



**NATIONAL RESOURCE CENTER
FOR FOSTER CARE
& PERMANENCY PLANNING**

at the Hunter College
School of Social Work

INFORMATION PACKET:

Babies Born to Incarcerated Mothers

By Anne Hemmett Stern

May 2004

Facts:

In most states, a pregnant woman with a state prison term outlasting the term of her pregnancy can expect to lose her child almost immediately after delivery. If the child is born in prison, s/he is removed from his/her mother right away. If born in a hospital, the child is removed when the mother is discharged, usually within 48 hours. In both cases, if the mother is without family or some other approved support system, the child is placed in foster care. California is the only state that allows a woman to keep her newborn with her until the end of her sentence. There are three "Community Prisoner Mother Programs", each with 24 places, in which women and their babies can remain together. At any given time there are approximately 200 pregnant women in the Valley State Prison for Women, in Chowchilla, where all pregnant prisoners are sent (conversation with Cassie Pierson, Legal Services for Prisoners with Children).

Several states offer mothers a chance to keep their babies with them in prison for set periods. Illinois has one residential program in which 15 qualified inmates can keep their babies for up to 24 months. In 2003, 63 babies were born to state female prisoners in Illinois (conversation with Joanne Archibald, C.L.A.I.M.). South Dakota allows an incarcerated mother to keep her baby for 30 days, Nebraska, Washington State, Massachusetts and New York for 12-18 months (raptivism.com/site/mothers.htm). In New York State, there are two prison nursery programs: at the Bedford Hills Correctional Facility (opened in 1901) (sowingseeds.tv/ep12_Roulet.jsp) and at the Taconic Correctional Facility (opened in 1990). Both address concrete needs and parenting skills. Mothers are screened carefully before they are accepted into any program, nationwide (ama-assn.org). This summary of the issue will focus on the state level, primarily New York State.

The most recent statistic available on the number of women incarcerated in New York State prisons is 2,996, in December of 2002. Fifty-two percent were African American, 25 percent Hispanic, 22 percent white (conversation with Linda Coffee, New York State Department of Correctional Services). New York State has one of the largest female prison populations in the nation, exceeded only by Texas, California, and Florida. Most women prisoners are incarcerated for non-violent crimes, such as prostitution, fraud, or drug offenses (wpaonline.org). There are no state statistics on either the numbers of women entering prison pregnant or of those delivering babies during their prison terms. The most recent (1991) survey of state women prisoners across the U.S. finds that - of a total of 38,796 - six percent, or 2,328, entered prison pregnant (Bureau of Justice Statistics, ojp.usdoj.gov/bjs). There are no statistics available on the numbers of women becoming pregnant while in prison - often by guards (Joanne Archibald, C.L.A.I.M.).

According to the Adoption and Safe Families Act of 1997, from the moment a prison-born infant is placed in the foster care system the clock starts ticking on the mother's parental rights. ASFA requires that when a child is under the responsibility of the state for 15 of the most recent 22 months, a "termination of parental rights", or "TPR" must be filed, freeing the child for adoption. In New York State's version, there are three exemptions to the "15 of 22 months rule": i) When an agency can document a "compelling reason" to avoid a TPR, such as a reunification goal in its case planning. ii) If the child is in kinship care. iii) When an agency documents failure to provide sufficient services to give parents the opportunity to reunify with their children. Since 1999, after state implementation of ASFA, TPRs filed in Family Court leaped by a third, to 4,021 (Child Welfare Watch, 2000, 6).

Print Bibliography

- Acoca, L. (1998). Defusing the time bomb: Understanding and meeting the growing health care needs of incarcerated women in America. *Crime and Delinquency*, 44(1), 5.
- Ahana, S, Bowles, J. Courtney, J. Farber, P., Thrush, G. (2000). Too fast for families: Washington's get-tough adoption law hits home. Child Welfare, 6. New York: Center for an Urban Future/New York Forum.
- Amadio, C. (1992) Terminating parental rights of incarcerated parents. Chicago Bar Association Record.
- Amnesty International (2000). Pregnant and imprisoned in the United States. Birth 27(4).
- Amnesty International (1999). United States of America rights for all: "Not part of my sentence," violations of the human rights of women in custody. New York: Amnesty International USA, 62.
- Beatty, C. (1997). Parents in prison: children in crisis. Washington, DC: Child Welfare League of America Press, 1997.
- Beck, A., Gilliard, D., Greenfeld, L. Harlow, C., Hester, T., Jankowski, L., Snell, T., Stephan, J., & Morton, C. (1992). Survey of state prison inmates, 1991. Washington, DC: US Department of Justices Bureau of Justice Statistics.
- Beckerman, A. (1994). Mothers in prison: meeting the prerequisite conditions for permanency planning. Social Work, 39(1), p. 9-14.
- Black, D. (1988). Imprisoned children. Medical-Legal Journal, 56(3), p. 139-149.
- Bloom, B., Steinhart, D. (1993). Why punish the children? A reappraisal of the children of incarcerated mothers in America. San Francisco, CA: National Council on Crime and Delinquency.
- Bloom, B. (1995). Public policy and the children of incarcerated parents. In: Gabel, K., Johnston, D. (eds.) Children of Incarcerated Parents. New York: Lexington Books.
- Brooks, J., Bahna, K. (1994). 'It's a family affair': The incarceration of the American family: Confronting legal and social issues. University of San Francisco Law Review, 28.
- Bureau of Justice Statistics. (1997). Special report: Women in prison. Washington, DC: U.S. Department of Justice.
- Bureau of Justice Statistics. (1997). Special report: Recidivism of prisoners released in 1983. Washington, DC: US Department of Justice.

