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# **Women in Jail: Classification Issues**

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## **FOREWORD**

Historically, the nation's jails have been designed and operated for the detention of male inmates. Female inmates have constituted such a small minority of the jail population that they have often been overlooked in terms of facility design, programs, and services.

Although women make up only about 11% of the jail population, their numbers have nearly tripled over the last ten years. This increase has demanded that local officials identify and try to meet the needs of female inmates, yet severe limitations in resources often impede the provision of services specifically for women.

The National Institute of Corrections recognizes the challenge this poses for jail practitioners. This document is intended to help them identify classification issues related to female inmates. We hope it will be helpful in reviewing current classification systems and designing procedures that more accurately classify women and, in turn, improve the management of the female inmate population.

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## **INTRODUCTION**

This report examines the status of classification procedures for female jail inmates, an issue that has been largely ignored over the years. Due to increasing numbers of women being incarcerated, litigation, and weaknesses in current classification systems, the need for improved objective classification systems for women has become an important issue for criminal justice policymakers, legal advocates, and jail administrators. Many agencies have begun to re-examine or revise their current policies and procedures for female classification (Forcier 1995, Austin et al. 1993, Jackson and Stearns 1995).

There have been few studies of classification for female jail inmates and only a handful of such studies for women housed in state and federal prisons (Clements 1984, Brennan 1987b) to guide jail administrators on how best to design and implement such systems. Fowler (1993) argued that classification for female inmates is poorly developed and is a “symbolic backwater” long neglected by the profession. Classification systems explicitly designed for female inmates remain rare, and most correctional institutions classify their female inmates by using procedures that were designed for males and are based largely on behaviors and risk factors that have primary relevance for males.

This report is intended to help jail administrators and classification staff design and implement an improved objective female classification system. It provides guidance to administrators as to whether their current classification system is working for their female inmate population. It should be made clear from the outset that there is no legal requirement that a correctional system have separate classification systems for men and women. Indeed there is considerable controversy surrounding the topic. However, by addressing the following questions, this report can help jail administrators determine whether to modify their current classification practices and procedures.

1. What are the unique attributes and needs of female inmates as compared to males?
2. To what extent is the jail’s classification system inappropriate for the special needs of female inmates?
3. Should the jail have a totally different classification system for female inmates?
4. Can the current classification system be adjusted for female inmates?

### **Current Dissatisfaction with Jail Classification Systems for Female Inmates**

Burke and Adams (1991) found that many correctional staff were dissatisfied with current classification methods for women. One of the major reasons for this dissatisfaction is that classification systems tend to be designed and tested for male inmates. A so-called “gender-neutral” classification system would use the same classification factors and scoring for

both males and females. However, such a system would be appropriate only if it were true that the classification risk factors and decision thresholds had the same predictive attributes for both males and females. For a number of reasons that are discussed later in this report, this assumption may not be correct. Incarcerated women differ from male inmates in their behaviors and special needs—especially with regard to medical and mental health needs and family attributes (Nesbitt and Argento 1984). For these reasons, many practitioners feel that current systems overclassify and incorrectly house female inmates (Austin et al. 1993, Nesbitt 1994, Chesney-Lind 1992, Burke and Adams 1991).

For inmates, classification can govern eligibility and access to programs, housing assignments, selection of cellmates, personal safety, eligibility for worker status, consistency, fairness, and equity while in jail. It can even govern how an inmate is “perceived” by both jail staff and other prisoners. While litigation was the driving force in surfacing these various roles of classification, many jail administrators had already begun to make more comprehensive use of classification as a fundamental management tool (Fowler and Rans 1982, Brennan and Wells 1992).

### The Rapid Growth of Incarcerated Women

A major factor intensifying the need for improved female classification systems is the enormous surge in women incarcerated in the United States. Although female inmates represent only 11% of today’s jail population, the past 15 years have witnessed a substantial increase in their numbers and at a rate far exceeding that of men.

According to the most recent data, the nation’s adult jail population more than doubled during the past decade, rising from 254,986 in 1985 to 510,400 in 1996. More significantly, the number of women jailed nearly tripled, from 19,077 to 55,700.

#### ADULT U.S. JAIL POPULATION BY GENDER 1985-1996

Adult Jail Population	1985		1996		% Change 1985-96
	Number	%	Number	%	
Total Adult Inmates	254,986	100%	510,400	100%	100%
Males	235,909	93%	454,700	89%	93%
Females	19,077	7%	55,700	11%	192%

Source: Bureau of Justice Statistics (BJS) Bulletin, *Prison and Jail Inmates at Midyear 1996*, January 1997, U.S. Department of Justice.



## **Inadequate Jail Resources to Meet the Needs of a Rising Female Population**

Various problems face jails that are not prepared to house and treat rapidly rising female populations (Nesbitt and Argento 1984, Clements 1984, Burke and Adams 1991, Morash 1992). There may be difficulty in providing appropriate housing, bed space, programs, jobs, mental health care, and other services. Women are normally housed in a “women’s unit” that is often designated as an afterthought inside facilities designed mainly for men. The strict separation requirement of male and female jail inmates also exacerbates housing and program shortages. Finally, certain deficiencies in current risk classification procedures needlessly create problems in accessing programs.

## **Legal Challenges and Concerns Regarding Female Classification**

The importance of classification and its multiple roles in many aspects of jail operations became strikingly clear during the 1980s as a result of litigation against jails and prisons (Belbot and del Carmen 1993, Tonry 1987). Classification procedures have become embroiled in equity and parity issues and the need to assure equal treatment and comparable resources for female inmates (Nesbitt 1994). Professional organizations have also stressed the need for equal access to programs and parity of treatment. Useful reviews of legal issues compiled by Tonry (1987), Belbot and del Carmen (1993), and Collins (1996) are explored in more detail later in this report.

