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# The corrections system must make more accommodations for the needs of motherhood during incarceration and the parole period

Susan Bloom

Molloy College, sbloom@molloy.edu

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The corrections system must make more accommodations for the needs of motherhood during incarceration and the parole period.

Susan Bloom, MLIS

Molloy College

Author Note

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**Abstract**

While the overall prison population has experienced an unprecedented growth period over the past thirty years, no segment has grown at a faster rate than the female population. Since the majority of female inmates in this country are mothers, it is imperative that the corrections system addresses the unique needs of this subset. This thesis investigates problems women face during the pregnancy period, while in labor and delivery, while their progenies are infants, children and adolescents and reunification issues during the parole period.

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### **Introduction**

*Dana was eight when her mother was arrested. Anita had been out selling her body to fund her crack-cocaine addiction and was eventually convicted of prostitution, possession of narcotics and drug paraphernalia. Two officers, strangers in uniforms, arrived at Dana's elementary school to let her know that her mother "would not be coming home for a very long time". As Dana began to cry, she asked the officers if she could go home, but they told her that since there was no one to take care of her at home, she wouldn't be going home for a long time either. Instead she was going to stay with a foster family, people she had never met before. The first thing she found out about this new family was that they wouldn't let her bring her cat to her new home, so he too would be going somewhere else as well. She would never see the tabby she had spent so many nights cuddling with again.*

*The officers drove Dana down a winding street in a different part of town from Dana's apartment. This part of the city had houses instead of apartment buildings and Dana was heartened to see children playing out on front lawns, even if the houses behind them had peeling paint and bars on the windows. The radio car pulled up to a non-descript blue house and the officers escorted Dana to her new family, the Washingtons. The Washingtons already had three other foster children staying with them, but Dana was happy when they told her she wouldn't have to share a room with the other children. While*

*she cried bitterly the first night, after a few days Dana began to adjust to her new home and her new foster parents.*

*On the fourth night, Mr. Washington came to Dana's room. It was late at night and Dana had been sleeping. Mr. Washington said she hadn't spent enough time in the bath and he wanted to make sure she was clean, so he had Dana take off all of her clothes so he could see if she was dirty. He inspected her thoroughly; his fingers touching her in places that made her feel dirtier, rather than cleaner. No matter how hard Dana would scrub in the shower, no matter how long she would stay in the bathroom, Mr. Washington was never satisfied. He would inspect her many, many times in the coming months. He told Dana he wouldn't tell anyone what a naughty girl she was and that she shouldn't tell anyone either, or the police officers would take her away and send her to a home filled with bad people. "I don't know anyone to tell" Dana thought.*

*At first, Mrs. Washington brought Dana to visit Anita once per year at the big prison three hours from the blue house. On these visits, Anita became increasingly desperate to connect with her daughter, who seemed to change so much each time. Dana didn't like going to see her mother. It was a long drive, the prison was cold and scary and her mother felt like a stranger to her. Mostly, her mother would cry, which just made Dana uncomfortable. Dana didn't really have any tears left. Four years after Anita was first arrested, Mrs. Washington told Dana it was too expensive to visit her mother so far away and they never went back to the big prison. Eventually, Anita lost custody of Dana because it had been so long since she had seen her daughter.*

*When Dana was twelve, she was arrested for the first time after a store clerk caught her trying to steal a bottle of whisky. It would be the start of a very long rap sheet. Dana would spend the next few years bouncing between juvenile hall, the Washington's and the street. Her arrest record would include assault, drug possession, theft, possession of a deadly weapon, prostitution and burglary. When she was sixteen, the Washington's found out she was pregnant and kicked her out of the blue house for good. Dana's first child, a boy, was born at thirty-one weeks. He tested positive for crack-cocaine at birth and was taken away by CPS. Dana never got to see him and in her drug filled haze, never had the wherewithal to go looking for him*

