." (F.D. Russo, "New Poll Points the Way to Democratic Victory in California" (2006); available at [www.californiaproggressreport.com/2006/05/new\\_poll\\_points.html](http://www.californiaproggressreport.com/2006/05/new_poll_points.html).) So, in response to this widening anti-prison public sentiment, the Governor has put forth a plan grounded on the rhetoric of "prison reform." With regard to people in women's prisons,

this plan speaks of "gender responsiveness."

The California Department of Corrections and Rehabilitation (CDCR) has identified 4,500 women that, by its own criteria, do not need to be in state prison. While the CDCR has identified these 4,500 women as eligible to be transferred, there are approximately 5,900 people in women's prisons who have been convicted of offenses classified as "nonviolent property and drug related offenses." But, rather than release them, the Governor, CDCR, feminist scholars, and some advocates have proposed building a whole new system of smaller prisons throughout the state for people they concede do not need to be in prison.

In a late June 2006 press release, for example, the Governor's office announced the Special Session in these terms:

The Governor proposed a measure to move 4,500 nonviolent women out of state prisons into community correctional facilities. This reform would also allow low-risk, nonviolent inmates, women who are near the time of their release, to be closer to their families in their final months of custody. Experts have said that this type of program is effective in reducing recidivism. Moving these women inmates out of prison, which consists of approximately 40% of the total female population, would make room for an entire prison worth of space that could be used for male prisoners.

This article argues that prison expansion is not prison reform. Moreover, advocating for gender responsive prisons fails to challenge the underlying assumption that prisons are a proper and effective institution to address women's problems, an assumption I do not share.

## Gender Responsive Prison "Solution"

Those advocating gender responsive prisons seek to create "an environment that reflects an understanding of the real-

ities of women's lives and addresses the issues of the women." (Barbara Bloom, Barbara Owen, and Stephanie Covington, "Gender Responsive Strategies: Theory, Policy, and Practice," 4 (6) *Women, Girls & Criminal Justice* 81 (2003).) The underlying presumption of advocating for gender responsive prisons is that such an environment can be created in a prison, that imprisonment can effectively address the "realities of women's lives" and the "issues of the women," a presumption that I also do not find valid. The biggest pitfall of gender responsiveness in relation to imprisonment is that gender responsiveness fails to challenge the notion of prison as an institution that can effectively "address the issues of women."

## Prison Expansion as "Prison Reform"

One of the most intriguing and disturbing aspects of the state's proposal is that this dramatic expansion plan is being sold as "prison reform." Despite the rhetoric, new prison construction is not, and never can be, prison reform. Building new prisons under the rhetoric of "gender responsiveness" is not prison reform.

Increasingly, the state's only and ubiquitous answer to any problem within the prison system—whether for more and better programming, disastrous medical and mental healthcare, or because there are too many people in prison—is bricks, mortar, and expansion. But, as State Senator Gloria Romero and others have cautioned, "You can't build your way out of this problem." Increasing the number of cells will only increase the number of people in prison.

And, history teaches us better than anything else: If we build them, we will fill them. From as far back as 1882, when Folsom Prison was built to replace the already decrepit and crumbling San Quentin, we have seen expansion after expansion fail to address the rising number of people in prison, conditions, public safety, or the lack of programming

See *KINDER*, next page

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*KINDER, from page 87*

and services for women or men. The current plan offers no indication it will produce any different result and that reality is coming to light in Sacramento

In the midst of the Governor's Special Session, Assemblywoman Jackie Goldberg removed her name as one of the authors to build the new 4,500 beds. In a yet unpublished article, Assm. Goldberg wrote:

Earlier this year, I introduced legislation requiring California Department of Corrections and Rehabilitation (CDCR) to expand the use of community correctional facilities in order to treat nonviolent, non-serious female offenders consistent with the recommendations of the CDCR's Gender Responsive Strategies Commission (GRSC), with the belief that the CDCR was making movements in the right direction by focusing on treatment and services for women in prison.

Today, this idea has become part of a larger poorly constructed, short-sighted plan to build more prisons. The real concerns and needs of women in prison have been manipulated to support a prison expansion package that will harm thousands of women and children throughout California... The recent contract bid proposal put out by CDCR for ABX2-1 is filled with problems that would almost certainly result in a reduction of services, less family visitation, and countless other custodial issues.

