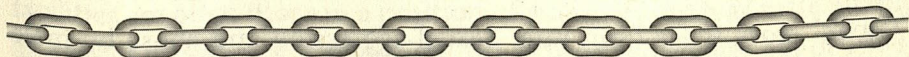


SEXUAL ABUSE



At 4:30 every morning, “Gina” reported to work in the kitchen at Coffee Creek Correctional Facility in Oregon. For the first half hour, she was the only prisoner in the kitchen with the food coordinator, a male prison employee. The other women who worked as servers and dishwashers did not arrive until 5:00 am.

For the first several weeks, the food coordinator laughed and joked with Gina as they prepared breakfast for the women in the prison’s minimum facility. On several occasions, he walked close to her and let his hand brush against her buttocks. He always apologized.

One day, however, he ordered her to drop her pants and bend over so that he could have sex with her.

Scared, Gina complied.

After the first time, sex became a daily routine. Gina did not know whether she liked it or not. She wasn’t sure if it was rape. All she knew was that she felt alone, afraid and unsure of herself. She knew that she didn’t want to do it, but she realized that she had no choice.

Gina decided not to report it to Internal Affairs. She remembered that after the last sex scandal hit the local media, the women involved were harassed and threatened by both prison officials and prisoners who had been trading sex for favors. She didn’t want her time made

Resistance Behind Bars

harder. She only had a few months left in prison and did not want to risk being written up on a false misconduct report, thus losing her good time (credit for time served) and having to spend more time in prison.

Instead, Gina chose to keep quiet and endure what became a morning routine.²³⁵

“Gina’s” story is far from rare. Sexual aggression and abuse by male prison staff is a far greater problem than most are willing to admit. In 1994, the U.S. Department of Justice launched an investigation of two women’s prisons in Michigan and found that “nearly every woman . . . interviewed reported various sexually aggressive acts of guards.”²³⁶ These instances included not only rape and sexual assault, but the mistreatment of prisoners impregnated by guards, abusive pat frisks and other body searches and violations of privacy, including searches of the toilet and shower areas and surveillance during medical appointments. The evidence of widespread sexual abuse prompted the Justice Department to initiate legal action against the state of Michigan in 1997 under the Civil Rights of Institutionalized Persons Act (CRIPA). In its suit, the Justice Department claimed that the State of Michigan was “violating the constitutional rights of inmates incarcerated in Michigan women’s prisons to be free from sexual misconduct and unlawful invasions of privacy.”²³⁷

Extensive sexual abuse is not limited to Michigan: in 1996, Human Rights Watch released *All Too Familiar*, a report documenting sexual abuse of women prisoners throughout the United States. The report, reflecting the organization’s two and a half years of research, found that sexual assaults, abuse and rape of women prisoners by male staff members were common and that women who complained incurred write-ups, loss of “good time” accrued toward an early parole and/or prolonged periods in disciplinary segregation.²³⁸

In addition, because at least 40–57% of women enter prison with extensive histories of previous abuse, they are more vulnerable to what

Sexual Abuse

the U.S. Department of Justice calls “inappropriate relationships” with prison staff.²³⁹ Many women with histories of abuse are more likely to accept sexual abuse and misconduct from prison staff because they arrive in prison already conditioned to respond to coercion and threats by acquiescing to protect themselves from further violence.²⁴⁰

Unlike the sexual predators in male prisons, the perpetrators in female facilities are often those in a position of authority, such as male guards and other prison staff. Under Title VII of the Civil Rights Act of 1964, which prohibits gender discrimination in employment, both male and female guards have the right to gender-neutral employment in prisons housing prisoners of the opposite gender. Given that most states have only one to two female prisons but many more male prisons, this has usually been applied to female guards’ right to employment in male facilities. However, Title VII also prohibits discriminating against male officers in female prisons.

In some instances, male staff members have been placed in female facilities with little to no training on cross-gender supervision and no procedures for investigating or disciplining staff sexual misconduct. In Michigan and other states, untrained male officers were assigned to positions in which they were able to walk, unannounced, into areas where women dress and undress, shower, and use the toilet. Male guards have also been given the task of performing body searches on prisoners, which includes patting down women’s breasts and genital areas. They also transported women to medical care and were required to observe gynecological and other intimate medical procedures.²⁴¹

The Official Response (or Lack Thereof)

Women who speak out about their abuse often find their complaints ignored. After being transferred to the honor unit at New York State’s Bedford Hills Correctional Facility in 2001, Shenyell Smith was solicited by unit officer Delroy Thorpe. When she rejected his proposition, he raped her repeatedly.