*Dana spent the next three years living on the street, selling her body for money to buy crack, just like her mother. She was raped and beaten several times before finally looking for help. During a sober period, she met John, who (at the time) had a full-time job as a grocery store clerk and his own apartment. John never beat her and never raped her, so when she got pregnant, they got married. This time, Dana gave birth to a full-term baby girl, though she was under-weight from lack of prenatal care. A few months later, John was fired from his job after it was discovered he had been stealing from the till. Dana applied for welfare, but since she had a felony drug conviction, she was told she was ineligible. Desperate to stay in the apartment, Dana began to write fraudulent checks to pay the bills.*

*Dana was five months pregnant with her third child when she was convicted for writing bad checks. In some ways, prison was a better environment for Dana during her pregnancy. She was given prenatal vitamins once a day and taken for regular check-ups. Yet she was expected to work like the other inmates, forced to carry boxes on the loading docks. When she had a medical complaint, it would take a long time to see a nurse and she*



*was never referred to a physician. Eventually Dana learned to write down any complaint she had and just wait for her regularly scheduled appointments.*

*Each time she went to the doctor, her arms and legs were forced into shackles with a chain around her stomach, even as her belly grew large and her center of gravity shifted. One day, Dana tripped over her leg shackles and was unable to break her fall. The emergency room doctor told her she was lucky that she fell on her hip bone, if she had fallen a few inches to the left, her baby would have been seriously harmed.*

*This incident did not stop the guards from shackling Dana, hand, belly and foot, each time she went to the obstetrician-gynecologist. When she went into labor, she begged the guard not to bind her to the gurney, to no avail. Dana spent the next ten hours writhing in agony, strapped to her hospital bed. She was experiencing terrible back labor and was desperate to get out of bed to relieve some of the pressure, but still the guard refused. Eventually, the doctor told the guard Dana could not have an epidural without removing the shackles, but the guard reiterated that it was policy to have all prisoners shackled when off prison property, so Dana would have to forgo an epidural. The lack of mobility and the belly chain conspired to irritate her damaged hip, reawakening the newly healed injury. The stress of her labor caused the baby to go into distress and the obstetrician called for a cesarean section. Even while unconscious, the guard refused to unshackle Dana.*

*Dana woke up to find herself strapped to the hospital bed, her beautiful baby by her side, but out of reach without help from a nurse. She would spend the next twenty-four hours nursing and cuddling with her new son. The following day, when she woke up her son was gone. He was taken to go live with John, while Dana, her breasts painfully engorged*

*with milk, her hip sore from injury, her belly tender from incisions, was left strapped to a bed by herself, her arms empty, waiting to go back to prison.*

Dana, Anita and John are not real people. Rather they are an amalgamation of stories culled from the literature. While the things that happened to Dana and Anita may seem incredible, they are actually all incidents that have happened to other inmates. This is the way we treat mothers and their children when they are incarcerated. In some ways, this is an improvement over conditions in past generations; in other ways, it is a step backwards. In no sense is it justice.

### **Chapter 1: History of female and maternal incarceration**

“Pregnant women incarcerated at the time of our nation’s founding faced the prospect of giving birth in their cells alone and a considerable likelihood that their infants would die” (Parker, 2004, p. 260). In the eighteenth century, male and female inmates were housed in one facility. Predictably, this led to an extremely dangerous situation where women were susceptible to assault by both male guards and male inmates (Mallicoat and Ireland, 2014). Eventually, male and female prison populations began to be isolated. In addition to preventing sexual assaults, this segregation arose because of “...the sense, prevalent throughout the period, that female criminals were particularly corrupt. Considered more naturally docile and moral than men, a woman who fell into a life of crime had fallen far indeed, if she was redeemable at all” (Doetzer, 2008, p. 368). Thus in some ways, women were separated from men to protect the male prisoner from the female’s supposed damaging influence.

