Death and Dying in America: The Prison Industrial Complex's Impact on Women's Health

Cynthia Chandler

Follow this and additional works at: http://scholarship.law.berkeley.edu/bglj

Recommended Citation
Available at: http://scholarship.law.berkeley.edu/bglj/vol18/iss1/3

Link to publisher version (DOI)
http://dx.doi.org/https://doi.org/10.15779/Z38HT2GB1R

This Article is brought to you for free and open access by the Law Journals and Related Materials at Berkeley Law Scholarship Repository. It has been accepted for inclusion in Berkeley Journal of Gender, Law & Justice by an authorized administrator of Berkeley Law Scholarship Repository. For more information, please contact jcera@law.berkeley.edu.
Death and Dying in America: 

The Prison Industrial Complex’s Impact on Women’s Health

Cynthia Chandler†

It is a privilege to be sick in the California Department of Corrections. We as prisoners have no legal, no constitutional right to be sick at any time. We are classified as working machines. We are sick only when they allow us to be sick, and that’s when we drop to our knees . . . . We are the walking dead. We are not allowed to be sick, we have to run the prison system.

Without inmate slave labor the prison would not function . . . .

. . . A little over a year ago I was to have a cyst removed from my ovary. I woke up with a complete hysterectomy. When I asked why, I was told they “thought” I had severe abdominal pain, digestive trouble, pain in my pelvis. They “thought!”

Copyright © 2003, The Regents of the University of California.
†. Cynthia Chandler received an M.Phil. in Criminology from the University of Cambridge and a J.D. from Harvard Law School. She is currently the Co-Founder and Co-Director of Justice Now, a non-profit organization based in Oakland, California that provides direct legal services to women prisoners in conjunction with organizing grassroots campaigns and supporting prisoner peer organizing efforts in resistance to the prison industrial complex. She would like to express her thanks to activists imprisoned in California’s state prisons, and also to Amira Day and Deirdre Bourdet for their editorial assistance.
I have to laugh to keep from crying . . . I was told: look, you received a $3,700 surgery for free, you are too old to have children, you don't have to worry about a period and you don't have cancer. That justified the unnecessary complete hysterectomy! I have never been with child. Did I plan to? Yes, absolutely.

I wanted to find out more of what happened. Later I was told they never really performed a hysterectomy, that I don't need supplemental female hormones, there have not been any changes in my body. What really took place? Why so much deception?

Yes, it is truly a privilege to be sick in the CDC. A privilege I am more than willing to do without.

—Cynthia Russaw, Prisoner, Valley State Prison for Women, Chowchilla, California

I. INTRODUCTION

Cynthia Russaw's account is just one of many examples of medical neglect and abuse occurring daily within women's prisons in the United States. The current prison regime in which she lives is one that values monetary profitability regardless of the human cost or affront to human dignity. In that punishment regime, rehabilitation has been rejected in favor of retribution, and for-profit businesses have been so extensively integrated into the system as to render corporate and state interests almost inseparable.


2. Editors' Note: Most of the factual statements in this article are based on information gathered by the author during interviews with women imprisoned at the Central California Women's Facility and Valley State Prison for Women, both located in Chowchilla, California. The names of interviewees and the dates of interviews have been altered to protect the privacy and safety of the women, with the exception of direct quotes that are included with the specific permission of prisoners with the understanding that their names will be attached to these quotes. Specific information has been included only with the permission of the women interviewed. In order to respect the sanctity of the attorney-client privilege, the *Berkeley Women's Law Journal* did not review the transcripts of each prisoner's interview referenced herein. *BWLJ* feels that it is important to publish accounts of the prisoners' experiences even though the material is not accessible to the public, and *BWLJ* is inclined to provide a forum in which their voices can nonetheless be heard because the only record of their experiences may be a confidential interview.

3. See, e.g., Kathryn Watters, *Women in Prison: Inside the Concrete Womb* 203 (rev. ed. 1996) ("In the 1990s the swing of public policy seems to have shifted back toward the straightforward punishment and retribution of earlier times.").

The growth of the regime described above, which academics and activists within the United States have termed the "prison industrial complex," is linked to a dramatic increase in imprisonment of women, accompanied by epidemics of preventable disease and premature death. The number of women in prison has tripled since 1980, at a rate much greater than that among men. This increased imprisonment is directly linked to an increased out-casting of poor communities of color. For example, studies indicate that women of color are "over-arrested, over-indicted, under-defended, and over-sentenced" as compared to white women. Typically impoverished, these women have extremely limited access to preventative health care in the United States. Thus, it is not surprising that women entering prison have a high incidence of serious health concerns, including life-threatening diseases such as HIV, Hepatitis C, and reproductive diseases. The rate of HIV infection is ten to one hundred times higher among prisoners than in the general population, and the rate is higher among women prisoners than men prisoners. Hepatitis C has reached epidemic levels in United States prisons—the California Department of Corrections estimates that forty percent of its prison population is infected, and the rate may be as high as sixty percent among women prisoners. I argue that despite the urgent medical

5. Development of the term "prison industrial complex" is commonly associated with Professor Mike Davis. For an example of his use of the term, see Mike Davis, The Politics of Super Incarceration, in CRIMINAL INJUSTICE: CONFRONTING THE PRISON CRISIS 73, 73 (Elithu Rosenblatt ed., 1996) [hereinafter CRIMINAL INJUSTICE]. For a more in-depth discussion of the prison industrial complex, see Angela Y. Davis, Masked Racism: Reflections on the Prison Industrial Complex, COLORLINES, Fall 1998, at 11.
8. Nancy Kurshan, Behind the Walls: The History and Current Reality of Women's Imprisonment, in CRIMINAL INJUSTICE, supra note 5, at 136, 152.
9. See Siegal, supra note 7, at 66.
10. See Smith & Diallard, supra note 6, at 79-80.
11. See Smith & Diallard, supra note 6, at 80 (reporting that many women enter prisons with serious health problems); Sasha Abramsky, The Shame of Prison Health, THE NATION, July 1, 2002, at 28 (reporting on rates of serious illness among prisoners); Siegal, supra note 7, at 69 (stating that women prisoners have among the highest rates of HIV, sexually transmitted diseases, breast and cervical cancer, diabetes, sickle cell anemia, seizures, and asthma).
14. Cf. Associated Press, Hepatitis C Spreads in U.S. Prisons, ARIZ. DAILY WILDCAT (Sept. 5, 2001), available at http://wildcat.arizona.edu/papers/95/12/03_4_m.html (citing the Centers for Disease Control and Prevention, reporting that 18% of prisoners are infected with Hepatitis C, as compared to 1.6% of the overall population).
15. Interview with Susann Steinberg, Deputy Director of Health Care Services, California De-
needs of women prisoners, the current goal of prison profitability curtails the provision of care for women prisoners. Furthermore, when care is provided in spite of its financial cost, it is cloaked in a mask of punishment and retribution.