Resistance Behind Bars

Smith visited the prison medical center and reported vaginal and rectal pain from the repeated assaults. She also reported the rapes to the prison's superintendent, her counselor in the Family Violence program and the Inspector General.

She received no response.

Smith filed an official grievance with the state's Department of Correctional Services (DOCS), the governmental body responsible for all prisoners.

Her grievance was denied.

Despite other prisoners' complaints of sexual abuse and harassment filed with the Inspector General's office and despite the New York State Department of Correctional Services' "zero tolerance" policy regarding sexual assault, Thorpe continued to maintain his position in the honor unit.²⁴²

Bedford Hills is not the only institution to ignore or dismiss sexual abuse by its employees. Michigan has no laws criminalizing sexual activity between its prisoners and staff. Instead, it has Work Rule 24 that defines any employee-offender contact that falls outside official duties as an improper relationship. However, under Work Rule 24, a probation officer meeting with a parolee for coffee is subject to the same sanctions as a prison employee having sex with a prisoner.²⁴³ In addition, Work Rule 24 is often not enforced: in 1997, officials at the Camp Brighton facility received an anonymous letter charging prison guard Edmond Hook with being a "sexual predator." Four months later, eighteen women complained that Hook groped them during pat-downs and leered at them while they showered.

Officials simply warned Hook to "exercise better judgment in dealing with females." No effort was made to monitor him more closely or to transfer him to a position away from female prisoners. Eight months later, Hook forced a prisoner to touch his genitals. The next month, he sexually assaulted and impregnated T'Nasa Harris. Only then was Hook arrested and charged.²⁴⁴

Sexual Abuse

Even when there is undeniable evidence of sexual misconduct, prison administrations and state justice systems often allow perpetrators to go unpunished. In December 1996, Heather Wells, a prisoner at Washington Corrections Center for Women, was raped and impregnated by a guard in the prison laundry room. She charged the guard with rape. Even after a paternity test proved her claim, the state of Washington did not file charges, allowing the guard to quit his job and move out of state.²⁴⁵

In 2003, 46-year-old prison guard Randy Easter impregnated Korinda Martin, a 25-year-old woman incarcerated at a Nevada prison run by the Corrections Corporation of America.²⁴⁶ Easter was fired, but it was not until after the baby was born and DNA testing proved his paternity that the state charged him with a felony count of having sex with a prisoner. However, because Nevada law also penalizes the prisoner if she is perceived to have consented to sexual contact, Martin was charged with a misdemeanor count of conspiracy to commit a crime.²⁴⁷ Although Martin argued that the inherent power and control that guards wield over prisoners makes refusing their sexual demands nearly impossible, the judge ruled that the two had had a consensual relationship and sentenced both to probation.²⁴⁸

Lack of Visible Coercion

As Martin has pointed out, prison sexual abuse is not always visibly coercive. When “Dee” was working at the law library at a prison in Colorado, another prisoner approached her and told her that a sergeant working in the kitchen liked her. Dee and the sergeant began passing notes and, with the other woman’s help, had sex on two occasions in the kitchen. When the prison administration discovered the relationship, the sergeant was allowed to resign. Their relationship continued, with the ex-sergeant professing his love and moving Dee’s belongings from the house of her former mother-in-law to his own house. “He said he wanted my stuff in ‘our’ house,” Dee recalled. Then, with no warning or explanation, the sergeant ended the relationship.

Resistance Behind Bars

Although Colorado corrections employees who have sex with prisoners face a Class Five felony, the District Attorney failed to file charges and years later the sergeant remains unreprimanded. "I got four years for a Class Five felony," Dee stated, referring to the charge that landed her in prison. "He'll probably get probation."²⁴⁹ While the relationship may appear consensual and the break-up like a typical unfriendly split, the power that a prison official holds makes it impossible for prisoners to truly give consent. Had Dee been the one to end the affair, she might have suffered more than hurt feelings and the loss of her belongings, as Michigan prisoner Tanika Lynch learned.