Bureau of Justice Statistics. (1998). Special report: Profile of jail inmates, 1996. Washington, DC: US Department of Justice.

Catan, L. (1992). Infants with mothers in prison. In: Shaw R., (ed.) Prisoners' Children. New York: Rutledge, Chapman and Hall, Inc., p. 13-28.

Dodson, D. (1997). Legislation summary: The adoption and safe families act of 1997 – public law 105-89. New York: National Resource for Permanency Planning, Hunter College School of Social Work.

Gabel, S. (1992). Children of incarcerated and criminal parents: Adjustment, behavior, and prognosis. Bulletin of the American Academy of Psychiatry Law, 20, p. 33-45.

Gabel, K., Girard, K. (1995). Long-term care nurseries in prisons: a descriptive study. In:

Gabel, K., Johnston, D. (eds.) Children of Incarcerated Parents, New York: Lexington Books, 237-254.

Genty, P.M. (1995). Termination of parental rights among prisoners: A national perspective. In: Gabel, K., Johnston, D. (eds.) Children Of Incarcerated Parents. New York: Lexington Books.

Genty, P.M. (1998). Permanency planning in the context of parental incarceration: legal issues and recommendations. Child Welfare, Sept./Oct., p. 543.

Gilliard, D., Beck, A. (1998). Prison and jail inmates at midyear, 1997. Washington, DC: US Department of Justice, Bureau of Justice Statistics.

Glisson, C, Bailey, J., Post, J. (2000). Predicting time children spend in state custody. Social Service Review (74)2, p. 253 –280.

Hagan, J., Dinovitzer, R. (1999). Collateral consequences of imprisonment for children, communities, and prisoners. Crime & Justice, 26, p.121-162.

Hairston, C.F. (1991). Family ties during imprisonment: important to whom and for what? Journal Of Sociology & Social Welfare, 18, p. 87-104.

Houston, A. (1996). Do the right thing. Reflections: Narratives of Professional Helping 2(3).

Huie, V. (1993). Mom's in prison – where are the kids? In: USA Today Magazine. 122 (2582), p. 30.

Inmate health care, Part II. (1998). Corrections Compendium 23(11).

Johnston, D. (1995). Child custody issues of incarcerated mothers. The Prison Journal 75(2), 222-239.

Jose-Kampfner, C. (1992). Reflections from the inside. Health/Pac. Bulletin, 1, p. 15-19.

Kline, S. (1992). A profile of offenders in the federal bureau of prisons. Federal Bureau of Prisons Journal, 3(15).

Mauer, M. (1999). Race to incarcerate. New York: The New Press.

McGowen, B. (1978). Why punish the children?: A study of children of women prisoners. New Jersey: National Council on Crime and Delinquency, 50(1).

Craig, A.M. (1998) Meeting the needs of children of incarcerated parents. Child Law Practice, American Bar Association's Center on Children and the Law.

Owen, B. (1994). Women in California: Hidden victims of the war on drugs. San Francisco: Center on Juvenile and Criminal Justice.

Owen, B. (1998). In the mix: Struggle and survival in a women's prison. New York: State University of New York Press, 11.

Pollock, J. (1999). Parenting programs in women's prisons. Unpublished study for Open Society Institute, Center on Crime, Communities and Culture.

Raeder, M. (1993). Gender and sentencing: Single moms, battered women and other sex-based anomalies in the gender-free world of the federal sentencing guidelines. Pepperdine Law Review, 20(3).

Safyer, S., Richmond, L. (1995). Pregnancy behind bars. Semin Perinatol., 19(4), 314-322.

Siefert, K., Pimlott, S. (2001). Improving pregnancy outcome during imprisonment: A model residential care program. Social Work, 46(2).

Smith, B.E., Elstein, S.G. (1994). Children on hold: improving the response to children whose parents are arrested and incarcerated. Washington, DC: ABA Center on Children and the Law.