The prison industrial complex has led to accelerating rates of imprisonment and progressively heavier sentences carried out in increasingly harsh prisons. For women prisoners with medical concerns, these sentences result in even greater suffering than for the average prisoner, as their punishment is compounded by their inability to obtain care and treatment. Such increasingly punitive criminal justice measures are often justified to the general public as necessary to reduce violence through deterrence or selective incapacitation. In contrast, this article details the medical neglect in California women’s prisons to expose the violent nature of the prison industrial complex, and proposes an activist response in resistance to mass imprisonment.

Cynthia Russaw’s account of health care offered to women prisoners in California exemplifies many of the trends I have witnessed through my work representing women prisoners. As an attorney and co-director of Justice Now, a non-profit organization based in Oakland, California providing legal services for women prisoners, I primarily represent women with terminal illnesses who are imprisoned at Valley State Prison for Women (“VSPW”) and the Central California Women’s Facility (“CCWF”). Located across the street from one another in the small rural California town of Chowchilla, VSPW and CCWF are the world’s two largest women’s prisons, together confining approximately 7000 women. The information in this article is largely drawn from my experiences

16. See Ryan S. King & Marc Mauer, The Sentencing Project, State Sentencing and Corrections Policy in an Era of Fiscal Restraint 1-3 (2002) (summarizing the trend from 1970 through the present toward increasingly punitive criminal sentencing, including longer sentencing, and arguing that some states are now reconsidering this trend in light of budget constraints and public skepticism of the value of mass imprisonment).


18. See supra note 2.


20. See supra note 2.

interviewing and representing hundreds of women at these two institutions. While this analysis is grounded in and shaped by the experience of women in these particular prisons, their experience is relevant to the broad concept of the prison industrial complex. The sheer size of these prisons, combined with California's political influence on other states' and countries' punishment policies, renders these prisons an appropriate focal point of the prison industrial complex's impact on women.

Moreover, this analysis of women's experiences is particularly significant, as few other avenues exist to document conditions under our punishment regime. Prison officials may cover up abuses within prisons by failing to document problems or engaging in active deception. Little, if any, opportunity for oversight or documentation is provided to outside actors. Furthermore, prisons are increasingly isolated from population centers, prisoners' families, and communities. For example, most of California's new prisons constructed in the 1980s and 1990s were built on rural land. Access to prisoners and prisons by the media


22. See Gilmore, supra note 19, at 171-72 (arguing that California's prison expansion has global significance).

23. An example of such deceptive tactics is found in the case of Willeby v. Terhune. In 2002, Justice Now settled a lawsuit against the California Department of Corrections for the wrongful death of Rosemary Willeby. In my seven years of professional experience, this lawsuit was one of the first cases to challenge the California Department of Corrections's common practice of gross deception when communicating with prisoners' families. The complaint contended that as Ms. Willeby's health declined, prison officials continually deceived her family. See Second Amended Complaint for Violation of Constitutional Rights (42 U.S.C. § 1983); Wrongful Death; Failure to Summon Medical Aid (Cal. Gov. Code § 845.6); Intentional Infliction of Emotional Distress; and Negligent Infliction of Emotional Distress, at 9, Willeby v. Terhune, No. Civ. S-00-2349 GEB GGH (E.D. Cal., signed Sept. 5, 2001). At one point, they told Ms. Willeby's family that she was dead when she was not. Id. at 9. Later, when Ms. Willeby was in fact dying, prison officials told her family that she was in "fine" condition. Id. at 11. After Ms. Willeby died, Department of Corrections staff continued such deception, sending written correspondence confirming that Ms. Willeby was receiving appropriate care at that time, despite her demise. Id. at 12. Moreover, after her death, the state conducted no autopsy and attempted to attribute her death to a disorder unrelated to the true cause of death. Id.

24. See Gilmore, supra note 19, at 184.

25. In 1995, California's Governor Pete Wilson and the state Youth and Adult Correctional Agency placed a temporary media ban on prisons by barring news organizations from personal interviews with state prisoners. See Michael Taylor, State Inmates Barred From Medical Interviews, S.F. CHRON., Dec. 25, 1995, at A1 (providing a history of the California media ban on prisons). This media ban has since been sustained through its codification in the California Code of Regulations, which provides that prisoners "may not participate in specific-person face-to-face interviews." CAL. CODE REGS. tit. 15, § 3261.5(a)(2) (2002). Prisoners may participate in "random face-to-face interviews." Id. § 3261.5(a). However, "[s]uch interviews shall be conducted as stipulated by the institution head, including restricting the time, place and duration of interviews." Id. Access to terminally ill prisoners is further curtailed by a provision stating that random interviews of terminally ill prisoners shall be "closely monitored." Id. § 3261.6(b). Furthermore, "[n]o more than two visits per calendar month to a unit housing seriously or terminally ill inmates shall be allowed." Id. § 3261.6(c).
or human rights investigators\textsuperscript{26} is virtually absent. Fewer and fewer attorneys are willing to take on prison litigation after the passage of the Prison Litigation Reform Act,\textsuperscript{27} which imposes significant restrictions on prisoners' rights to litigate federal constitutional violations\textsuperscript{28} and severely caps attorney fees.\textsuperscript{29} Without the testimony of prisoners, there is often no other means of documenting conditions under our current punishment regime.

I argue that the experience of women imprisoned in California challenges the idea that imprisonment is an actual solution to violence. Rather than serving justice and safety, the prison industrial complex is exposed as promoting and propagating state-sanctioned acts of racist, misogynist, and classist violence against some of the most vulnerable members of our society. The terror and violence inherent to the prison industrial complex warrant radical rather than reformist responses in order to remedy its detrimental effects.