## **Profile of the Female Inmate**

To understand whether current “gender-neutral” classification systems are as seriously flawed as some claim, the unique attributes of female inmates and implications of those attributes with respect to classification must be identified.

Fowler (1993) described the “typical” female inmate as follows: probably minority, aged 25 to 29, unmarried, has one to three children, a likely victim of sexual abuse as a child, a victim of physical abuse, has current alcohol and drug abuse problems, multiple arrests, first arrested around age 15, a high school dropout, on welfare, has low skills, and has held mainly low-wage jobs. Austin et al. (1993) similarly described female inmates as having very high needs for educational programs, job training, health and mental health counselling and as having drug problems, job problems, poor parenting skills, and continued responsibility for children.

Clearly, many of these features also characterize male inmates. Furthermore, the so-called “typical” female inmate masks the high level of variation that exists. Significant numbers of women (and men) admitted to jail each year do not have a prior record, are well educated, and have stable job histories. An important requirement of any classification system is to identify individual characteristics and properly classify and house inmates. Thus, the uniqueness of females from males as well as differences among the female inmate population itself must be addressed by the jail’s classification system.

## Unique Attributes of Female Inmates

While there are few research studies on female inmates, they are almost unanimous in concluding that women exhibit differences in the severity and uniqueness of certain needs compared to male inmates. It should be noted that most statistics available are for prison inmates and that jail data are almost non-existent.

**Current Offense and Prior Record.** Women have less violence in their current or prior criminal records than men and are generally convicted of minor crimes (Austin et al. 1993, Fowler 1993). They have fewer prior convictions than men, usually for minor or non-violent crimes (e.g., fraud, larceny, theft, drug offenses). Although national data suggest an increasing number of women are charged with serious crimes, they are generally accessories and not the instigator or leader (Nesbitt 1994). Further, many women's violent crimes occur in a specific long-term relationship. Morash (1992), citing 1991 BJS statistics, noted that a higher percentage of female violent offenders than male violent offenders (25% vs. 6%) were incarcerated for killing a family member, spouse, or other close intimate. Such situational violence focuses on a specific person, and the risk is unlikely to generalize to the public at large.

**Institutional Conduct.** Women's institutional behavior appears substantially better than that of male inmates (Austin et al. 1993, Alexander and Humphrey 1988, Nesbitt 1994, and others). They exhibit less escape or escape attempts, less violence, and about half as many formal misbehavior reports as male inmates (Alexander and Humphrey 1988). Austin et al. concluded that women "almost uniformly" pose lower institutional risks as indicated by lower severity of current crimes, criminal histories, levels of disciplinary infractions, and escape activities. Austin noted that most disciplinary infractions by women tend to be non-violent (e.g., refusal to obey an order, unauthorized possession of money). In contrast, male infractions involve more fights and assaults.

Correctional staff describe female inmates as being more socially adjusted and positive in their attitudes than males (Nesbitt 1994, Alexander and Humphrey 1988). Burke and Adams (1991) found, however, that many staff felt that women were more sensitive, more demanding, needed more daily attention, were more concerned with personal problems, and had higher expectations that staff listen and care about their problems. While they viewed female inmates as less violent and lower risk, staff felt that they were "more trouble" than male inmates.

**Children and Family Relationships.** A majority of female inmates have children, most have primary responsibility for child rearing, and most have legal custody. Morash (1992) reported that about 66% of women in prison had children under age 18. Austin et al. (1993) reported slightly different statistics, but reached the same general conclusions—more than 80% of female inmates had at least one child, and close to 70% had children under age 18. Many female inmates hope to resume their maternal role following release.

Thus, an intense need primarily characterizing female inmates is the maintenance of bonding with children and family. Considerable stress and anxiety occur among female inmates if this bond is threatened. Austin et al. described this need as the foremost difficulty female inmates experience.

It follows then that most female inmates have a strong need for help with family maintenance. Besides visitation and maintaining the legitimacy of their relation to children, additional needs include parenting skills; child welfare; and relations to children, husband, or boyfriend. Visitation conditions and frequency are critical. Support for family maintenance is a societal value that brings the expectation that correctional facilities should try to accommodate this need.

**Medical Needs.** The medical needs of female inmates include several special issues: pregnancy, abortions, birth control, birth, etc. Classification is crucial to detecting these needs and referring the female inmate for appropriate care. Female inmates overall exhibit a higher demand for both medical and psychiatric services than males (Burke and Adams 1991). Failure to properly assess or adequately treat their needs would have a disparate effect on the welfare of female inmates.

**Vocational, Education, and Economic Needs.** As noted earlier, female inmates have severe social, educational, and economic risk factors. The few statistical reports of the early 1990s on female inmates suggest that most are uneducated, unskilled, poor, unemployed or hold minimum-wage jobs; about 20% have not attained functional literacy; and about 60% are on public assistance (Austin et al. 1993, Owen and Bloom 1995).

**Drug and Alcohol Abuse.** Forcier (1995) found that about 40% of a female inmate sample exhibited drug or substance abuse problems, about 33% were under the influence at arrest, and over 50% reported daily use of drugs before their offense (see also BJS 1991).