Snell, T.I. (1994). Special report: Women in prison. Washington, DC: US Department of Justice Statistics.

St. Pierre, S. (1994). Everything you need to know when a parent is in jail. New York: The Rosen Publishing Group, Inc.

State of New York Department of Correctional Services (1992). The prison nursery programs at bedford hills correctional facility and taconic correctional facility.

State of New York Department of Correctional Services (1993). Profile of participants: The bedford hills and taconic nursery program in 1992.

Stuart, R. (1997). Behind bars: The growing number of black women in prison snaps families and meager community resources. Ethnic News Watch, 8(5), p. 44.

The impact of ASFA upon incarcerated parents and their families. (1999). Family & Corrections Network Report, 22, p. 5-14.

US Department of Health and Human Services, Children's Bureau. (1997). National study of protective, preventive and reunification services delivered to children and their families. Washington, DC: US Government Printing Office.

US Department of Justice. (1997). Correctional populations in the United states. Washington DC: US Department of Justice, Bureau of Justice Statistics.

Women's Prison Association. (1995). Breaking the cycle of despair: Children of incarcerated mothers. New York.

Women's Prison Association. (1996). When a mother is arrested: How the criminal justice and child welfare systems can work together more effectively: A needs assessment initiated by the Maryland department of human resources.

Working Party of the Alliance of Non-Governmental Organizations on Crime Prevention and Criminal Justice (1987). Children in prison with their mothers.

Web Bibliography

American Medical Association. (1997). Bonding programs for women prisons and their newborn children. <http://www.ama-assn.org/ama/pub/article/2036-2529.html>

A report presenting pros and cons of prison nursery programs, suggesting the need for further study of their effectiveness.

Amnesty International. (1999). “Not part of my sentence:” Violations of the human rights of women in custody. <http://www.amnestyusa.org/rightsforall/women/report/women-101.html>.

Discusses laws regarding incarcerated women, including those who give birth during a prison sentence, and termination of parental rights.

Amnesty International. (1999). Profile of women in prisons and jails.

<http://www.amnesty.org/ailib/intcam/women/report2.html>

Title self explanatory.

Amnesty International. (1999). Restraints.

<http://www.amnesty.org/ailib/intcam/women/report2.html>

A discussion, with testimonials, regarding violations against pregnant prisoners, including the use of handcuffs during labor.

Archibald, J. (2003). Shackled births (or sometimes I feel like a childless mother. Chicago Legal Aid to Incarcerated Mothers. <http://www-unix.oit.umass.edu/~kastor/ws-98/Shackled-Births.html>

On the use of restraints on incarcerated women during labor and steps CLAIM is taking to address the practice.

Birth and development of children of incarcerated women in the United States.

<http://www.dickinson.edu/~egica/researchprisons.htm>

On ‘correctional responses’ to the needs of pregnant prisoners and their children.

Chicago Legal Advocacy for Incarcerated Mothers. <http://www.c-l-a-i-m.org>

The website for this CLAIM, which provides legal and educational services to help imprisoned mothers preserve their families.

Correctional Association of New York’s Women in Prison Project.

<http://www.wpaonline.org/WEBSITE/about.htm>

Provides statistics on women in prison.

Drummond, T. (2001). Mothers in prison. Miami.

<http://www.raptivism.com/site/mothers.htm>

On Florida’s attempts to address the explosion in numbers of incarcerated mothers.

Ehrensaft, M., Khashu, A., Ross, T. Wamsley, M. (2003). Patterns of criminal conviction and incarceration among mothers of children in foster care in New York City.

http://www.vera.org/publications/publications_5.asp?publication_id=210

An examination of the patterns of arrest and incarceration of mothers of children in foster care, including the sequence in which arrest, incarceration and foster care placement occurred. By researchers for Vera Institute of Justice in collaboration with ACS in New York City.

Farmer, A. (2002). Mothers in prison losing all parental rights. Women's Enews.

The effects of ASFA on babies born to incarcerated mothers.

In Congress: American Civil Liberties Union Freedom Network.

<http://archive.aclu.org/congress/prisonstats.html>

Statistics related to women in federal prison and their reproductive health.

Kinnaird, E. (2003). An alternative for inmate mothers and their children. Chapel Hill, NC:

The Chapel Hill News. http://www.summithouse.org/ocp_chill32303.html

Focuses on babies born to incarcerated mothers in California.

Mumola, C. (2000). Incarcerated parents and their children.

<http://www.ojp.usdoj.gov/bjs/pub/pdf/iptc.pdf>

Part of a series based on the 1997 Bureau of Justice Statistics Survey of Inmates in State and Federal Corrections Facilities. Written by a BJS policy analyst.