The prison industrial complex can be understood as the result of several factors. I argue that two of these factors have a particularly pronounced impact on the health and wellness of prisoners within its schema. The first is the influx of for-profit private businesses into prisons and the use of prisons as profit-generating enterprises. The second is the socio-political shift from a welfare to a crime control state, accompanied by increasingly punitive responses to social problems. Examination of how both factors significantly and detrimentally impact prisoners' access to medical care illuminates the violent nature of the prison industrial complex.

\textsuperscript{26} At the time this piece was written, the California Department of Corrections was attempting to amend its prisoner visitation policies to disallow most non-lawyer legal workers and human rights investigators from conducting or accompanying an attorney on legal visits in California's prisons. The regulations would limit legal visitation to lawyers, certified paralegals, licensed private investigators, and certified law students, and would bar legal visitation for language interpreters, medical experts, human rights experts, non-certified paralegals (the majority of paralegals), non-licensed investigators, and non-certified law students. \textit{See Department of Corrections, 2nd Notice of Change to Text as Originally Proposed 52-68} (proposed Nov. 25, 2002) (to be codified at CAL. CODE REGS. tit. 15, § 3178) (on file with author); Editorial, \textit{Legal Barriers: Rules Threaten Inmate Access to Legal Aid}, SACRAMENTO BEE, July 30, 2002, at B6; Jenifer Warren, \textit{Attorneys Criticize Proposed Limits on Legal Visits to Inmates}, L.A. TIMES, July 25, 2002, at B6; cf. Mark Martin, \textit{Proposal on Prisoners Limits Legal Aid Workers}, S.F. CHRON., July 25, 2002, at A17, at \url{http://sfgate.com/cgi-bin/article.cgi?file=/chronicle/archive/2002/07/25/BA185503.DTL}.


\textsuperscript{28} \textit{See} Chandler et al., \textit{supra} note 27, at 409.

\textsuperscript{29} \textit{Id.} at 415 (citing 42 U.S.C. § 1997e(d)(1)).
II. Maximizing Private Profit in Prisons

A. Prison Labor

While the use of prisoner labor was common practice before the Great Depression in the early 1900s, the current push for prison profitability far surpasses the policy of prison self-sustainability practiced at the turn of the twentieth century. Before the Great Depression, prisons in the United States were designed to be largely self-sufficient, producing the food and goods required to maintain the prisoner population and to sell some goods as surplus. During the Great Depression, political pressure from unions and manufacturers that feared competition from cheap prisoner labor led to constraints on prison industries. The concept of prison self-sustainability resurfaced in the mid-1980s with the significant rise in the prison population and the coinciding booming economy. Yet in the current era marked by increasing governmental interest in reducing costs and supporting private industry profit, the concept of prison profit has expanded far beyond mere self-sufficiency. Arguably, prisoners today are treated as a uniquely opportune source of slave (i.e., free and forced) labor, and prison officials seek to maximize prisons' profitability at any human cost.

The most obvious example of the trend toward prison profitability is the advent of privatized prisons—prisons privately constructed, owned, and operated by companies that contract with states to provide punishment at a profit, usually by charging states a fee per prisoner and by utilizing prisoners as forced free laborers, both to run the prison and to work to support other commercial enterprises. Yet private prisons are only a small mechanism through which private

30. For a discussion of the history of prison labor and prison self-sustainability leading to the current rise in prison profitability and use of prison labor, see Paul Wright, Slaves of the State, in THE CELLING OF AMERICA 102, 102-03 (Daniel Burton-Rose ed., 1998).

31. See Julie Browne, The Labor of Doing Time, in CRIMINAL INJUSTICE, supra note 5, at 61 (outlining an array of contemporary corporate means for gaining profits from prison labor); Barry Yeoman, Steel Town Lockdown, MOTHER JONES, May-June 2000, at 38 (outlining the massive profitability of private prisons). This trend toward prison profitability extends outside the United States. See Amanda George, The Prison Culture: Making Millions from Misery, in HARSH PUNISHMENT: INTERNATIONAL EXPERIENCES OF WOMEN'S IMPRISONMENT 189 (Sandy Cook & Susanne Davies eds., 1999) (documenting the push for private profitable prisons in Australia).

32. Wright, supra note 30, at 102.

33. Id. at 102-03; see also Browne, supra note 31, at 63-64 (arguing that policies against use of prison labor were also influenced by prison reform efforts publicizing abuses of prisoner laborers).

34. See Wright, supra note 30, at 103.

industry has entered the business of punishment, and only one piece of the trend toward maximizing prison profitability. Prison labor also has become a profitable commodity for private corporations not engaged in building or maintaining prisons.36 State and federal governments contract out prison labor to private industry, allowing corporations to pay less than minimum wage for prisoner labor.37 The increased profit and competitive edge gleaned by corporations through the use of prisoner labor has led to its widespread exploitation.38

Whether housed in privately or publicly operated prisons, prisoners are forced to work39 for little or no wages; in California, prisoners collect seven to thirteen cents per hour, on average.40 Prisoners perform many of the jobs that run the prisons that confine them, such as clerical, laundry, janitorial, and food services duties.41

Significantly, this economic environment creates an incentive for corporations and government officials to maintain a large prison population.42 The exploitation of prisoners for their slave labor, coupled with the racist disparate impact of punishment policy whereby people of color are the primary targets for mass imprisonment, has rendered the prison industrial complex the modern American plantation.43

Within this economy of human chattel, there is no space for the sick or permanently disabled. In California, for example, prisoners’ disabled status is disregarded once prisoners enter the California Department of Corrections.44 Every prisoner must work unless and until prison officials determine that she or he cannot, and such designation is rare.45 Justice Now regularly receives complaints from women in prison who have been designated as disabled by the Social Security Administration prior to their entry to prison, but who are told they must work once imprisoned.46