**Sexual and Physical Abuse.** Sexual, emotional, and physical abuse appears widespread among female inmates (BJS 1991). For one state system, the figures were as follows: 53% of female inmates had been victims of physical abuse; 23%, victims of incest and rape as a juvenile; and 22%, victims of sexual abuse as an adult (Austin et al. 1993). These figures are important for classification because of the high correlation between such victimization and maladaptive behavior (e.g., extreme passivity, dependency) while incarcerated (Forcier 1995).

## **CURRENT OBJECTIVE CLASSIFICATION PRACTICES IN JAILS**

This section reviews current classification practices in jails. A detailed description of current methods is not provided since that information is available in several other publications. Workbooks (NIC 1994, 1995, 1996) from NIC jail classification seminars contain forms and instructions for two widely used objective jail classification systems—an additive points scale and a decision tree. Designed to be gender-neutral, these two systems are commonly used in classifying both male and female inmates. The risk factors in these two systems are simple behavioral and legal factors that can be easily verified by justice practitioners.

### **A Single Classification System for Male and Female Inmates**

Most jails use a single classification system for both male and female inmates. Such gender-neutral classifications mainly focus on security risk and generally use the same classification factors for both male and female inmates. Identical needs assessment forms are typically used with no modification for female inmates. In local jails, the use of a single classification system may be more reasonable because of the short length of stay and consequent difficulty of treating long-term social needs.

Most jails adopt a single gender-neutral system without conducting the required research to examine its validity on female samples. This absence of validation becomes more problematic when a jail revises or “customizes” one of the two standard systems since the validity of those systems has been examined in several jails at this point. The “customized” versions often contain substantial and untested changes in scoring procedures and risk factors. Nesbitt (1994) criticized such expediency, stating that unvalidated classifications are arbitrarily imposed on women.

Nesbitt and Argento (1984) found a strong preference among practitioners NOT to have separate classification systems for males and females. This appears to be based on three factors: 1) two separate systems may create additional staff work, 2) the research work to design and validate such systems would double, and 3) legal action may result from “disparate treatment” since gender is used as a classification factor.

### **Adjusting a Gender-Neutral Classification System for Female Inmates**

One strategy for adjusting a gender-neutral classification system for female inmates is to make minor adjustments to increase its “fit” for women. Clements (1984) suggested that “some tailoring” may resolve overclassification concerns. This would involve making minor changes to the scoring system, the weighting of factors, or the location of cutting points to achieve comparable “disciplinary problem” rates across security levels matched by gender (i.e., women classified as medium or maximum security would have about the same infraction rates as men classified as medium or maximum).

Austin et al. (1993) offered an example of this approach. They examined an additive point system suspected of overclassifying women to assess whether adjustments were needed. The fundamental difficulty in this approach stems from the much lower base rate of women for the disciplinary behaviors used as outcome criteria. Austin et al. noted that most female inmates had no disciplinary behaviors (80 to 90%) across all security levels. A low base rate, coupled with low predictive validity, undermines the strategy of adjusting scoring factors because they have such weak relation to the outcome criteria. Austin et al. acknowledged this problem by stating that "...changing the instrument...is not likely to gain a marked difference in the outcome." This problem occurs for any risk classification system that combines low predictive validity with low base rates. Risk assessment for behavioral problems in jails—particularly for female inmates—falls into this category.

Austin et al. had more success adjusting the reclassification procedure, which has stronger statistical correlation to disciplinary outcomes. Adjustments to reclassification scoring procedures (weights and cutting points) successfully brought female infraction rates for each security class "...into parity with male prisoners." As a result, an additional 10% of female inmates were classified as minimum or low medium compared to the original system, suggesting that a small amount of overclassification was occurring. The adjustments placed 56% of female inmates in minimum security, 23% in medium, 15% in high medium, and just under 6% in maximum.

## **CURRENT PROBLEMS IN CLASSIFYING FEMALE JAIL INMATES**

This section discusses problems that any jail classification system must address for female inmates. Jail administrators must consider each issue in deciding whether to modify their current classification procedures or implement a separate system for female inmates.

### **Inadequate Housing to Match Classification Needs**

For a classification system to be effective, appropriate housing options must exist (Fowler 1993). Yet housing for women often appears inadequate in jails designed primarily for male inmates. Female housing is often seen as “lower priority” than male housing and often appears to be an afterthought in mixed-gender jails.

Jails that have not yet adopted objective classification techniques must rely on traditional subjective classification. This style of classification is highly inconsistent and, in crowded conditions, often degenerates into “space available” housing assignments. Chesney-Lind (1992) contended that much current female classification is chaotic and inconsistent and that female inmates are placed “almost anywhere.” Such “space available” classification (based on bed availability) results in inappropriate co-mingling. Inadequate housing may counteract the value of classification for women in several ways, which are discussed next.

**Inappropriate Co-Mingling.** Certain needed separations may become impossible when crowding, inadequate housing, and inappropriate classifications are all present. The co-mingling that often results from these conditions is best avoided. For example, Fowler (1993) charged that needed separations of violent female inmates, or those with special needs, often cannot be accommodated by available space and such inmates are co-mingled with less serious offenders. Nesbitt (1994) also asserted that the co-mingling of lifers, mentally retarded, and short-term female inmates is “...all too common.”

**Inappropriate Physical Environment.** A second problem in jails is that the physical security imposed on many female inmates is often excessive. Most female inmates do not warrant physically “hard,” high-security detention, and such surroundings may send an inappropriate message to persons who interact with or visit these women—particularly family and children. Many have argued that high-security physical surroundings are not an appropriate environment for family visits.