As the eighteenth century gave way to the nineteenth, the idea arose that some women could be redeemed and the first reformatories were opened. This notion was unfortunately, not universal. “Female reformatories—first created in the 1870s—usually housed white women only. Typically, black women were either incarcerated in the same institutions as men or were kept in female-only penal institutions which were nonreformatory in nature” (Vainik, 2008, p. 672). Further, these reformatories were reserved for younger women

convicted of minor misdemeanors or crimes that offended the moral sensibilities of the Victorian era, such as public drunkenness (Dodge, 2002).

The white women lucky enough to enter these reformatories were expected to adapt to the typical female roles society expected of them. These inmates "...were trained to perform domestic tasks that would prepare them for lives as maids, and eventually wives, after their release" (Doetzer2008, p. 369). This "...imposed a strict definition of femininity on white female inmates" (Vainik, 2008, p. 672). These reformatories would be criticized centuries later by feminist scholars as "...an example of patriarchy at its finest...a place...to punish wayward behaviors and instill [white] women with the appropriate morals and values of society" (Mallicoat & Ireland, 2014, p. 270).

Since motherhood is in many ways the quintessential expression of a woman's femininity,

...inmates were allowed to keep their babies or children with them while they lived at the reformatories. Children: not only intensified the domestic atmosphere of the reformatory but also spared mothers from the physiological and psychological trauma of separation from their children (Vainik, 2008, p. 673).

These facilities stand in stark contrast to the prisons black inmates experienced in the same time period. In many ways "[b]lack women were perceived as lacking in essential female qualities...placing them outside of dominant conceptions of Victorian womanhood" (Ocen, 2012, p. 1261). As a result of this difference in perception, "[p]rison policies actively penalized black motherhood (Vainik, 2008, p. 673). "The punitive posture toward Black [sic] women's pregnancies at sentencing and during incarceration served to devalue

Black women as mothers and center their reproductive capacities as a cause for racial subordination” (Ocen, 2012, p. 1268).

While the Civil Rights movement brought many, many societal benefits, in many ways it seems to have hurt female inmates. Instead of extending the prison nursery concept to black inmates, the end of the “separate but equal movement” spelled the end of prison nurseries for women of all races. The moral judgments that had been forced upon black women were now thrust upon all women (Vainik, 2008; Ocen 2012).

While describing the Massachusetts Correctional Institution, a reformatory still in existence today, authors Mallicoat and Ireland note how much has changed about the institution, a facility that used to have an inmate nursery but now “bears the scars of the tough-on-crime movement” (2014, p. 270). Patricia Ocen posits that “[s]ince the late 1960s, however, incarceration rates have spiked and the expansive use of incarceration has come to resemble prior regimes of racial control” (2012, 1270).

That incarceration rates have spiked cannot be questioned. In particular, the rate of female incarceration has experienced unprecedented growth. “The female population of American jails and prisons tripled in the 1980’s” (McGurrin, 1993, p. 163). This rate has only increased, “[s]ince 1995, while the average annual increase in the number of male inmates has been 3.3 percent, the average annual growth of the population of women inmates has been five percent” (Parker, 2004, p. 262). This growth is a relatively new phenomenon, “...between 1929 and 1967, the rate of incarceration in the United States did not exceed 100 prisoners per 100,000 people in the general population and the incarceration of women was virtually nonexistent” (Ocen, 2012, p. 1270).

“Eighty-five percent of incarcerated women are imprisoned for non-violent crimes” (Sussman, 2009, p. 484). Scholars on all sides of the debate point to one major reason for this sharp increase: the War on Drugs. “...[s]entencing policies such as mandatory minimum sentences and the War on Drugs have had a dramatic effect on the numbers of women in prison” (Mallicoat & Ireland, 2014, p. 271). Today “[d]rug offenses constitute 37% of the total crimes committed by women, second only to property felonies” (Vainik, 2008, p. 671). “Women are substantially more likely than men to be serving time for a drug offense and less likely to have been sentenced for a violent crime” (Doetzer, 2008, p. 370).