36. See Lichtenstein & Kroll, supra note 35, at 30-31 (outlining advantages to private corporations of use of prison labor).
37. See id.
38. See id. (describing advantages to private corporations of use of prison labor).
39. While prison officials will argue prison labor is voluntary labor, prison administrations coerce prison labor by lengthening the sentences of prisoners who refuse to work by revoking their "good time," as well as denying them other "privileges" such as family visitation and telephone calls. See Browne, supra note 31, at 65-66.
40. See supra note 2. "Prisoners who are required to work by or for the government are not considered employees under the [Fair Labor Standards Act] and need not be paid minimum wages or overtime." CALIFORNIA DEPARTMENT OF PERSONNEL ADMINISTRATION, FAIR LABOR STANDARDS ACT MANUAL—EMPLOYEES EXEMPT UNDER THE ACT A.4, http://www.dpa.ca.gov/general/publications/manuals/flsa/flsa9402.shtm (last visited Feb. 26, 2003).
41. Id.
42. See CHEUNG, supra note 35, at 4 (noting private prison profit creates "a financial incentive not only to detain more inmates but also to detain them for a longer period of time").
43. For an analysis of the similarities between the contemporary prison industrial complex and the Convict Lease System of the Antebellum South, see Davis, supra note 35.
44. See supra note 2.
45. Id.
46. Id. I have worked with prisoners designated before their imprisonment as permanently dis-
Refusing to work when classified by the Department of Corrections as capable of doing so, even under egregious circumstances, can result in the punishment of having one’s good-time credits taken away. For prisoners who qualify for good-time as part of their sentencing and are classified as capable of working, each prisoner’s sentence is reduced by one day for each day worked. Thus, those classified as workers but who cannot work because of illnesses unrecognized by the state serve a sentence twice as long as those who can. The very ill who are unable to push themselves to work in such conditions lose good-time credits and end up serving longer portions of their sentences, as compared to those who are similarly sentenced but able to work; the sickest people do the longest time. Prisoners, desperate to return to their families and communities, often push themselves to work when they are seriously ill just to avoid losing good time and delaying their return home.

This practice of being forced to ignore one’s medical concerns can have grave results. Determinate sentences can become death sentences, with prisoners dying prematurely or becoming permanently disabled or disfigured as a result of illnesses that would be preventable or treatable if addressed in a timely manner. For example, one of Justice Now’s clients broke a foot in several places. As a result of overcompensating for her injured foot, she developed an ulcer on the other foot. Since she is a diabetic, the ulcer would not heal. She could not walk or stand, and the ulcerated foot was gravely infected. Yet the prison refused to recognize her medically compromised status. She continued to be assigned a job requiring that she stand during an entire shift. Meanwhile, she was given virtually no assistance with caring for her wound. She pushed herself to work, hoping to get home sooner, believing that as long as she was in prison she would not receive adequate care. As a result of the failure to provide her with appropriate and timely care and permission to rest, over a year later, her wound still has not healed and, in fact, has escalated to the point at which a bone now abled due to disabling HIV-related disease, sickle cell anemia, liver disease, degenerative joint disease, and mental health disorders, among other disabilities. These same prisoners were classified as able to work when imprisoned. Several clients diagnosed during their imprisonment with life-threatening conditions, such as end-stage liver disease or metastasized cancers, have had to continue working in order to avoid punishment, even though the Social Security Administration would have classified them as disabled had they been at liberty.

48. Id.; see also supra note 2.
49. See supra note 2.
50. Interviews with Michelle Andrews, Prisoner, Central California Women’s Facility, in Chowchilla, Cal. (June 10-Aug. 24, 2001).
51. Id.
52. Id.
53. Id.
54. Id.
55. Id.
56. Id.
57. Id.
protrudes from her foot and amputation poses a real threat.\textsuperscript{58}

Such policies forcing prisoners to choose between their health and their freedom have an added disparate impact on women prisoners due to the fact that they are disproportionately the sole primary care providers for their children prior to their imprisonment.\textsuperscript{59} Eighty percent of women prisoners are mothers, and the majority were their children’s primary caregivers before they entered prison.\textsuperscript{60} Many women report to Justice Now that they are desperate to comply with any demand in order to return home to their children as soon as possible.\textsuperscript{61} As a result, women are coerced into working at great cost to their health and well-being.

\subsection*{B. Prison Monopolies}

In addition to the exploitation of prisoner labor, corporations manipulate prisoners and their families as captive consumers of goods and services. This manipulation, like the exploitation of labor, has dire consequences for women prisoners’ health. As a mechanism of prison profitability, corporations contract to sell goods and services to prisoners and their families, such as food in the prison commissary or collect phone calls.\textsuperscript{62} Corporations bid for monopoly markets in such goods and services. Their bids are accepted based on how much they pay the state for the privilege of receiving a contract, not on how inexpensively companies can provide these goods to prisoners and their families.\textsuperscript{63} The number of free goods provided to indigent prisoners has greatly diminished over the past decade as private industry has expanded into this realm.\textsuperscript{64}

Women’s health is particularly compromised by the monopolistic abuse of prisoners and the resulting increasingly limited access to basic goods and services. The California Department of Corrections spends half the amount of

\textsuperscript{58} Id.
\textsuperscript{59} Women in prison, as compared to men, are more often the primary care providers for their children prior to their imprisonment. See Siegal, supra note 7, at 70; Kurshan, supra note 8, at 155.
\textsuperscript{60} See Kurshan, supra note 8, at 155.
\textsuperscript{61} See supra note 2.
\textsuperscript{62} See Lichtenstein & Kroll, supra note 35, at 28-30 (offering examples of corporate involvement in prisons, including the sale and marketing of goods to prisoners); see also \textsc{Federal Communications Commission, Inmate Telephone Service (2001), available at http://ftp.fcc.gov/cgb/consumerfacts/Inmate.html} (last visited Feb. 11, 2003) (stating that prisoners can only call out of the prison collect and that they do not have a choice of phone carrier).
\textsuperscript{63} A national campaign has emerged to challenge phone carrier price fixing for collect call services that charge prisoners’ friends and family exorbitant fees. The Equitable Telephone Charges Campaign was launched in 2000 by Citizens United for the Rehabilitation of Errants (“CURE”). \textsc{Citizens United for the Rehabilitation of Errants, Equitable Telephone Charges Campaign, at http://www.curenational.org/~etc/about_the_campaign.htm} (last visited Feb. 11, 2003); see also \textsc{Movement Against Corruption & Complicity, Inmate Collect Call Gouging, at http://home.attbi.com/~mystro34/prisphones.html} (last visited Jan. 29, 2003).
\textsuperscript{64} See supra note 2.
money per day ($1.25) on women prisoners’ food that it does on male prisoners’ food. The food provided to women prisoners is high in fat, sodium, and sugar. For example, on June 17, 2002, the menu for women prisoners at the Central California Women’s Facility included pancakes with maple syrup for breakfast, bologna and American cheese sandwiches with chips and a sugar cookie for lunch, and corn dogs, potatoes, and Jell-o for dinner. As a result of the high levels of fat, sugar, and salt in the meals, many women with serious illnesses such as hypertension, diabetes, or heart problems are forced to forgo eating. Women prisoners are allowed minimal access to fresh fruit or vegetables, ostensibly to prevent them from making wine, and women report that the vegetables they do receive are habitually overcooked, thus reducing their nutritional benefit. Prisoners are given a minimal amount of time to eat—often less than fifteen minutes—and since it is considered stealing to remove food from the cafeteria to finish eating later, women physically are not able to eat all the food provided them. As a result of the poor quality and quantity of food women receive, women in prison must buy food from the commissary at free-world prices disproportionate to their earnings in order to supplement this minimal diet.