### **Lack of Standardization**

To date, the field of corrections has not reached agreement on standardized or generalizable procedures for classification. There is no consensus on an acceptable jail classification system. Simply put, different jails are free to use widely different classification approaches. While litigation has resulted in some general legal standards and goals, local jail

managers have wide latitude in selecting classification methods, risk factors, goals, validation procedures, etc. Thus, local culture, values, policies, and training of jail managers profoundly mold the kind of classification systems found in jails. Not surprisingly, there is no consistency of definitions, procedures, goals, or basic terms (e.g., maximum, close, medium, and minimum security) across different jails. Thus, a female inmate's classification may depend more on the jail she enters than on the objective aspects of her behavior, social background, or circumstances.

This situation is akin to mental health diagnosis about 100 years ago when a patient's diagnosis mainly depended on which hospital she entered. This chaos became intolerable to medicine, and years of research eventually achieved a degree of standardization and generalizability for diagnosis across different hospitals and regions.

Some states have tried to achieve standardization by requiring a single objective classification system to be used in all jails in the state. This challenge will become even more difficult if two separate classification systems are mandated for female and male inmates. Thus, it is unlikely that corrections will achieve standardized security and custody classifications in the near future. The consequences are inconsistent definitions, poor validity of classifications, disparate procedures, and communication difficulties.

### **Excessive Use of Overrides**

An override directly reflects staff disagreement with an objective jail classification instrument's validity. It is used when staff believe the formal classification is inapplicable or inappropriate. They substitute their intuitive judgment for the objective method (Nesbitt 1994, Austin et al. 1993).

The high override rates found for female inmates when using gender-neutral classification systems reinforce the conclusion that these systems are inappropriate for female inmates (Clements 1984, Austin et al. 1993). The override rate for females in Austin's study (over 40%) was much higher than for males and about double the conventionally acceptable upper boundary of 20%. This supports the conclusion that current gender-neutral systems do not capture the key classification features essential for female inmates. Further, Austin et al. found that the documentation of overrides of female classification was so poor and incomplete that it prevented any clear understanding of the reasons for the high override rates.

### **Inadequate Assessment for Community and Rehabilitation Programs**

A weakness of current jail classification systems is their inadequate assessment of the social and habilitation needs of female inmates. This weakness undermines the ability to differentiate between women who need secure confinement and those who could safely be placed in community programs (see Chesney-Lind 1992). The poor development of classification to guide placement in community programs is surprising since most statistical evidence suggests women have much lower risk of escape or violence than men, but more severe social, educational, vocational, and family needs.

As jails become more crowded, the need for more informative and valid classification to address alternatives to incarceration has emerged with a vengeance (Morash 1992). Some newly developed multi-factor risk and needs assessment systems—e.g., the Level of Supervision Inventory (LSI), Northpointe’s COMPAS, etc.—go beyond custody risk assessment and more broadly assess factors related to treatment planning, rehabilitation, and reintegration. However, such instruments are longer, more complex, and require more time than current jail custody classification instruments. Such approaches are typically not used in jails.

### **Inadequate Access to Treatment, Work, and Vocational Programs**

The effectiveness of classification is undermined by unavailability of programs, inadequate programs, or assignment to inappropriate programs. Access to programs in many jails is limited by overcrowding, excessive demand, insufficient resources, and lack of emphasis on programs. Research has shown that program participation—for both male and female jail inmates—is much lower than the numbers of inmates needing programs (e.g., Forcier 1995). Program and service deficiencies in jails are particularly severe in those areas that are either more serious or unique to females (e.g., certain medical services, substance abuse programs, educational and vocational training, child care, child visitation, preparation for reentry into the community, and social survival skills).

Female inmates’ access to programs is further limited by two particular weaknesses of current classification procedures. First, the tendency of current systems to overclassify female inmates will place many of them in higher security than warranted, which may result in ineligibility or restricted access to certain work assignments, vocational and educational programs, etc. Second, the known deficiencies in needs assessment may result in underestimating the real treatment and rehabilitation needs of many female inmates, who are therefore less likely to be placed in available programs.

Inappropriate work and program assignments in jails pose another problem. For example, Fowler (1993) argued that female inmates are disproportionately placed in low-level, low-paying, or sexually stereotyped work assignments (e.g., food services, cosmetology, cleaning) that do not match their real rehabilitative and social needs. Fowler believes such practices may reflect preconceived sexist notions and may constitute disparate treatment.

### **Lack of Research**

There is a huge gap between research on male classification and that on female classification (Burke and Adams 1991). Only a handful of research studies exist on classification of women in either jails or prisons. The absence of validation research is so severe that Nesbitt’s and Argento’s 1984 comment “...we don’t know with accuracy how our classifications are working” remains true today. This lack of research is more severe in jails than prisons due to more limited resources. Most research is on male inmates since they comprise the vast majority of all prisoners and are more dangerous and violent. If research is done, it often fails to include females or does not disaggregate the results for females (Jackson and Stearns 1995).



The dearth of studies on female jail classification is likely to continue for several reasons—inadequate financial support, inadequate research skills, complacency of jail managers, an inadequate sampling base, etc. Litigation and court orders are often the only factors that compel correctional managers to undertake such research. Furthermore, objective classification—particularly predictive systems—must meet appropriate scientific, statistical, and measurement standards. These systems achieve their goals only if an adequate scientific foundation is present. Otherwise, classification is unlikely to achieve any important practical goals. The available research on female classification in jails fails to meet most of the required technical standards for predictive risk assessment research (e.g., adequate sample sizes, disaggregation of results, reliability assessments).