As a result of the combination of their explosive growth, albeit still comparatively small numbers, female prisoners have

been [the victims of] ‘institutionalized sexism’: prisoners in isolated locations, separating women from their friends and family; a justification, based on their small numbers, for providing inadequate ‘educational, vocational, and other programs’: and low levels of specialization in treatment and failure to separate more dangerous offenders from the general population (Parker, 2004, p. 262).

The correction system has simply not developed to meet the needs of this new, rapidly increasing population.

“Female prisoners are one of the most marginalized groups in the United States population” (Sussman, 2009, p. 485). “African-Americans accounted for forty-four percent of women in local jails and forty-eight percent of women in state prisons; fifteen percent of women in state prisons were Hispanic” (Parker, 2004, p. 262). “The majority of women in

state prisons across the United States have not completed high school and struggle with learning disability and literacy challenges” (Mallicoat & Ireland, 2014, p. 272).

Perhaps most tragically, female prisoners are far more likely to have “...significantly higher rates of mental illness compared to women in the general population...68% of incarcerated women possess the factors of post-traumatic stress disorder” (Mallicoat & Ireland, 2014, p. 273-4). Many of these psychological disorders stem from early childhood abuse. “Recent studies indicate that half of female inmates were previously physically abused, while a third were sexually abused” (Vainik, 2008, p. 676).

One of the areas most in need of attention is motherhood within the system. “Approximately four out of five incarcerated women are mothers...Between 75% and 80% of incarcerated women have children, and two thirds of these women have children under the age of 18” (Greene, Haney & Hurtado, 2000, p. 3). This translates to “...approximately 300,000 minor children [that] are estimated to have an imprisoned mother...Most of these children are less than ten years old and about 20 percent are under the age of five” (Cho, 2008, p. 11).

This paper will argue that many of the policies within the criminal justice system must be revised to meet the specific demands of pregnancy and motherhood within the system. “Many state prisons have *no policies* that specifically address prenatal care for pregnant inmates” (Vainik, 2008, p. 677). Other systems need to address the needs of motherhood as well. In the name of equality, the corrections system treats all inmates the same. While this may seem like a boon for feminism, in reality, these policies have a damaging negative impact on mothers and their offspring.

Chapter Two will address pregnancy, labor and delivery within the corrections system - specifically, the barbaric practice of shackling women during pregnancy and labor. Chapter Three will focus on prison nurseries and motherhood during the infant stages while incarcerated. Chapter Four will concentrate on the mother-child dichotomy during later childhood and adolescence, specifically addressing the various programs that can aid or hinder maternal relationships. Lastly in Chapter Five, we will examine how parole and post-incarceration practices affect parental involvement and familial relationships between mother and child.

While this paper will be focusing primarily on mothers within the system, it is important to note the innocent children who are so impacted by the system. “Children with mothers incarcerated in prison are indeed one of the most disadvantaged groups of children in the low income population” (Cho, 2008, p. 11). “We know that children are profoundly affected by their mothers’ incarceration. Many will suffer feelings of anger, fear, guilt, grief, rejection, shame and loneliness” (Greene, Haney & Hurtado, 2000, p. 4). While we cannot stop mothers from committing crime, it is imperative we attempt to shift the burden away from innocent children as much as possible. This paper will show that the criminal justice system is in a unique position to actually aid in the parent-child relationship for the better, provided we drastically change some of our policies. It is within our power to stop the cycle of incarceration so common to children of imprisoned parents, and it is a moral imperative that we do so.



## **Chapter 2: Prenatal care, labor and shackling**

Pregnancy is an inherently risky time for women. Both mother and fetus are in danger of a variety of ailments and comorbidities. One of the results of the feminist movement was an increase in the equal treatment of men and women while in prison. While this may seem like a boon, when a woman is pregnant, being treated like a man is not effective; she has specific needs that must be addressed, medical requirements that necessitate treatment different from those of her peers of both genders. Yet the corrections system attempts to treat pregnant prisoners similar to other prisoners, which can have devastating consequences for both the mother and her fetus. Common practices, like shackling prisoners during transport and while in a hospital, must be analyzed in light of the specific condition of being pregnant.