On July 8, 1997, Lynch reported having a sexual relationship with then-corrections officer Phillip Lewis to prison authorities. Although Lynch had originally been willing to have sex with Lewis, when she tried to end their affair, Lewis became abusive.²⁵⁰

After reporting the affair, Lynch was targeted by both Lewis and other staff members. On July 9, 1997, Lewis issued Lynch a major misconduct ticket for stealing from the prison store. In the next four months, Lynch received 25 misconduct tickets. In the seven months before she had reported the affair, she had received only four. In September 1997, when Lynch asked a residential unit officer for permission to go to the bathroom, he not only denied her, but also stated, "Bitches like you get found in ditches."²⁵¹

Lewis was found guilty of sexual misconduct, removed from his job and sentenced to two years' probation. Lynch is still harassed by guards and prison staff who blame her for Lewis losing his job.

Michigan prisoner Renee Williams encountered a similar problem with guard Rodney Madden. For a year, Madden gave her gifts, including a gold chain and money. "He called me his baby. When I wore the necklace with the cross, everybody knew he gave it to me," Williams recalled.

When the pair had a falling-out, Madden withheld her mail. Williams complained to the officer in charge of her unit. "She said, 'He might just be in love with you and don't know how to act.'"

Sexual Abuse

Williams filed a complaint against Madden in June 2003. Madden claimed that Williams had been “acting strange” and was delusional. Her charges against him, he contended, were part of her sexual fantasies about him. He had her committed to the mental services unit.

After a prison psychologist determined that Williams was not mentally ill, she was transferred to another facility. She never learned the outcome of her complaint.²⁵²

The stories of both Lynch and Williams clearly demonstrate that there is no consensual relationship between prisoners and staff. “It’s never over when the woman says it’s over,” stated former Michigan warden Tekla Miller. “Too many times their [the woman’s] back is against the wall.”²⁵³

In addition, women are often penalized heavily if they are discovered in relationships with staff. At the Gatesville Unit in Texas, a prisoner was caught having sex with the sergeant in charge of the Safe Prisons Program.²⁵⁴ The sergeant was transferred to a male prison; the woman was placed in the Administrative Segregation unit at “a particularly tough unit,” reported another woman at Gatesville. “I assume they wrote her a disciplinary case for ‘establishing an inappropriate relationship with an officer.’ I do not know if she was also written up for ‘sexual misconduct,’” reported another woman on the unit.

Punishing the prisoner is standard: Dawn Reiser writes “When officers and inmates are found to be involved, the common court of action here is to move her to another facility. If she consented in any way, she will be placed in Ad Seg. Being moved with the jacket of a prior officer relationship can make time very difficult. And, if they found any reason to write the inmate a major case, it also costs her at least a one-year parole set-off. Being moved, time in isolation, a label and a set-off? Those are powerful motivations to keep a girl quiet.”²⁵⁵

In addition to official sanctions, the woman is subject to informal retaliation by other staff members. “The officers on duty can choose whether or not to bring you supplies, exactly how nicely your food will

Resistance Behind Bars

be handed to you, when and if you get your mail, and on and on. If you are even suspected of being involved with an officer, your mail will be very carefully scrutinized — perhaps even by the warden. Your house [cell or room] will be shaken down thoroughly and often. You may be singled out more frequently for pat searches and strip searches. When you are patted or stripped, you are going to receive harsher treatment. When one official was mad at me, I suddenly could not squat low enough or cough deep enough to please her. I had to do it over and over again. All naked, of course. It's all about control and intimidation."²⁵⁶

Retaliation

Women raped by prison staff face not only a lack of justice, but also risk administrative harassment and retaliation for complaining. Dawn Amos stated that when two women were physically and sexually abused, they were transferred from the Colorado Women's Correctional Facility (CWCF) in Canon City to a prison in Denver while the offending officer remained, unreprimed, on the job.²⁵⁷ A prisoner at the Ohio Reformatory for Women (ORW) stated that, for prisoners who report sexual misconduct, staff make their lives "a living hell." Staff often strike back at these women by "tearing up your room" or arbitrarily "making restrictions."²⁵⁸ Former ORW staff corroborated prisoners' testimonies, stating that women who reported sexual abuse were intimidated by staff members and subjected to lengthy periods of time in solitary confinement, where cells often had feces and blood smeared on the wall.²⁵⁹