## **Overclassification**

The most serious charge against gender-neutral classification tools is that they overclassify female inmates (Nesbitt and Argento 1984, Chesney-Lind 1992, Burke and Adams 1991). As noted earlier, very few studies in jails have examined such errors. However, the available findings suggest that some overclassification does occur, particularly in the medium security area (Austin et al. 1993). These researchers concluded that “it is obvious” that some female inmates are overclassified and recommended that more women be placed in minimum security. Logically, low base rates for institutional misconduct among female inmates, coupled with low predictive validity, virtually assure a high rate of false positive errors (overclassification) when basing classification on risk (Clear 1988, Brennan 1993).

Overclassification may also occur because current scoring of women’s violence does not take into account two qualifying factors. First, women with serious violent offenses are often accessories and not leaders or instigators. Second, a large percentage of female violence occurs in long-term relationships, which is unlikely to generalize to the public at large.

## **Invalid Risk Factors**

A key deficiency of risk-based jail classification systems is that the risk factors have inadequate predictive validity, particularly in women’s samples (Austin et al. 1993, Alexander and Humphrey 1988, Brennan 1987b). This inevitably implies high error rates. Thus, from a scientific perspective, initial risk-based classifications are arguably inapplicable to women since they fail their most fundamental task, which is risk prediction.

The risk factors currently used in jails at initial classification (e.g., severity of current charge, current violence, substance abuse) have minimal correlation to disciplinary problems (Austin et al., Alexander and Humphrey). Age is the only risk factor that shows a modest correlation to disciplinary adjustment in that younger female inmates exhibit somewhat higher misconduct.

These findings suggest that risk-based classification systems need new risk factors if they are to be effective for females. Burke and Adams (1991), Rans (1984), and others reached the conclusion that risk prediction is ineffective for female inmates and called for different approaches for the classification of women. However, since few jail studies exist, no conclusions have emerged regarding alternative risk factors for female classification.

## **Inappropriate Policy Priorities**

A key question is whether risk prediction should be the central goal of female classification. Risk deserves a high priority for male classification since male inmates exhibit higher violence and safety risks. However, female inmates have much lower levels of such behaviors. Fairness may require that the organizing principle—or “driving force”—for classification should be policies or goals that are equally relevant to women.

Austin et al. (1993) noted that prediction of institutional misconduct is the “driving purpose” of current jail classification systems. A criticism of current gender-neutral classification systems is that they “miss the point” and are misaligned with the basic needs and risk posed by female inmates. This position suggests that the policy priorities driving current classification practice (risk prediction and security) are virtually useless for female inmates and that classification for women requires a reorientation of policy (from security and risk to treatment and rehabilitation).

The design and organizing principles for a classification system totally depend on its purposes and goals. If purposes or policies change, the classification system must also change to meet new performance criteria and goals (Brennan 1987a, Brennan and Wells 1992). For male inmates, the main classification principle or purpose has been risk prediction and security. If these are less central for females, the concern is that current systems are focusing on inappropriate goals. Classification systems can be designed to meet multiple purposes (e.g., prediction, safety, treatment, consistency, fairness, least-restrictive custody). Some claim that a specific policy goal for classification for ALL inmates is not a defensible generalization.

Two arguments support the use of different “central purposes” for women’s classification. First, the extreme difficulty of predicting female inmate disciplinary risk supports the use of an alternative principle for classification. Several research studies have already reached this conclusion. Alexander and Humphrey (1988), for example, concluded that predicting female institutional misconduct is a “formidable barrier” for gender-neutral systems and may be a “mission impossible” (see also Clear 1988). Second, as discussed above, current jail risk classification systems do not have effective risk factors for women, particularly at initial classification.

Choosing an alternative classification principle is partially scientific, but is also a policy (and political) decision, since it requires explicit administrative policy direction and new classification goals. Burke and Adams (1991) argued that improved women’s classification may not result from advances in “risk” assessment, but from the adoption of “habilitation” as a central principle. Fowler (1993) agreed, asserting that current risk classifications do “nothing positive” to prepare women for return to the community, for being an adequate parent, or for various survival skills. The recent emphasis on alternative sanctions, treatment, prevention, and post-release sup-

port is consistent with a reorientation of classification procedures and policy toward habilitation.

## **Legal Issues**

Legal issues naturally emerge in today's climate of dissatisfaction with gender-neutral classification systems and their purported negative effect on women. The legal principles of unequal access, parity, failure to protect, etc. are the basis of much litigation.

Women have a constitutional right to equal protection regarding access and opportunities for education, vocational programs, rehabilitation, treatment, wages, and other privileges. Fowler (1993) noted that years of "arduous litigation" were needed to achieve improved access to programs. More generally, a key issue is equal responsiveness by a jail to female needs.

The potentially most important area of litigation for female inmates arises under the Equal Protection Clause of the 14<sup>th</sup> Amendment. This type of claim, commonly known as a "parity case," argues that the programs, services, and/or facilities available to women are significantly lower in quality and quantity than those available to male inmates in the same facility or institutional system. These disparities, the claim continues, have no justifiable basis and therefore violate the Equal Protection Clause (Collins 1996).

What does equal protection mean? The Equal Protection Clause reads, in part, "...nor shall any State...deny to any person within its jurisdiction the equal protection of the laws." It does not require that every person or every group be treated exactly like every other. However, for groups that are generally alike, "similarly situated" in legal jargon, the concept of equal protection requires that the government treat such groups alike or have a sound reason to explain and justify discriminating against one of the groups (Collins).

Classification systems may be legally challenged if they treat women and men differently and unequally. Valid and consistent classification systems offer a methodology to ensure equivalent, consistent, and fair access to services because the scientific qualities of validity and reliability provide the basis for fairness, equity, and least-restrictive custody.