There are a wide variety of complications all healthy women can experience during pregnancy. Early in pregnancy women can undergo ectopic pregnancy or hyperemesis, later on they may be at risk for pre-eclampsia or hemorrhage, during labor the baby may be in a breech presentation or have the umbilical cord wrapped around the neck (Youngson, 2000). These are just a few examples common to all healthy women. Yet women who are incarcerated often have a variety of other factors that significantly increase the risk of complications. As author Mary Catherine McGurrin notes, “[p]regnant women in prison face unique problems. Stress, environmental and legal restrictions, unhealthy

behavior, and weakened or nonexistent social support systems—all common among female inmates—have an even greater effect on pregnant inmates” (1993, p. 20).

It is not simply the environmental factors inherent in a prison that makes this a particularly high risk group. Many of these women have made a variety of poor life choices that will negatively impact their health. As a result of the War on Drugs, women who are addicted to drugs are more likely to be incarcerated, “[d]rug offenses constitute 37% of the total crimes committed by women” (Vainik, 2008, p. 670). Even more telling, a massive “sixty-five percent [of mothers] had used drugs in the month before the offense was committed that led to their incarceration” (Parker, 2004, p. 263). As Dr. Marian Knight and Emma Plugge noted, inmates “...are more likely to come from socially deprived backgrounds and are more likely to smoke, drink alcohol to excess and abuse illegal drugs than the general population” (2005, p. 1467). Women who abuse drugs during pregnancy are at risk for “preterm birth, abruption, pre-eclampsia, intrauterine growth restriction and low birth weight” (Pinto et al., 2010, p. 137).

In addition to addiction, many pregnant prisoners have sexually transmitted diseases, pelvic inflammatory disease or hepatitis B (Parker, 2004). These women are “...one of the most marginalized groups in the U. S. population. The vast majority of female inmates come from the most economically and socially disadvantaged segments of society” (Vainik, 2008, p. 676). These women do not usually receive routine medical care and are typically in poor health before they are arrested. As one study noted, “Lack of previous medical care, the unpredictable timing of intake and release, the seriousness of medical conditions...and the unstable life situations of many inmates make them a challenging population to serve” (Lorenzen and Bracy, 2011, p. 233).

Many of these women suffer from psychological issues as well. In particular, they suffer from the negative effects of sexual trauma or physical abuse. As an example, “[m]ore than 57 percent of the 11,000 incarcerated women in California are victims of sexual or physical abuse” (de Sa, 2005, para. 3). A mammoth “68% of incarcerated women possess the factors of post-traumatic stress disorder” (Mallicoat & Ireland, 2014, p. 274). In general, “imprisoned mothers are more stressed, anxious and depressed than the general [prison] population...while imprisoned women in general have high rates of psychiatric disorders, pregnancy brings specific problems” (Knight & Plugge, 2005, p. 1472).

All of these factors should ensure that pregnant inmates are watched closely and handled with special care. Yet far too often, the medical needs of these prisoners are not given the proper attention, with devastating consequences. As just one example, a law review recounted the story of Dorothy Charvis, a twenty-three year old woman who was fourteen weeks pregnant at the time of her conviction. On three separate occasions, Charvis went to the nurses at the Massachusetts Correctional Institution at Framingham requesting she be sent to the hospital, yet all three times she was rebuffed. Her baby would eventually die due to a placental disruption (McGurrin, 1993, p. 21). While Charvis’ conviction is not disputable, improper medical treatment should not be a part of her punishment.

Charvis was not an anomaly. Amnesty International conducted an investigation into prison conditions within the United States and “found that pregnant women in detention often receive inadequate health care” (McCray, 2006, p. 314). The literature abounds with stories like Charvis. In Collier County Jail in Florida, prisoner Joan S.,

...repeatedly pleaded for medical help because she began leaking amniotic fluid, but officers denied and ignored her. By the time she finally received an ultrasound – two weeks later – her doctor informed her that she had leaked out all of amniotic fluid and, as a result, her fetus' skull had collapsed (Griggs, 2011, p. 250).