Some women have faced more extreme retaliation. One prisoner at Ohio's Northeast Prerelease Center was transferred to the Ohio Reformatory for Women after she reported being raped by an officer. The ORW staff was informed of the reason for her transfer and, shortly after her arrival, seven to eight male officers entered her cell, held her down on the bed, choked her and spat in her face. After the assault, staff members continued to harass her — joking about the fact that she was afraid and that she had begged for her life while being attacked.²⁶⁰

Sexual Abuse

In 1995, after Michigan prisoner Stacy Barker successfully sued the Michigan Department of Corrections (MDOC), prison staff began harassing her, calling her a "set-up queen." Guards subjected her cell and belongings to frequent searches. Although Barker had never tested positive for any controlled substances throughout her eight years of incarceration, each search turned up contraband, such as marijuana. Barker challenged these tickets, asking MDOC to allow her to submit a hair sample for testing and offering to pay the expense herself. MDOC not only denied her requests, but also prosecuted her in the (outside) Plymouth District Court for allegedly possessing 0.06 grams of marijuana. After Barker's attorney filed for discovery, the state entered a negotiated settlement in which the charges against Barker were dismissed and the state paid her court expenses.²⁶¹

In January 1997, Barker was sexually assaulted by another officer, a defendant in the *Nunn* suit, a civil rights lawsuit filed by 31 women prisoners (including Barker) against the Department of Corrections for the widespread sexual abuse by prison guards. After a month of silence, Barker reported the repeated assaults to a prison psychiatrist. Barker was immediately placed in segregation and then transferred to Huron Valley Center, then a psychiatric hospital for prisoners, where hospital attendants verbally harassed her.²⁶²

In October 1997, Barker attempted suicide. In response, three male guards stripped her naked, placed her in five-point restraints (a procedure in which a prisoner is placed on her back in a spread-eagle position with her hands, feet and chest secured by straps) on a bed with no blanket and held for nine hours. She was then placed on suicide watch but received neither counseling nor psychiatric evaluation. One of the staffers monitoring her during her 29-day suicide watch repeatedly told her he would "bring her down a few rungs."²⁶³

Barker's experience illustrates the extent that prison staff will go to discourage prisoners from reporting official misconduct. Barker's case is far from unique: an investigation by the Department of Justice had found documentation of many instances of retaliation and a pervasive

Resistance Behind Bars

fear of reprisal among nearly all of the women interviewed. Despite this finding, however, the 1999 settlement agreement between the Department of Justice and MDOC allowed MDOC to issue major misconduct tickets to women whose claims of abuse are deemed “unfounded.”²⁶⁴

“The reported number of rapes are down because these women do not want to deal with the retaliation they’ve seen me and others deal with,” Stacy Barker observed in 2006. “The attacks still occur, but when a staff person is like ‘do you want to tell or go home?’ Which would you choose?”²⁶⁵

The lack of support and the very real threat of retaliation, both officially and informally, are often compounded by the perception of prisoners as “bad girls” — because of both their crime backgrounds and the assumption that they have granted sexual access to men in the past. In addition, prison administrators often presume that incarcerated women are more likely to file false charges. At a New York City jail, officials prohibited a male outreach librarian from bringing books to the female housing unit. Although male guards work within that unit, administrators warned the librarian that, because of his gender, he ran the risk that a female inmate would falsely accuse him of sexual harassment or sexual assault.²⁶⁶