However, sufficient resources must complement a classification system (staffing, services, housing, etc.) if it is to meet the needs of all classification levels. Where the services and resources for women are insufficient or inadequate, unequal treatment relative to men may occur. Legal action may be triggered if a jail's programs or resources are inadequate to meet the legitimate needs of each classification level of female inmates. Any differential or unequal treatment may violate constitutional rights to equal protection (Belbot and del Carmen 1993).

The use of gender as a classification factor makes a classification process highly vulnerable to legal challenge. More broadly, any classification and/or differential treatment criterion that uses ethnicity, national origin, or gender is viewed as legally suspect. A classification policy that uses gender may create disparate treatment and violate the legal demand for parity. This implies that an identical classification system may be required for male and female inmates if a jail is to avoid a charge of disparate treatment.

Yet equality of treatment may require classification systems that are “equally” relevant to the different needs and circumstances of each gender. Such gender-based systems are likely to have different risk and need factors and weightings to achieve appropriate and equally relevant classification for each gender.

The above arguments suggest that the problem of disparate treatment can occur whether jails use a single or dual classification system for males and females. They raise the question of whether gender-neutral classification systems comply with legal requirements. This question cannot be answered with confidence because of the lack of research on the issue. The limited research to date suggests that while current gender-neutral risk systems do not seem to discriminate against high-risk women, they overclassify a modest number of truly lower-risk women (Austin et al. 1993).

An approach to revising gender-neutral systems was discussed earlier in this report. Adjusting cutting points can place a higher percentage of female inmates into minimum levels. Scoring formats for violence may be made more precise by adding new categories for 1) being an accessory, and 2) situational violence within a relationship. However, the cumulative effect of such adjustments may change a system so fundamentally that, in effect, women are classified by different classification rules. The “adjusted” classification system that systematically places more female inmates in lower security may be accused of unfair and unequal treatment of males and invoke anti-discrimination statutes.

Fundamentally, if a generalizable and valid gender-neutral classification system cannot be designed for risk purposes, equivalence may only be reached by designing separate classification systems for each gender. A separate classification system explicitly for females was called for by Rans (1984) and Burke and Adams (1991). Some jurisdictions have become concerned that NOT having a separate female classification system may expose them to litigation (Austin et al. 1993).

Finally, due process rules for classification represent another issue that jail administrators must take into consideration (Belbot and del Carmen 1993). These rules are generally applicable to both male and female inmates equally. Classification cannot be arbitrary or capricious. It must be objective, standardized, based on relevant classification factors, explainable, rational, and coherent. Classification processes cannot be totally subjective and discretionary. Several basic procedural safeguards are required in correctional agencies (e.g., written notices, adversarial hearings for certain decisions).

The courts have also demanded that classification systems be validated. As noted earlier, the overwhelming majority of jail classification procedures for female inmates have not been validated. Procedural issues can also trigger legal scrutiny if a jail exhibits poor implementation of classification (e.g., sloppy and weak supervision, poor staff training programs, inadequate review of overrides). Implementation of female classification is typically more severely undermined than male classification as a direct result of resource deficiencies.

## **GUIDELINES FOR DESIGNING OBJECTIVE CLASSIFICATION SYSTEMS FOR FEMALE INMATES**

This section examines some implications from the preceding review for designing classification systems appropriate for female inmates in jails. The steps in designing and validating a classification system for female inmates are no different from those required for males. Several other documents already provide detailed descriptions of these implementation guidelines, and they are not reviewed again here (see Burke and Adams 1991, Brennan and Wells 1992, Nesbitt and Argento 1984). However, the basic steps are described briefly below.

### **Step 1: Obtain Institutional Support and Commitment**

Obtaining the support and commitment from agency management is critical. A project to re-design and implement improved classification for women will require time, staff, and resources. Half-hearted commitment, complacency, or poor understanding of the importance of this project will usually spell its death knell. Whether the jail selects a single gender-neutral system or a dual system, the whole-hearted commitment of management is a key requirement.

### **Step 2: Establish an Implementation Team of Key Stakeholders**

Securing needed resources, planning, and overcoming resistance can be greatly facilitated if an active committee of key stakeholders assumes leadership and responsibility for the project. Resistance, skepticism, and inertia are bound to surface. Involvement of the key stakeholders is almost a mandatory requirement for success.

### **Step 3: Establish Performance Requirements, Goals, and Purposes**

Senior management and other main stakeholders must clearly understand the performance deficits of current classification methods for female inmates, the need to improve classification for women, and the legal requirements. Clearly specified performance requirements, goals, and purposes are needed to guide the design of the new system. Practical, legal, and financial design constraints must also be clearly articulated early in the design phase, and input should be sought from line staff since their perspective provides a rich source of user issues.

### **Step 4: Finalize a Provisional Technical Design**

Three tasks produce the basic technical design of a new classification system. They are described next.

- **Specify classification goals, purposes, and organizing principles:** A key question is whether risk will be retained as the primary organizing principle of female classification or whether other organizing principles (e.g., acuity, current or historical behavior,

rehabilitation, reintegration) should be used. As noted earlier, a strong case can be made that risk classification (for disciplinary misconduct) is less relevant and perhaps impossible for female inmates and that current risk procedures misclassify women. If risk is chosen to remain the central principle of classification, the design of the classification system must comply with appropriate technical standards of predictive research (e.g., predictive validity; reliable measurement; standardized and objective risk factors; and appropriate samples, outcome behaviors, and time intervals).