Presbyterian Church, USA. (2003). Upholding the rights of incarcerated women.

<http://www.pcusa.org/washington/issuenet/wf-010205.htm>

Statistics on women in prison and a discussion of the impact on their children.

Sewing Seeds: Inspirational Stories of Faith. (2003) Sister Elaine Roulet: Prison Angel.

http://www.sowingseeds.tv/ep12_roulet.jsp

About the Bedford Hills nursery program and the sister who ran it until very recently. She is now the prison chaplain and can still be reached there. The program is currently run by Bobby Blanchard.

Seymour, C. (1998). Children with parents in prison: Child welfare policy, program and practice issues.

<http://www.cwla.org/programs/incarcerated/so98journalintro.htm>

Introduction to the September/October 1998 Child Welfare Journal of Policy, Practice and Program, Special Issue: Children with Parents in Prison]

Villanueva, D. (2004). Mothers and infants together, the way it should be. Coalition for

Women Prisoners www.womenprisoners.org

About a CPMP (Community Prisoner Mother Infant Program) in Salinas, CA, closed 6/30/00 because deemed not cost-effective by the California Department of Corrections.

Women in prison fact sheet. (2000).

<http://www.beyondmedia.org/VV/Fact%20Sheet%202000.pdf>

Statistics on women in prison, including some on pregnant inmates. Put together by CLAIM, Chicago Legal Aid for Incarcerated Mothers.

Conclusions/A Model for Change:

Incarcerated women without family or friends to care for their infants tend to lose their children when serving a term longer than 15 months. As an agency lawyer must voluntarily submit in court a statement of failure to provide adequate services, the chances of this AFSA exemption's being exercised are next to none (Child Welfare Watch, 2000(6), p. 4).

Regarding the reunification exemption, a single, state-incarcerated new mother (with, for example, a two to six year sentence) is typically considered unqualified to be reunified with her child. In order to qualify for reunification, the mother must have regular contact with her child. But if the child is, for example, in New York City and the mother is in prison either in Westchester or upstate, arranging visits presents challenges both fiscal and geographical. Often, the mother will have no idea in which agency her child has landed. She can only make a phone call if the call is collect. Without someone to advocate/make calls on her behalf, she loses her child in the system (personal conversation with Sister Tesa Fitzgerald, Hour Children).

ASFA is well intentioned in that it seeks to expedite permanency planning for foster children (Dodson, D. Legislation Summary), but it ignores the issue of babies born to incarcerated mothers. It forces parents to create/implement a reunification plan (essentially impossible from behind bars) in an abbreviated period, without offering increased services to assist them. ASFA should require The Administration for Children's Services to maintain contact with incarcerated mothers who have the ability to parent their own children when their sentences are up. Ideally, agencies should be required to assist the mothers in a plan for reunification and arrange for babies in the system to visit their mothers in prison. Funds should be made available to provide these and other much-needed services, such as legal representation for the mothers. And the "15 to 22 month rule" should be modified when it comes to incarcerated women who will need more time but have the ability and desire to parent their own children.

Numerous studies show early attachment patterns to be predictive of social behaviors (ama-assn.org p. 8). Keeping incarcerated mothers and their babies together can work preemptively against future psychosocial problems for the child and their associated burdens on the state. It can also motivate the mothers to better themselves, both in prison and in their lives beyond it. Given the current and ever-growing numbers of incarcerated women in the U.S. - since 1980 an almost 500 percent increase, double the rate of men (wpaonline.org). - there is clearly a need for more and longer prison and community-based programs with higher capacities.

Hour Children, in Long Island City, NY, is one such program. Founded in 1995 by Sister Teresa Fitzgerald, its mission is "the compassionate and loving care of children of incarcerated mothers" (Hour Children information packet). Among the many services are five levels of housing including a residence for infants/toddlers of incarcerated mothers and/or mothers reuniting with their children and a residence for mothers on work release from prison nurseries with their babies. Volunteer lawyers counsel women in prison on family court issues. The organization also makes it possible for children to visit their mothers

in upstate prisons. It offers pre-school/day care for resident children, and therapeutic counseling services, both for those children and reunited families throughout the five boroughs. It also runs the prison nursery program (and others) in Taconic Correctional Facility.

Sister Tesa, as she is commonly called, says that the residence for mothers on work release with their babies is “the” place recommended by the state for such mothers. “I don’t get any money from the state to *do* this, mind you,” she says. Hour Children receives no government funding and relies primarily on foundation grants and private donations to finance its annual budget of \$800,000 (conversation with Sister Teresa Fitzgerald). It offers an effective model of support for incarcerated mothers and the babies born to them during their sentences, and it shows that reunification is possible, even in this challenging situation. There is an urgent need for government funding for this and other such programs.