Technically, It's Illegal: Legislation Against Sexual Abuse

Criminalization has done little to ameliorate the problem of sexual abuse in women’s facilities. In Ohio, sexual activity between prisoners and prison employees is considered sexual battery. Under Ohio state law, employees face a third-degree felony charge punishable with one to five years in prison and a \$10,000 fine. The law has not deterred dozens of employees, who have been fired but not prosecuted for sexual activity with prisoners. In 1996, the New York State Legislature changed its Penal Law to make any sexual contact between a prisoner and prison employee non-consensual. Legislators cited Bedford Hills as only one example of “a state correctional facility for women, where female prisoners have been, and continue to be, impregnated by

employees of such facilities.” The state’s Department of Correctional Services even advocated for this change because of the prevalence of sexual abuse by staff.²⁶⁷ However, despite this criminalization, sexual abuse remains widespread enough that, in 2003, women in several New York State prisons, including Shenyell Smith, attempted to file a class-action lawsuit about the sexual harassment and assault they suffered at the hands of prison staff.²⁶⁸

In addition, legislation has not offered protection for women who do complain. When Oregon became the forty-ninth state to outlaw sex between prisoners and staff in 2005, prisoner Barrilee Bannister commented, “I think it’s great DOC [Department of Corrections] supports stiffer penalties. But what good will it do if this stuff doesn’t get reported?”²⁶⁹

In 2003, President Bush signed the Prison Rape Elimination Act (PREA) into law. The act, the federal government’s first attempt to legally address prison rape, called for the gathering of national statistics about prison rape; the development of guidelines for states on how to address prisoner rape; the creation of a review panel to hold annual hearings; and the provision of grants to states to combat the problem.²⁷⁰ In the first nationwide study conducted under the PREA, 152 male and female prisoners nationwide were interviewed. However, all of the case scenarios focused solely on prisoner-on-prisoner assaults in male prisons. The ensuing report did not even mention the existence of women in prison, much less sexual abuse by staff in female facilities.²⁷¹

Not only does the PREA neglect the situation specific to women in prison, but it has also had adverse effects on women who attempt to alleviate the isolation of incarceration by forming intimate relationships with their fellow prisoners. Prison rules penalize women for any physical contact: “Keep in mind — even hand-holding is considered sexual contact here,” reminded Dawn Reiser, a woman imprisoned in Texas. “It doesn’t have to be a sexually intimate touch to get labelled as sex here.”²⁷²

Dawn Amos has noted an increase in write-ups for sexual misconduct since the act was passed. “Women are more open with their relationships

Resistance Behind Bars

than men are," she stated. "Now the DOC has changed sexual misconduct to sexual abuse because of the 'Prison Rape Elimination Act.'"²⁷³ While the PREA has the potential to reduce the prevalence of rape in male facilities, it clearly did not take gender differences into account. Thus, women are punished for consensual relationships with one another, sometimes leading to devastating results.

One morning, while waiting on line for breakfast, RJ and her friend forgot that rule. "I admit we acted totally stupid. We just weren't thinking about where we are. She put her hands on me and the CO was out there counting us. She saw it and took it to be sexual misconduct." Both women were sent to segregation pending investigation; both received write-ups for complicity in sexual abuse.

"My friend was set to leave on Friday [two days later] for treatment," RJ recalled. "The write-up meant that she would not be leaving then." The write-up would also affect RJ's chances of an early release in the future.

RJ's experience illuminates how easily a woman can be charged with sexual abuse, often for actions that would warrant little to no attention on the outside. Fortunately, because both women had exemplary records and were liked by several staff members, the administration dropped the charges.

"In the beginning, I was especially questioned as to whether I played a consensual, willing role. I could have said that I was not willing and gotten out of it altogether, which I would never consider," RJ remembered. Had she done so, the charges against her friend would have been more severe.²⁷⁴ Unfortunately, when faced with the prospect of additional charges, more time and a possible sex offender label, not every woman is as principled: in March 2008, two women who had been involved in a consensual relationship at the Denver Women's Correctional Facility were sent to segregation for sexual misconduct. To avoid a charge of sexual abuse and a lifetime sexual offender label, one of the women claimed that the other raped her. When her girlfriend learned this, she hung herself.

“Ever since the feds enacted that ‘Prison Rape Elimination Act,’ it has done nothing to help us [women]. Now someone is dead. With her girl crying rape to save herself from being convicted of a sexual abuse charge, it leaves Jamie with a sexual assault charge and having to register as a sex offender when she gets out and it’ll be on her record, affecting her parole chances and chances of getting into a halfway house,” wrote Dawn Amos, who had been a close friend of the woman who committed suicide. “That PREA law does nothing for women. I think it’s good for men, but just the men.”²⁷⁵

Protecting Themselves and Each Other

Male guards’ pervasive presence and power over so many aspects of prisoners’ lives makes it much more difficult for incarcerated women to form protective groups like their male counterparts who are primarily threatened by their fellow prisoners.