Moreover, the California Department of Corrections terminated women prisoners’ access to special medical diets—such as low-sodium, high-protein, or low-sugar diets for women with heart disease, liver disease, or diabetes respectively—unless women are housed in a skilled nursing facility. Male prisoners are not similarly subjected to this policy change. There is only one licensed skilled nursing facility for the over 11,000 women prisoners in California’s prison system. From my visits there, it is clear that this facility houses fewer

---

65. As of March 1999, the California Department of Corrections spent only $1.25 per day on each female prisoner’s 2200-calorie diet, compared to the already meager $2.45 per day spent on a male prisoner’s 2900-calorie diet—spending almost 100% more money for 30% more calories for the male prisoner. Carol Kingery, Dietary Planning at California Correctional Facilities 3 (Mar. 18, 1999) (unpublished research paper, University of California, Berkeley) (on file with author).
66. See CENT. CAL. WOMEN’S FACILITY, WEEKLY MENU (June 17-June 23, 2002) (on file with author).
67. Id.
68. See supra note 2.
69. Id.
70. Id.
71. This argument is not intended to imply that food male prisoners receive is adequate, but merely to highlight the poor nutrition provided to women prisoners. Both women and men purchase supplementary food through prison commissaries. The food provided in the commissaries tends to be un-nutritious snack food or foods high in fat and sodium, such as canned meats, although there are a few healthier options such as cans of tuna, peanut butter, instant oatmeal, and some canned vegetables. Fresh fruit and vegetables are not sold in the commissary. See CENT. CAL. WOMEN’S FACILITY, GEN. POPULATION CANTEEN PRICE LIST (Feb. 2001) (listing inflated prices such as $1.50 for one packet of instant oatmeal and $1.10 for a can of corn) (on file with author).
72. See supra note 2.
73. The Paris Lamb Treatment Center is a licensed skilled nursing facility located at the Central California Women’s Facility; it is the only licensed skilled nursing facility for women prisoners in California. See Interview with Susann Steinberg, Deputy Director of Health Care
than fifty women. There is regularly a waiting list of ill women trying to gain entrance. Given the epidemic rates of serious and chronic diseases among women prisoners, there is great demand for special diets, particularly among women with Hepatitis C, diabetes, and heart disease. The effect of this policy has been to terminate women's access to special medical diets for all but those who can afford to buy their own food, since the vast majority of women with serious chronic illnesses are not housed in the skilled nursing facility. Prisoners must either make do with poor quality meals that are high in fat, sugar, and salt provided at minimal cost to the state, or they must pay a premium to the state and private companies for goods available at the commissary. Few women have the economic means to maintain health and wellness in this environment.

In addition to limiting access to medically necessary foods, many basic hygiene products, such as soap, shampoo, toothpaste, and toothbrushes, have been removed in full or in part from prisoners' free rations, and are offered instead for sale in the prison commissary, again at inflated prices. For example, California's indigent prisoners' current monthly ration of soap consists of a travel size bar meant for cleaning their bodies as well as their cells. For prisoners with serious illnesses, particularly immune-compromised conditions such as HIV or cancer, cleanliness is central to maintaining health and wellness. A clean environment is particularly difficult to provide in overcrowded conditions such as in CCWF and VSPW, where women are housed eight to a cell in rooms that originally held only four.

By limiting access to basic hygiene products, the Department of Corrections has manipulated the market for soap, as well as other products in its commissaries, to the financial benefit of the State and private industry. Again, as with food, few women prisoners have the means to purchase basic hygiene products. Denying prisoners this access is devastating to women's physical health, as well as to their emotional well-being and human dignity. One of my client's experiences clearly illustrated the violent nature of such prison policy.

74. See supra note 2.
75. See supra note 2.
76. See generally supra text accompanying notes 11-15 (discussing the especially high rates of HIV and Hepatitis C infection among women prisoners).
77. See supra note 2.
78. Cf. supra text accompanying notes 67-68.
79. See supra note 2.
80. See supra note 2.
81. See CENT. CAL. WOMEN'S FACILITY, GEN. POPULATION CANTEEN PRICE LIST, supra note 71.
82. See supra note 2.
83. Id.
84. Similar to the argument presented concerning nutrition, this argument is not intended to imply that male prisoners receive adequate hygiene products, but merely to highlight the poor hygiene assistance provided women prisoners as a means for illustrating the devastating impact of the prison industrial complex on women's and men's health and well-being.
Lisa Watson85 was a smart, spunky young woman about whom I had heard prisoners speak with respect for being a powerful jailhouse lawyer. Like most women prisoners,86 she was serving a prison sentence for a non-violent offense.87 She had been in prison for shortly over a year when I first met her in February 2000.88 She had written to me for help after being diagnosed with a brain tumor of "unknown origin."89 Only a neurosurgeon could determine the cause of the brain tumor, its possible malignancy, and a plan for treatment,90 but the prison had no neurosurgeon on staff.91 Lisa urgently recounted that her father had died at the early age of fifty-one from an aggressive form of brain cancer, and that she had been diagnosed with AIDS.92 These medical factors should have ensured that she receive expedited attention. Instead, Lisa waited over six months before she finally was allowed to see a specialist.93 While her tumor turned out to be benign, it had grown so significantly during the six-month delay that it became entangled with her brain stem, posing a grave threat to her life.94 As a last hope, she agreed to a craniotomy.95

Less than a week after her surgery, she was returned from an outside hospital to the prison,96 where I met with her the next day. During our visit, Lisa did