Another, unnamed inmate was forced to give birth over a toilet, alone in her cell. She had been accused of feigning her labor pains and was only brought to the hospital after it was discovered that the umbilical cord was wrapped around her baby's neck (Ocen, 2012, p. 1255).

What happened to Dorothy Charvis, Joan S., the unnamed inmate, and many other prisoners like them, was not only morally reprehensible, it was constitutionally illegal. "Treatment of pregnant inmates serving time following a criminal conviction must operate within the requirements of the Eighth Amendment's provision forbidding the infliction of 'cruel and unusual punishments'" (Parker, 2004, p. 269). The Supreme Court considered how the Eighth Amendment applied to medical care in *Estelle v. Gamble*. The court stated that "acts or omissions sufficiently harmful to evidence deliberate indifference to serious medical needs" violated a prisoner's right to "receive adequate food, clothing, shelter and medical care" guaranteed by the Eighth Amendment (Ocen, 2012, p. 1276-1277). In *Trop v. Dulles* the court said, "...the [Eighth] Amendment must draw its meaning from the evolving standards of decency that mark the progress of maturing society" (Vainik, 2008, p. 675). What happened to Charvis was not an example of the United States' evolving standard of decency.

Perhaps no policy is more morally reprehensible than the needlessly cruel and unusual practice of shackling pregnant prisoners. Shackling can refer to a type of restraint used on a prisoner's wrist or ankle to inhibit movement (Houghton Mifflin Company, 2011). In some instances, chains may also be wrapped around an inmates' waist (Alexander, 2010). "Pregnant prisoners are routinely shackled while in labor, both during transport to the hospital and during childbirth" (Sussman, 2009, p. 476).

Shackling pregnant prisoners is a fairly recent practice. "It is unclear exactly how and why the practice of shackling originated, but many historians believe the practice began in the 1970s when criminal justice facilities began adopting gender-neutral policies" (Griggs, 2011, p. 250). Other authors believe the impetus for shackling was for a very different reason. As Geraldine Doetzer states, "[t]he shackling policies themselves harken back to an era when convicted women were considered morally subhuman and evidence of sexual activity was especially condemned" (2008, p. 370).

Illinois, California, New York, New Mexico, Texas, Vermont and Washington have statutes that limit the practice of shackling during labor. Unfortunately, this still leaves the majority of states and the Federal prison system without limitations on the practice (Alexander, 2010). Some states' policies seem to imply that shackling is acceptable by omission. For example, in Louisiana, the only prohibition to the use of shackles is that "...pregnant women should not be restrained facedown in four-point restraints" (Doetzer, 2008, p. 366). This problem is compounded because "...even in states where shackling is illegal, waves of lawsuits claiming that shackling practices continue are prevalent despite the laws banning the practice" (Griggs, 2011, p. 248).

The major reason espoused for the “continued practice of shackling women in advanced stages of pregnancy and through labor are identical to those used to justify restraining male or female inmates in the general population: to maintain security and decrease flight risk” (Doetzer, 2008, p. 366). Segregating criminals from the rest of the population is, of course, one of the core missions of the corrections system. When a spokeswoman for the California State Department of Corrections and Rehabilitation was asked about shackling, she stated, “Basically, we don’t want them to escape – that’s the bottom line...It’s part of our mission of public safety” (de Sa, 2005, para. 7 & 8).

Yet the flight or security risks these prisoners pose is highly questionable. First, the vast majority of these women are “...in jail for nonviolent, petty drug crimes and have never before posed an escape risk...” (Vainik, 2008, p. 678). Statistically, “...women are substantially more likely than men to be serving time for a drug offense and less likely to have been sentenced for a violent crime” according to the Bureau of Justice Statistics (Doetzer, 2008, p. 371). In total, “[e]ighty-five percent of incarcerated women are imprisoned for non-violent crimes” (Sussman, 2009, p. 484). “The majority of female inmates shackled during labor are non-violent offenders and are not considered flight risks” (Griggs, 2011, p. 249). Nevertheless, shackles have been used on pregnant women “...regardless of whether a woman has a history of violence (which only a minority have); regardless of whether she has ever absconded or attempted to escape (which few women have); [and] regardless of her state of consciousness” (McCray, 2006, p. 321).