Despite these difficulties, they have, in some instances, managed to do so.

On August 24, 1974, Joan Little, a 21-year-old black woman and the only female prisoner in North Carolina’s Beaufort County Jail, killed Clarence Alligood, a 62-year-old white male guard. Alligood had entered her cell, threatened her with an ice pick and forced her to perform oral sex. She fled after stabbing him, but turned herself in eight days later.²⁷⁶

Little was charged with first-degree murder that, in North Carolina, carried a mandatory death sentence.²⁷⁷ Her case raised the question of whether a black woman had the right to defend herself against a white rapist in the American South, attracting the attention and support of African-American and feminist groups across the country.

During her trial, Little’s defense exposed the chronic sexual abuse and harassment endured by women in the jail and prison system. Countering the prosecution’s argument that Little had enticed Alligood into her cell with promises of sex, the defense team called on women who had previously been held at the jail. They testified that Alligood had a history of sexually abusing women in his custody: one woman

Resistance Behind Bars

stated that he had fondled her breasts while bringing her a late-night sandwich; another recalled that he had suggested that she had been in jail long enough to need a man.²⁷⁸

Little testified that Alligood had come to her cell three times that night. After she refused his advances twice, he returned with an ice pick. "By then, I had changed into my nightgown. He was telling me I really looked nice in my gown, and he wanted to have sex with me," she stated. "He said he had been nice to me, and it was time I was nice to him. I told him I didn't feel like I should be nice to him that way."²⁷⁹

Little was acquitted.²⁸⁰

Little's case garnered widespread attention and support from the women's movement and the African-American community. In contrast, most women who have suffered sexual abuse behind bars have received little to no attention, let alone support, from those on the outside. However, this has not stopped them from acting to protect each other.

One woman, incarcerated in Ohio during the early 1990s, recounted that a male officer constantly harassed her cellmate. "He'd make nasty insinuations about her breasts and what he would like to do to them and how he would like to do it and what he'd do to her."²⁸¹

In addition to verbally harassing the prisoner, the guard threatened to place cocaine among their possessions if she or her friends reported his behavior. His threat worked; the women kept quiet about his harassment. One night, he assaulted his victim. Her cellmate and another prisoner heard her screams and found her with semen on her face. In spite of their fears, the three filed a complaint with prison officials and later testified before a grand jury, leading to the officer's arrest and conviction. Although the three women faced harassment from other prison officials as well as prisoners who had been trading sex for favors, their actions encouraged other women to resist male guards' abuse of power.

Sexual Abuse

"We could never clean up the penitentiary or never change a lot of people's minds," the woman stated. "But you get rid of one nasty apple . . . It was a funny thing after that happened. A lot of the nastiness and that vulgarness . . . was seeming to cease a little bit and to ease up a little bit, because they began to get nervous. And more women stood up, and two other officers were escorted off because the women found enough courage to stand up."²⁸²

In Oregon, the passage of Measure 11 caused the rate of female incarceration to grow faster than the state could handle. In 1996, Barrilee Bannister and 77 other women were shipped to an all-male private prison in Arizona operated by the Corrections Corporation of America (CCA). Only weeks after the women's arrival, a captain visited several women in a cell and shared marijuana with them. He left the marijuana with them, then returned with other officers who announced that they were searching the cell for contraband. However, they promised that if the women performed a strip tease, they would not search the cell. "Two of the girls started stripping and the rest of us got pulled into it," Bannister recalled. "From that day on, the officers would bring marijuana in, or other stuff we were not suppose[d] to have, and the prisoners would perform [strip] dances." From there, the guards became more aggressive, raping several of the women. Bannister reported that she was placed in segregation and not given food until she agreed to perform oral sex on a guard.