### **Myth of Kinder, Gentler, Gender Responsive Prisons**

California is selling these new prisons for women to feminists, reformers, and progressives as better for women. Even if one believes that prisons could resolve the issues facing women, the details of the CDCR plan challenge the notion that these prisons would, in fact, be kinder, gentler, and able to reduce the population.

Ironically, a major justification for these new prisons is that women would be "serving their sentences closer to their families." Thus, it is suggested, they will be able to better maintain family ties. State documents posit that the new pris-

ons are "intended to strengthen family ties by making it easier for children to have regular contact with their mothers." However, women are soon to be granted three visiting days per week at the state prisons where they are currently imprisoned. CDCR, however, is only requiring operators of the new prisons to provide for two days per week of visitation.

The CDCR also states that these new prisons will be established through contracts with "community organizations" that will provide a "residential setting." Notably, two obstacles confront the realization of these assertions. First, in a concession to the state's powerful prison guards union, state documents maintain that "although the facilities will be operated by private contractors, female offenders will be supervised by correctional officers of the CDCR." Thus, the prisons will be guarded by CCPOA guards, exactly like the prisons these women are in now. And secondly, both the infrastructure and guard requirements mean that few, if any, truly "community organizations" could or would bid to operate one of these prisons.

**A New Way of Life.** A New Way of Life is a prime example of a truly community based organization that could effectively provide the desired services to women outside a correctional setting. A New Way of Life has built the only sober-living facility for women coming home from prison in the Watts area of Los Angeles. It has served 120 women since 1998. Its director, Susan Burton, knows well the struggles, since she, too, faced them as a woman coming out of prison in the late 1990s.

A New Way of Life's goals are to:

- Create a clean, safe, sober-living environment;
- Offer education, job training, and skill-building; and perhaps uniquely,
- Provide leadership as community advocates for the rights of women in prison, the formerly incarcerated, and their families.

**Plans for Increasing Capacity Over Decade.** While the CDCR's plan eventually anticipates using the freed up 4,500 beds in current women's prisons for men, the conversion of a women's prison to one for men is not slated to occur until 2020. Thus, CDCR plans on increasing—not decreasing—the capacity to imprison

people in women's prisons for over a decade. Moreover, the projected increase is huge. An additional 4,500 people in women's prisons would mean a 50% increase by 2020.

The CDCR has offered no detailed plan as to how it would actually reduce the population of people in women's prisons in 2020. While CDCR might argue that the reduction will come from all the programming that will occur in the new prisons because space would be available, there is not one penny slated for this purported programming and the only detail given thus far would require the new prisons to use a particular literacy model. The plan's advocates appear to forget that construction of the buildings alone does not mean the programming will necessarily follow, or that this unspecified programming will produce results.

### **Women Prisoners Oppose the Plan**

A statistically significant number of people in women's prisons have organized to oppose the CDCR's plan. Over 1,000 women imprisoned at the Central California Women's Facility have signed petitions given to Justice Now ([www.jnow.org](http://www.jnow.org)) opposing the Governor's plan, including Zundre Johnson, who writes, "We should not keep expanding the prisons when the current model is a failed venture."

There are many other reasons to oppose the plan. Because the Governor wants to build new prisons using a loophole called lease revenue bonds (LRBs), taxpayers will not be allowed to vote on whether California builds more prisons. The past two times California voters were asked to approve prison construction bonds, these bonds were overwhelmingly rejected. The only reason to use LRBs to build a prison is to bypass the need for voter approval.

And, it is extremely dangerous to base prison policy on election year politics. One cannot help but hold suspect the pre-election timing of this special session. With a problem that has been building for decades, does the Governor think good public policy can be accomplished in a quick fix, three-week special session just before his re-election bid?

### **Worldwide Changes**

Shortly after Governor Schwarzenegger called the Special Session to build

*See KINDER, page 91*

*KINDER, from page 88*

an entirely new system of imprisonment for women, the International Center for Prison Studies (ICPS) at King's College, London, released the first World Female Imprisonment List. Bringing together data from 187 countries, the ICPS found that globally, over 500,000 people are locked in women's prisons. About one-third of the worldwide total, 183,000, are in U.S. prisons. The two largest women's prisons in the world are in California.