It is this last point that truly exemplifies policy run amok. Women who are unconscious during emergency cesarean sections are still shackled. For example, in 2005, there was a media uproar surrounding the story of Desiree Callahan, an inmate at San

Joaquin Prison in California. Callahan was shackled on her way to the hospital for an emergency cesarean delivery, while unconscious during the procedure, and for the four days of her recovery after the death of her infant daughter who died during the procedure. She noted that the shackling interfered with her recovery, “You have to be stuck to a bed even though the doctors say you need to get up and walk because your stomach was cut open” (Alexander, 2010, p. 437). There is absolutely no flight or security risk from an unconscious prisoner and thus, there is no reason for them to be shackled during this time period.

It is extremely doubtful that a conscious woman in labor is a flight risk either. “It is illogical to have genuine concerns that a woman in active labor poses a legitimate security risk or would try to escape” (Griggs, 2011, p. 259-260). The American College of Obstetricians and Gynecologists (ACOG) has stated that the practice is “demeaning and unnecessary” (Sussman, 2009, p. 488). Women in active labor are simply not mobile enough to mount an escape attempt, particularly with armed guards present at the hospital. “As one nurse stated, ‘you can’t convince me that it’s ever really happened. [A woman in labor] certainly wouldn’t get far’” (Vainik, 2008, p. 678). Indeed, there were no examples of escape attempts by women in labor in the literature.

It is not just that shackling is unnecessary; it is actually quite dangerous to the mother and her child. In the third trimester and during labor, the risk of stumbling drastically increases. Pregnancy fundamentally changes a woman’s body, “[p]regnant women are already more prone to tripping and falling because they have a different center of gravity: shackling their arms or ankles, therefore increases the risk of them falling on their stomachs” (Griggs, 2011, p. 253). She will also not be able to break her fall with her

arms restrained (Vainik, 2008). Sometimes these restraints can inhibit movement to an extreme degree. One New York prisoner, Venita Pickney, described being "...shackled with a chain twice around her waist, handcuffs and ankle shackles" (Alexander, 2010, p. 437).

Shackling becomes even more dangerous during labor and delivery. "Restricting a woman's movement while she is in labor exacerbates the pain and distress associated with the birthing process, and may lead to complications that pose serious risks to the lives and health of both mother and baby" (Griggs, 2011, p. 257). During Amnesty International's investigation into shackling practices in California, they interviewed several inmates. One inmate, Maria Jones, described her labor, stating,

...because I was shackled to the bed, they couldn't remove the lower part of the bed for the delivery, and they couldn't put my feet in the stirrups. My feet were still shackled together, and I couldn't get my legs apart. The doctor called for the officer, but the officer had gone down the hall. No one else could unlock the shackles, and my baby was coming but I couldn't open my legs. (Sichel, 2008, p. 225).

Shackling makes the already arduous process of delivery far more difficult. "During the delivery process, shackles hamper a woman's ability to move to alleviate the pain of her contractions. The resulting stress on the woman's body may decrease the flow of oxygen to the fetus, causing irreparable damage (Vainik, 2008, p. 678). Doctors have stated categorically "...that it is always dangerous to shackle a woman during the final stages of labor" (Griggs, 2011, p. 260).

Shackles also prevent the medical personnel from performing their job effectively. The ACOG has noted that "...physical restraints have interfered with the ability



of physicians to safely practice medicine...and...made the labor and delivery process more difficult than it needs to be; thus, overall putting the health and lives of the women and unborn children at risk” (Sichel, 2008, p. 226). Yet hospital staff are not above censure, “[i]f doctors or nurses ask the guard to remove the restraints, they risk being reprimanded and—in the worst case scenarios—may even lose their jobs” (Vainik, 2008, p. 678). During Cook County, Illinois, inmate Latiana W.’s labor, “[d]espite multiple objections from her attending physician, the corrections officer present...refused to remove the restraints. As a result, her physician could not administer an epidural...Latiana [also] could not properly position her legs to push out her placenta” (Griggs, 2011, p. 250).