- **Select risk and needs factors:** An enormous range of potentially relevant risk factors might be used in a more in-depth classification system for female inmates. The precise selection would depend on the preliminary specification of purposes and goals for the new system. For example, the outcome criterion that is selected (e.g., public risk vs. institutional risk) would in turn determine the selection of new predictive factors. An emphasis on needs and rehabilitation would require a highly diverse selection of risk and needs factors (see Clear 1988, Clements 1984, Brennan 1987b, Andrews and Bonta 1994, and others).
- **Select a classification scoring format:** A format to integrate risk factors into a classification decision must be chosen early in the design phase. This choice is independent of the selection of an organizing principle or classification factors. The selected method can be applied to any set of classification factors. Typically, a jail will choose between additive point scales or decision trees. Another possibility is to choose a policy or consensus approach (Alexander and Austin 1992). There are no clear performance differences between additive point scale and decision tree methods. Both point systems and decision trees comply with legal demands for logical coherence, rationality, standardized data, consistency, and reliability, and they perform about equally in many correctional settings. More advanced statistical techniques have not yet shown a clear ability to outperform simple additive scales, although new and more powerful statistical methods continue to emerge in the research literature (Brennan 1993).

### **Step 5: Conduct a Pilot Test and Validation Study**

A pilot test can be conducted once a provisional design is available. This is an invaluable procedure for initial validation as it tests the new procedure in the “live” conditions of the jail to identify any design flaws that require modification. A pilot test helps identify problems with the administration of forms or in data availability and provides key statistical breakdowns on likely percentages of inmates in different custody levels when using the new or revised scale. In the pilot test, data are collected; statistical analyses are conducted; and the provisional classification system is evaluated for practicality, ease of use, staff acceptance, and statistical validity.

A pilot test is almost a mandatory requirement for both planning implementation and revising the new procedure. It should have an adequate sample size; a sample base of at least 300 is usually needed to conduct the various statistical tests and group differences in a defensible and valid manner (Alexander and Austin 1992). Validation requires “behavioral outcomes” to test the predictive validity and power of each risk factor and the overall classification. Outcomes that are often collected—for a specific time period—include the number and kind of disciplinary convictions, misconduct tickets, days in administrative or disciplinary segregation, etc. The “time at risk”<sup>\*</sup> must be carefully recorded so that standardized misconduct rates can be computed for all inmates.

Selecting behavioral or disciplinary outcomes creates a problem in validation studies of female inmates because of the very low base rates for disciplinary infractions. Alternative outcome criteria may be possible. A good argument may be made for using some kind of “acuity” measure (i.e., the time, staff, and resources needed by each inmate). Acuity scores are gender-neutral and are unlikely to create legal challenges.

#### **Step 6: Finalize the Classification System**

On the basis of the pilot test, validity results, and feasibility of revisions, management must decide whether to accept, reject, or further revise the new system. Staff involvement is important. The opportunity to participate may help consolidate staff “buy-in” of the new or revised system. Important decisions are made at this stage of the process on specific policies that will be part of the new system, staff assignments, training, and information system needs.

#### **Step 7: Implement the Classification System**

If the new or revised classification system can be implemented into routine operations of the jail, it passes all performance requirements. Careful planning and preliminary training are needed prior to implementation.

#### **Step 8: Evaluate, Monitor, and Revise the System**

As the jail gains experience with the new approach to female classification and as various users and stakeholders monitor and evaluate it, many implementation issues will emerge that may suggest further revisions and improvements. Annual evaluations and ongoing monitoring should provide guidance to improve the design of the new system. Management cannot forget the new classification system once it becomes part of daily operations. Classification systems are dynamic procedures that progressively evolve as new findings,

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<sup>\*</sup>Time at risk, in this context, is typically time spent in a setting in which misconduct or infractions could occur. It is usually the duration of incarceration minus any time spent in solitary confinement or disciplinary segregation.

experiences, and conditions emerge.



## **CONCLUSIONS AND RECOMMENDATIONS**

This report is intended to help jail managers or jail classification directors think about new designs for the classification of female inmates. Several unresolved issues, legal conundrums, and research questions remain unaddressed by the field. Yet, on a daily basis, jails must classify, house, and provide services to female inmates.

Current gender-neutral systems appear to have a propensity to overclassify women and to inadequately assess, and perhaps underestimate, female inmates' needs. The provision of resources to female inmates (housing, programs, visitation, etc.) often appears inadequate in male-dominated jails. While this report offers several approaches to these problems, difficult technical, legal, and political issues remain. Most jails will continue to face the political challenge of obtaining sufficient resources to properly serve female inmates, but there appear to be several workable solutions to the research and legal challenges pertaining to classification design.

Five options that jail managers may consider in selecting a new or revised classification system for female inmates are discussed next. Most are technically feasible, although risk systems for female disciplinary misconduct face a challenge of low predictive validity coupled with low base rates. An important decision is whether to design a single gender-neutral classification system for both men and women or a separate system for each gender. Each approach has its advocates, and the merits of each were described earlier.

### **Option 1: Implement a Separate Classification System for Male and Female Inmates**

This option was strongly advocated by Rans (1984) and Burke and Adams (1991). They argued that if jails are to properly address the unique needs and legal rights of female inmates, they must design classification systems that are valid for women. Equal levels of validity may require separate samples, separate statistical analyses, and potentially different risk factors.

### **Option 2: Implement a Behavior-Based Classification System**

In this option, risk prediction is downplayed and current behavior becomes the basic principle for classification. A single approach (behavior) is used for both genders. Current behavior drives movement across classification levels, and the reclassification process becomes dominant. Austin et al. (1993) advocated this approach, suggesting that all female inmates should initially enter a medium level, with periodic reclassification driving subsequent movement across custody levels. This would require close staff observation of the behavioral patterns of female inmates during the period preceding reclassification.