---

85. The name of the prisoner and the dates of interviews have been altered to protect the privacy and safety of the prisoner. Specific information has been included only with the permission of the women interviewed.
86. See Siegal, supra note 7, at 68 (relating that women are imprisoned more frequently for drug and property offenses); see also Kurshan, supra note 8, at 150 (reporting that the number of violent crimes committed by women has remained constant or declined despite the increased number of women prisoners).
87. Lisa was serving a four-year sentence for prostitution. Interview with Lisa Watson, Prisoner, Central California Women’s Facility, in Chowchilla, Cal. (Feb. 10, 2000).
88. Id.
89. See Letter from Lisa Watson, Prisoner, Central California Women’s Facility, to Cynthia Chandler, Co-Director, Justice Now (Jan. 15, 2000) (on file with author).
90. Interview with Lisa Watson, supra note 87 (Lisa reported being told by prison medical staff that until a neurosurgeon reviewed her case, her condition could neither be diagnosed nor treated).
91. Recent Suspicious Deaths of Women Inmates: Informational Hearing Before the Cal. Leg. J. Legis. Comm. on Prison Construction & Operations 51 (2001) (Statement of Dr. Susann Steinberg, Deputy Director, Health Care Services Division, California Department of Corrections) (confirming the need for a neurosurgeon referral from the UC Medical Center at Fresno, and that additional delays resulted when prison staff failed to transport Ms. Watson’s brain images to her first two scheduled appointments).
92. Interview with Lisa Watson, supra note 87.
94. Letter from Ellen Barry, Founding Director, Legal Services for Prisoners with Children, to Dr. Susann Steinberg, Deputy Director of Health Care Services, California Department of Corrections (Oct. 8, 2000) (summarizing Lisa Watson’s medical condition) (on file with author).
96. Interview with Lisa Watson, Prisoner, Central California Women’s Facility, in Chowchilla, Cal. (Nov. 1, 2000).
not talk about the pain she was in, her anger at the delayed treatment she received, or the legal case she had begun on her own behalf against the state for negligent care. Instead, she told me of her fear that she would not be able to keep the incision on her head clean and her dressings changed. She told me how, since she had AIDS, she would die if it became infected, and she would never get to see her daughter again. Lisa died two weeks later, after an abscess developed in her wound. Because she had AIDS, the California Department of Corrections administration was able to classify her death as expected and HIV-related. They did not investigate her death or perform an autopsy, leaving no way to confirm whether lack of access to basic hygiene took her life.

Lisa was one of eight women who died over a seven-week period between November and December of 2000 at CCWF. To prisoners and those of us who advocate on their behalf, this rash of deaths came as no surprise. In the search for profits, corrections authorities have pushed women to labor, eliminated virtually all means for maintaining health and wellness, and reduced access to care. Women in California’s prisons regularly report to Justice Now that access to medical care is so deficient that they are not even told of their own diagnoses when they are ill. Last year, I had to tell a woman that I discovered she had Hepatitis C when reviewing her medical records. No one had told her that she had been tested. She wept over the indignity of not being informed of her own health status. She is just one of several women represented by Justice Now whom the California Department of Corrections did not notify of their Hepatitis C diagnoses.

After Lisa died, I met with two activist prisoners who told me that the California Department of Corrections withheld information as to individuals’ diagnoses and the rates of HIV and Hepatitis C infection in California prisons in order to avoid having to pay for prisoners’ treatment. I suggested that this would

97. Id.
98. Id.
99. Id.
100. Id. at 52-53 (testifying that Ms. Watkins died due to complications of her HIV disease and that her HIV disease rendered her terminally ill).
101. The Central California Women’s Facility contracts Madera County of California to perform autopsies on prisoners who die in its custody. The contract specifies that no autopsies will be performed on prisoners who are known to be HIV-positive. The assumption is that these prisoners die of HIV/AIDS-related illness. Telephone Interview with John Metcalf, Chief Deputy Coroner, Madera County (Feb. 23, 1998).
102. See Statement of Dr. Susann Steinberg, supra note 91, at 52.
104. Interview with Lynne Lowe, Prisoner, Central California Women’s Facility, in Chowchilla, Cal. (July 15, 2001).
105. See Videotape: Truth to Power (California Coalition for Women Prisoners, California Prison Focus 2001) (on file with author and Legal Services for Prisoners with Children).
106. Interview with Angela Johnson, Prisoner, Central California Women’s Facility, in Chowchilla, Cal. (Feb. 5, 2001); Interview with Deborah Washington, Prisoner, Central California Women’s Facility, in Chowchilla, Cal. (Feb. 5, 2001).
not make financial sense because it is cheaper to provide preventative care than to wait until an emergency ensues. They explained that it is most cost effective to let the sick die as quickly as possible without providing care at all, and to fill the empty bed with someone more able to work. 107

III. SHIFTING FROM WELFARE TO CRIME CONTROL

In addition to the influx of for-profit private businesses into prisons and the use of prisons as profit-generating enterprises, another component of the development of the prison industrial complex that significantly impacts prisoners' health and wellness is the shift from a welfare to a crime control state—the increased reliance on prisons as a catch-all solution to social ills such as poverty, mental illness, and addiction. 108 This punitive approach to addressing social problems is correlated with the dismantling of social welfare programs, or the offering of governmental aid to those in need. 109 This political shift toward intolerance has resulted in increasingly punitive sentences for property- and drug-related crimes, 110 as well as welfare reforms that remove entitlements from those who have been convicted of crimes related to poverty and addiction. 111 Popular culture and public sentiment reflect and normalize the influence of this trend. For example, the common retort that dismisses prisoners' complaints as petty when "at least they get three square meals and a roof over their heads" suggests