At the same time, the Howard League for Penal Reform petitioned the British government to start closing women's prisons and transferring resources to community programs and treatment

facilities. In addition, Italy announced that, as a solution to its overcrowding problem, it would pardon and release 12,000 prisoners. The Justice Minister had threatened to resign unless Parliament passed the bill.

Previously, Governor Schwarzenegger created a Commission to study and recommend reforms to California's prison system. The Governor's Commission, headed by former Governor George Deukmejian, concluded that the "key to reforming the system lies in reducing the numbers."

We all want safe and healthy communities. But bankrupting the state to expand a prison system that has not

made us safer is bad public policy.

There are literally hundreds of ways we can both reduce the number of people in prison and improve public safety. The most obvious include releasing the 4,500 people in women's prisons that the state has identified and investing the resources that would have gone into the construction and operation of 30 to 40 new mini-prisons in their communities

Imagine if we took just a portion of those funds and simply provided each of the women with six-months housing upon release. It's time to stop pretending that increased capacity, no matter how gender responsive, is part of the solution. ■

*READING, from page 90*

**Does Race Matter? Examining the Relationship Between Co-Offending and Victim Characteristics for Violent Incidents Involving Female Offenders**

by Barbara A. Koons-Witt and Pamela J. Schram

1 (2) *Feminist Criminology* 125-46 (2006)

According to Barbara A. Koons-Witt and Pamela J. Schram, who teach criminal justice at the University of South Carolina, Columbia, and California State University, San Bernardino, previous research studies (including some of their own) suggest that women who commit violent crimes differ from one another, depending on racial, relational, and other factors. They report, for instance, that:

- Black women are more frequently involved in violent crime than white women;
- White women generally commit such crimes in the company of males, while black women commit these crimes by themselves or with other women; and
- Black women kill friends, acquaintances, and other women more often than white women.

In this study, Koons-Witt and Schram use Federal Bureau of Investigation National Incident-Based

Reporting System (NIBRS) data to examine more fully the intersections between race, co-offenders, and relationships in the violent crimes that women commit. The NIBRS data, made available in 1998, reports crime incidents in only 15 states (Colorado, Idaho, Iowa, Kentucky, Massachusetts, Michigan, Nebraska, North Dakota, Ohio, South Carolina, Tennessee, Texas, Utah, Vermont, and Virginia). More specifically, Koons-Witt and Schram assess:

the extent to which the racial makeup of offending groups conditions the relationship between whether females offend alone, with other females, or with males, as well as the sex of the victim(s) or the social distance between the victim(s) and perpetrator(s).

Overall, the authors discover three general sets of findings:

- A significant (although not race-based) relationship between offending group and violent crime types;
- A significant relationship between offending group victim(s)'s sex and the crimes of aggravated assault, robbery, and murder or non-negligent homicide (race does not have an affect with aggravated assault or with incidents that involve either only white offenders or only black offenders, but it does have an affect with robberies or for white and nonwhite solo-offending females, where the victims are usu-

ally other females); and

- Race did not affect relationships between offending groups and the social distance between victim(s) and perpetrator. ("White females were almost as equally likely to commit aggravated assaults against an acquaintance or a stranger, whereas nonwhite females were almost equally likely to commit aggravated assaults against an intimate or acquaintance. Therefore, nonwhite females who committed aggravated assaults were more likely to victimize a person who was closer to them compared to white females.")

Koons-Witt and Schram note that, while their study can determine if women commit crimes alone, they "cannot specifically determine the role of women offenders (i.e., primary, secondary) within mixed-gender crime groups." More importantly, however, the study cannot assess why these patterns emerge, primarily because the study is based on decontextualized quantitative data. The authors, or others, need to integrate qualitative research findings from other studies or combine qualitative-quantitative methods to arrive at meaningful explanations for their findings. Otherwise, the findings seem interesting, but flat and, on their own, of dubious utility to practitioners or policy makers.

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