### **Option 3: Modify a Gender-Neutral System**

Another option is to adjust a gender-neutral classification system to minimize overclassification of female inmates. This appears technically difficult for initial classification

but more feasible at reclassification. Such adjustments were discussed earlier. First, scoring formats for violence could be modified to take into account the role of women as accessories or their crimes representing situational violence in long-term relationships. Second, cutting thresholds could be adjusted for female inmates, since women have much lower base rates for disciplinary problems. As noted earlier, it is unclear whether this approach would survive legal challenge since it may result in disparate treatment of male and female inmates.

#### **Option 4: Implement a Descriptive Classification System that Uses Criminal Involvement and Sophistication as the Organizing Principle**

This option also drops risk as the organizing principle and replaces it with criminal involvement as the central basis. This option would classify inmates of both genders according to the pattern and seriousness of their criminal involvement and criminal sophistication. Such a descriptive classification system avoids problems associated with low predictive validity. It would separate violent hardened and habitual criminals with higher recidivism risk from first-time offenders and minor offenders. It would minimize the co-mingling of offenders at different levels of criminal history and sophistication. Initial classification could use this approach, followed by a behavior-based model of reclassification.

#### **Option 5: Implement a Predictive Classification System with Public Risk (Recidivism) as the Organizing Principle**

A variation of the above approach is to base initial classification on the prediction of “street recidivism.” Risk is retained as the organizing principle, but the emphasis switches from institutional risk to public risk. This latter risk has a substantially higher base rate, and classifications can reach higher predictive validities than for institutional risk. Furthermore, the risk factors for public risk are common between males and females (e.g., age at first offense, prior record in the past 5 years, prior probation past 5 years, frequent residence changes, unstable job, drug problems, attitude, family problems, etc.—see Forcier 1995, Alexander and Humphrey 1988, and others). Thus, an identical classification system may be feasible for both male and female inmates.

### **Additional Recommendations for Female Classification**

Following are recommendations for refining classification systems for female inmates and otherwise improving a jail’s ability to meet the needs of its female population.

#### **Recommendation 1: Support Research to Identify Classification Factors More Appropriate to Female Jail Inmates**

A strategy required by some of the above options is that correctional administrators sponsor research to identify more appropriate risk and classification factors for female jail inmates. Small local jails will probably not have the financial or technical resources to conduct such research. However, larger facilities may have sufficient data resources,

information systems, and numbers of female inmates to do so. The identification of additional “key variables” is a fundamental requirement in developing effective classification for female inmates (Burke and Adams 1991, Rans 1984, Clements 1984). A wide range of potential risk factors exists (e.g., clinical and psychological, behavioral, relationship and social), and most have not been thoroughly studied (see Rans 1984, Andrews and Bonta 1994, Jones 1994). Since little systematic research has examined risk factors for female classification, jail managers have virtually no guidance on this issue.

## **Recommendation 2: Expand Treatment Classification and Implementation of Key Services for Women**

Both service and needs assessment components of the classification system should be expanded and further developed for women. To avoid disparate or unequal treatment, it would appear appropriate to also expand these components for male inmates. Specific recommendations follow.

- **Expand Classification for Rehabilitation**

Classification for rehabilitation purposes should be re-designed to achieve more depth and coverage of key needs and treatment factors and should be raised in importance relative to security and risk prediction. The current emphasis on risk prediction diverts classification from the diagnostic needs assessment required for developing case management plans for rehabilitation.

- **Expand Assessment of Abuse, Victimization, and Exploitation**

This topic appears particularly important for female classification since research suggests it is related to the adjustment of women to incarceration. Quay and Love (1989) suggested that childhood physical abuse is associated with aggression, while sexual abuse is associated with passive, inadequate, and dependent behaviors. Current classification systems provide inadequate assessment of abuse, victimization, and exploitation.

- **Expand Visiting Privileges and Visitation**

The needs of many female inmates to maintain ties with children and family cannot be overlooked. Classification can either restrict or facilitate meeting these needs. Jails should expand their visitation programs to allow the mother and child to maintain their relationship.

- **Expand Medical and Mental Health Care**

Current data show that female inmates have frequent medical, mental health, and gender-specific needs (pregnancy, prenatal care, etc.) that require specialized responses. While jails have serious problems in devoting resources to meet many of these needs, they should coordinate with community resources to provide these services.

### **Recommendation 3: Expand Classification for Intermediate Community Sanctions and Expand the Range of Sanctions**

The low risk of violence, misconduct, and escape of female inmates, coupled with lower profiles of serious and violent crimes, suggests that many women are candidates for community programs. Classification for community placement should be expanded and further developed in its assessment coverage and validity. A renewed emphasis on classification for community placement would also help jails with overcrowding problems. The extreme needs of female inmates for skills in independent living, education, and job training require improved programs to help them enter the job market and survive in the community.

To complement expanded classification for community placement, an expanded range of community sanctions should be created (Harland 1995) that vary in levels of control and security. Many have argued that this would provide a low-cost alternative to the current reliance on incarceration (Nesbitt 1994, Fowler 1993).

### **Recommendation 4: Modify New Facility Design**

For jurisdictions expanding their jails or constructing new ones, an opportunity exists to design the new facility to accommodate the needs of female inmates (see Elias and Ricci 1997). Architects and planners should be given clear information on the unique needs and types of female inmates. Privacy considerations, visitation arrangements, and special housing for required separations should be factored into new housing designs for female inmates.

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