107. Interview with Angela Johnson, supra note 106; Interview with Deborah Washington, supra note 106.
108. See Gilmore, supra note 19, at 172-74 (providing a more complex analysis of this socio-political shift in the United States).
110. See HUMAN RIGHTS WATCH, PUNISHMENT AND PREJUDICE: RACIAL DISPARITIES IN THE WAR ON DRUGS pt. IV (2000), http://www.hrw.org/reports/2000/usa/Rcedrg00-02.htm ("In 1980, 48 percent of new admissions to prison were convicted of crimes of violence, 41 percent were convicted of property crimes, and 7 percent were convicted of drug crimes. By 1996 the proportion of drug offenders among new court commitments had soared to 31.7 percent, while the proportion of violent offenders had dropped to 26.8 percent and property offenders to 32.3 percent. These proportions have remained essentially unchanged since then. Nationwide, nonviolent offenders account for 72 percent of all prison admissions.") (citing Bureau of Justice Statistics) (last visited Mar. 2, 2003); see generally RYAN S. KING & MARC MAUER, THE SENTENCING PROJECT, STATE SENTENCING AND CORRECTIONS POLICY IN AN ERA OF FISCAL RESTRAINT 2 (Feb. 2002) (summarizing the trend from the 1970s through the present toward increasingly punitive criminal sentencing).
111. Contemporary intolerance for social welfare and the increased push for imprisonment resulted in a 1996 federal welfare reform act. See Personal Responsibility and Work Opportunity Reconciliation Act of 1996 § 115, 21 U.S.C. § 862a (2000). "This Act contains several provisions which punish people caught in the criminal justice system and will have a disparate impact on women prisoners attempting to avoid further incarceration. These provisions include: a) rendering those convicted of a drug-related felony, regardless of their health, ineligible for federal welfare benefits and b) rendering those found to be in violation of any parole or probation condition ineligible for food stamps, need-based social security disability income, and public housing assistance." Chandler et al., supra note 6, at 76.
that prison is a reasonable social policy response to hunger and homelessness.

The crime control approach addresses social problems and human suffering with a punitive response; the war on drugs, poverty, and mental illness arguably renders some of the most vulnerable people in our society the most vulnerable to imprisonment. For women in particular, increasing imprisonment is directly linked to an increased intolerance for and out-casting of poor communities of color through such policy. Non-violent crimes, for which women are disproportionately imprisoned, are “linked to persistent poverty and biased law enforcement practices in low income communities of color.”

In this punitive political climate, any medical care allotted to prisoners after being filtered through the push for maximum prison profitability is tainted by a culture of punishment. Perhaps the most glaring examples of this trend’s impact on women prisoners involve pain management, patient hygiene, and dignity.

As a by-product of the war on drugs and the resulting punitive rather than therapeutic response to addiction, prison doctors regularly fail to provide prisoners with adequate pain management. I have had clients denied pain management when on their deathbeds. One of my clients with metastasized breast cancer was refused pain management stronger than Motrin until the cancer had spread to her bones and had fully eaten away both of her hips. Despite her family’s reports that she was suffering from so much pain that she had trouble communicating, prison doctors insisted that Trina was merely trying to feed her former addiction. I argue that the refusal to treat Trina’s pain was tantamount to torture.

Indifferent pain management and the current culture of punishment result in base deprivations of prisoners’ human dignity. It is common for prisoners to report that their basic hygiene needs are not attended to when they are seriously ill. In 2000, the Skilled Nursing Facility at CCWF failed four inspections by the state Department of Health and Human Services for failure to attend to the basic patient care, hygiene, and human dignity needs of its patients. Among other findings, the Department of Health and Human Services reported that

112. Siegal, supra note 7, at 68 (quoting Beth E. Richie, associate professor of criminal justice and women’s studies at the Univ. of Ill. at Chicago) (internal quotation omitted).
113. See supra note 2.
114. Id.
115. Interview with Trina Brown, Prisoner, Central California Women’s Facility, in Chowchilla, Cal. (Jan. 6, 2000).
116. Id.
117. See supra note 2.
prison staff failed to provide the appropriate quantity and quality of food to meet patients’ nutritional needs,119 did not appropriately care for patients’ wounds,120 left bedridden patients who were unable to clean themselves filthy and unattended,121 and generally did not provide patients access to clean clothing, undergarments, or basic oral hygiene.122 Moreover, patients were subjected to medical exams without any attention to their privacy. The Department of Health Services confirmed, for example, that catheterization was performed without closing the doors, leaving the patient exposed to the view of other staff and prisoner patients.123 Once inserted, patients’ catheters were allowed by medical staff to drag on the floor, presenting a serious public health risk.124 Conditions in the CCWF Skilled Nursing Facility have not improved, demonstrating a pattern of substandard care. In three investigations conducted in 2002, the state Department of Health and Human Services again found significant deficiencies, including: failure to protect prisoners from abusive medical staff,125 failure to report alleged abuse of patients by staff,126 failure to care for patients’ basic hygiene,127 and failure to provide patients appropriate discharge planning, such as providing them with ambulatory or other medical devices upon their leaving the facility.128

In addition to denying patients basic hygiene and privacy, failure to provide prisoners with base diagnostic information constitutes a further affront to dignity not grounded in any semblance of care. A month before writing this piece, my office received a collect phone call from a prisoner who had been transported from prison to a local hospital for some sort of surgery.129 She reported that she repeatedly asked prison and medical staff what surgery was to be performed, but no one would tell her.130 She was drugged heavily.131 When she awoke, she had a large incision on her side, but still no one would tell her what surgical procedure had been performed.132 She was quickly returned to the gen-

121. Statement of Deficiencies, May 24, 1999, supra note 118, at 3-5 (finding that patients, including those that had had recent medical procedures, received little or no assistance with personal hygiene, had foul body odor and dirty hair and clothes).
122. Id. at 2; Report of Findings, Aug. 2, 2000, supra note 118, at 1.
124. Id. at 1-2.
126. Id.
129. Telephone Interview by Marci Chin with Maria Sanchez, Prisoner, Central California Women’s Facility (June 30, 2001).
130. Id.
131. Id.
132. Id.
eral prison population without postoperative care. She reported that her treating physician denied any surgery had been performed. Finally, one of my coworkers discovered from reviewing her medical records that her gallbladder had been removed. While this case is extreme, women regularly report to Justice Now a virtual absence of information concerning their diagnoses, treatment options, or treatment plans.

Gross affronts to patient dignity and failure to provide palliative care are symptomatic of the punitive nature of prison healthcare. Additionally, women prisoners suffer uniquely racialized and sexualized forms of brutality within the current punishment regime, frequently surrounding their reproductive health. One of my white clients was denied access to an abortion while she was imprisoned and was forced to give birth to a child she did not want. Other women, particularly women of color, have historically faced and continue to experience forced sterilization while imprisoned. Such medical abuses deny women basic control over their bodies. Such practices grant the state the ultimate systemic control and power over disempowered communities—the power to control whether they can exist.

The shift from reliance on the welfare state to reliance on prisons as a solution to social needs has wrought tragic results for the disempowered and disenfranchised. The most vulnerable people in our society are increasingly vulnerable to imprisonment. Once imprisoned, they face a heightened risk of premature death while their communities face extinction.