Once out of segregation, Bannister called outside friends and told them her story. They, in turn, informed the media. The media attention led to the return of some of the women to Oregon, where they filed a federal suit, resulting in a public apology, a promise of stricter rules concerning sexual abuse, and the reimbursement of attorney's fees.²⁸³ The negative publicity also led to the suspension and dismissal of several CCA staff members.²⁸⁴

Changing Conditions through the Courts

Women have filed lawsuits to stop conditions that allow staff to sexually abuse and prey upon them. While these suits have not stopped

Resistance Behind Bars

sexual abuse and exploitation altogether, they have established that staff sexual misconduct does occur and draws public attention to these realities.

In 1977, women at Bedford Hills filed *Forts v. Ward* to keep male staff members from being in areas where the women would be partially or fully exposed (e.g., sleeping and shower areas and the infirmary). In 1978, a judge ruled that women prisoners were entitled to protection from being viewed by male guards while partially or completely unclothed, receiving medical treatment at the prison hospital, showering, using toilet facilities, or sleeping in the housing units.²⁸⁵ He ordered officers to give a five-minute warning each morning before entering the housing area. He also granted the women's request for an injunction against male guards working the night shifts. When the prison appealed the decision, the Second Circuit Court upheld the five-minute privacy warning. It also ruled that women could cover their cell windows for 15 minutes while undressing or using the bathroom.²⁸⁶

In 1992, without the aid of a lawyer, five women imprisoned in Washington State filed *Jordan v. Gardner*, a suit challenging the state's new policy allowing male officers to conduct pat searches on female prisoners. They won a temporary injunction: the court determined that, in light of many of the women's histories of abuse, pat searches by men could cause "severe psychological injury and emotional pain and suffering" and thus violated the Eighth Amendment's prohibition of cruel and unusual punishment.²⁸⁷ The court's decision was the first in the country prohibiting men from searching women.²⁸⁸

In 1993, women in DC filed *Women Prisoners v. District of Columbia Department of Corrections*, a class-action suit against DC's Department of Corrections (DCDC) for sexual misconduct by guards. The next year, a judge ruled that the rapes, sexual assaults and degrading language in DCDC facilities violated the women's Eighth Amendment rights against cruel and unusual punishment. He also found that DCDC had not made adequate efforts to prevent and punish staff sexual misconduct.²⁸⁹

In August 1996, three women in California filed *Lucas v. White* against the Bureau of Prisons (BOP). They had been held at a male detention center where male prisoners had paid staff to grant them access to the women's cells to rape them. Two years later, the women settled their suit for \$500,000. The settlement agreement also forced the BOP to make system-wide changes to its protocol for investigating claims of staff misconduct. Under the settlement, the BOP was ordered to set up a confidential hotline or other confidential reporting mechanism, provide medical and psychological treatment for women who had (or have) been abused and establish new training programs on sexual misconduct for both staff and prisoners.²⁹⁰

In 1996, women in Michigan filed two suits against MDOC for institutional sexual abuse. *Neal v. MDOC* is a class-action lawsuit against the MDOC. Approximately 440 women signed onto the suit, stating that they had suffered sexual assault, sexual harassment, invasions of privacy and retaliation for reporting staff misconduct.²⁹¹

Thirty-one women in two prisons also filed *Nunn v. MDOC*, stating that they had been "subjected to various degrees of sexual assault, sexual harassment, violation of their privacy rights, physical threats and assaults on their persons and retaliation by male employees of the MDOC." The women also claimed that MDOC officials had been aware of the sexual misconduct and assaults, but had done little to either investigate or to discipline their employees.²⁹² In 1997, the district court heard the *Nunn* case and ruled that "a person's right to bodily integrity and privacy do survive incarceration, although such rights may be limited."²⁹³ In 2000, the MDOC signed a settlement agreement limiting housing unit staff to female officers. It also banned cross-gender pat-down searches and limited the circumstances in which male officers can transport female prisoners or remain with them in medical examining rooms.²⁹⁴

Stacy Barker, one of the plaintiffs in the *Nunn* case, recalled that fighting against the prevalent sexual abuse pulled her out of her suicidal funk: "I overcame all that I was feeling by finally opening up and sharing my experiences with others," she recalled. Realizing that her fight

Resistance Behind Bars

against MDOC was inspiring other women to step forward renewed her spirit and determination: "I have to speak up! I speak for those who are too afraid to speak up! I speak for those who don't know how to speak up!"²⁹⁵