IV. RESISTANCE

We need to be activists against state violence—stopping misogyny and disagreements between races, stopping prejudice and acts of violence . . . .

Being an activist means getting incremental changes in a system, caring more about the rights of others, and having the courage to stand up against a system, regardless of the consequences. . . . You have to find out what the problems are, pass on the information to others, yell real loud, and not be afraid of what might happen to you.

133. Id.
134. Id.
135. Medical records of Maria Sanchez (on file with author).
136. Interview with Trina Brown, supra note 115.
I receive inspiration from those of us who fought for equal rights until they could fight no longer and who, in their deaths, brought about the changes that they only hoped for in life—those who in death brought about public awareness of what happens to the people society forgot.

—Rebecca Langley, Prisoner, California Institution for Women, Frontera, California

It is imperative that we speak out against the injustices of our country and society that extend to our prisons.... An activist is being open and stimulated to prevail in exposing, enlightening, sharing, and correcting. But when you speak out against the state, you are punished....

—Davara Campbell, Prisoner, Central California Women’s Facility, Chowlilla, California

An activist is somebody who will fight and stand against all odds to win rights for others. I have been an activist on the inside. Being positive and being put in a group of people labeled unsafe makes me fight harder. I have been treated with prejudice because I question “Why?” I am harassed because of my demands for answers.

—Theresa Martinez, Prisoner, Central California Women’s Facility, Chowlilla, California

Medical abuses perpetrated against women prisoners expose the violent nature intrinsic to the prison industrial complex and highlight the urgent need to resist the policy underlying our current punishment regime. Rather than serving to prevent or resolve acts of violence, the prison industrial complex creates an environment of state-sanctioned racist, sexist, and classist brutality through its quest for monetary profitability.

Working within the current punishment system to improve medical conditions for prisoners will not suffice to end the violence of modern day prisons. History has demonstrated that the legacy of prison reform (as opposed to radical critique and resistance) is the development and enhancement of the prison industrial complex itself. For example, prisons themselves were created to reform

139. Id. at 156 (emphasis added).
140. Id. at 150.
public displays of corporal punishment. Once prisons were adopted as the norm, reformists voiced concerns about the conditions and misogyny endured by women in co-ed prisons. Yet absent a radical critique of prisons themselves, the push for reform led to the birth of a women’s prison system where, as this piece argues, the rampant abuse continues. The history of prison reform efforts reveals that mere reform fails to address the inequalities and oppression upon which the prison system is built, leaving the violent foundation intact and rendering ineffective attempts to relieve the suffering of the oppressed. Such reform only serves to strengthen the prison industrial complex and to make it more impervious to critique, resulting in bigger, “better,” and more numerous prisons housing increasing numbers of oppressed people.

The medical abuses of women prisoners indicate an urgent need for systemic and radical opposition to the prison industrial complex rather than mere reform. Moreover, the spirit of the collective resistance of activist prisoners should be—and must be—at the heart of any successful attempt at building progressive alternatives to our current punishment system. To effect social change, it is imperative that efforts of transformation intrinsically involve the oppressed communities. Without the experience and guidance of these communities, activist movements will find both that they recreate the structures of oppression they wish to challenge, and that their strategies and political rhetoric are appropriated by the systems of oppression they specifically wish to resist.

Prisoners have already begun organizing against state violence. For example, rather than becoming despondent in the face of extreme adversity, women prisoners, particularly those with HIV, have led organizing efforts among California prisoners since the late-1980s in resistance to human rights abuses in prisons and against the prison industrial complex. Despite the fact that organizing efforts have helped to strengthen and expand the prison industrial complex, and the contrast between prison reform versus prison abolition; see also Gilmore, supra note 19, at 183.

142. See, e.g., WATTERSON, supra note 3, at 195.
143. Id. at 194-199 (documenting how the work of reformists concerned with the sexual and physical abuse of women in co-ed prisons eventually led to the creation of multiple federal and state prisons and county jails for women); Estelle B. Freedman, Their Sisters’ Keepers: An Historical Perspective on Female Correctional Institutions in the United States: 1870-1900, 2 FEMINIST STUD. 77, 77 (1974).
144. See WATTERSON, supra note 3, at 194-99.
145. See id. at 202 (arguing that “the theories [of prison reform] of well-intentioned women and humanitarians in the late nineteenth and early twentieth centuries ultimately resulted in a plan of imprisonment [that was] so inhumane and ineffective,” and “reformers with good intent often weren’t able to anticipate the effect of their actions”).
146. See id. (arguing that “prison reforms and prison ‘progress’ seem to have a cyclical and regressive nature”).
147. See Chandler & Kingery, Speaking Out, supra note 137 (documenting “the opinions and experiences of HIV-positive women prisoner activists in order to develop a progressive anti-violence strategy aimed at increasing the safety of women” and challenging the prison industrial complex); Chandler & Kingery, Yell Real Loud, supra note 138 (including HIV-positive prisoner activists’ writings challenging state violence and the prison industrial complex); Judy Greenspan, Prisoners Respond to AIDS, in CRIMINAL INJUSTICE, supra note 5, at 115 (presenting a history of activism among HIV-positive prisoners in the United States); Joann
among prisoners is prohibited in prison and is highly risky,\textsuperscript{148} they have courageously fought for their own rights, as well as the rights of other prisoners.

Prisoners' words and writings can and must be incorporated into broader debates concerning justice and safety. Through correspondence and visits, community activists in the free world can work jointly with prisoner activists to create campaigns and strategies resisting violence and oppression both inside and outside prisons. Moreover, those of us who are free must actively work to find ways to create space within social change efforts for the voices of women and men inside prisons—broadcasting and publishing their views to a broader audience. We can begin by opening channels of communication across prison walls and by identifying women prisoners as motivation for solutions and strategy. Drawing upon women prisoners' inspiration and courage, free activists can support women prisoners in their activist efforts. Together we can begin to build a world without prisons.

\textsuperscript{148} Organizing among prisoners is regulated and/or prohibited in most correctional systems. For example, in California, "inmate clubs, activity groups, associations, or other organizations within the facility are permissible only when specifically approved by the Warden." \textit{CALIFORNIA DEPARTMENT OF CORRECTIONS, DEPARTMENT OPERATIONS MANUAL}, ch. 5, art. 28 §53020.1, \url{http://www.cdc.state.ca.us/RegulationsPolicies/PDF/DOM/00_dept_ops_manual.pdf}.