Shackling subjects women to extreme psychological trauma as well. As mentioned above, many of these inmates have experienced sexual abuse and are in precarious psychological states. “Shackling is a humiliating and degrading experience” (Vainik, 2008, p, 678).`

While it has been an uphill battle, “[t]he last several years have seen a burgeoning movement to end the practice of shackling pregnant women prisoners, particularly during labor and delivery” (Alexander, 2010, p. 436). One of the most important of these cases is *Nelson v. Correctional Medical Services*. A pregnant Shawanna Nelson became a prisoner in Arkansas after a conviction of credit card fraud (Griggs, 2011). The officer who accompanied her, Officer Turensky, placed both of Nelson’s legs in shackles despite being past seven centimeters dilated (Alexander, 2010).

Shawanna “...along with her doctor and two nurses—asked the armed guard who accompanied her into the delivery room to remove the shackles from her legs.

Nevertheless, the guard refused to unshackle Shawanna” (Vainik, 2008, p. 670). Shawanna eventually gave birth with her legs shackled, though she “...suffered a hip dislocation and umbilical hernia directly resulting from the shackles that prevented movement of the prisoner’s legs” (Griggs, 2011, p. 254) “During the night, when Ms. Nelson needed to relieve herself, the need to unlock the shackles...resulted in Ms. Nelson being unable to wait to use the restroom and she was forced to soil herself” (Alexander, 2010, p. 442). This not only caused her embarrassment, but also “subjected her to the risk of infection” (Griggs, 2011, p. 260).

The Nelson case went through several iterations before the ...en banc United States Court of Appeals for the Eighth Circuit issued a historic decision, becoming the first federal appellate court to hold that the law is “clearly established” that shackling a women prisoner during labor and delivery, in the absence of a clear security justification for such restraints, violates the Eighth amendment to the United States Constitution by imposing cruel and unusual punishment (Alexander, 2010, p. 435).

Despite this landmark decision, comprehensive changes have not been forthcoming in the intervening years. Many corrections systems still do not have comprehensive policies in place that clearly ban the practice, “women in 23 state prison systems and the federal bureau of prisons who give birth while in prison continue to be subjected to cruel, inhuman and degrading punishment by the use of restraints” (Sussman, 2009, p. 489). Shortly after *Nelson* “...a Virginia bill that proposed limitations on the use of shackles on incarcerated pregnant women was defeated in committee...one legislator

remarked that pregnant prisoners are threats and should be shackled as a matter of course” (Ocen, 2012, p. 1286).

Shackling during labor has been condemned by a host of professional and human rights organizations, including (but not limited to): Amnesty International, the United Nations Committee Against Torture, The American Public Health Association, The ACOG, The European Convention on Human Rights, and The California Correctional Peace Officers’ Association (Sussman, 2009; de Sa, 2005). It is a sadistic policy without any real societal benefit. In the end, “shackling occurs due to an unjustified animus toward pregnant women, rather than for any valid security concerns” (Vainik, 2008, p. 678). It “...punishes the prisoner for bearing children, not for breaking the law” (Griggs, 2011, p. 257).

Prison systems need to augment and clarify their policies with specific regard to the unique needs of pregnant prisoners. Guards in female prisons must be given specific training regarding prenatal care, labor and delivery. Shackling should be clearly abolished in all state and federal prisons. While female inmates are being incarcerated for retribution, deterrence, and rehabilitation for their crimes, their pregnancy is a separate issue and should be treated accordingly.

### **Chapter 3: Infants and prison nurseries**

Depending on what side of the debate you are on, prison nurseries are either an excellent idea to prevent recidivism and aid in rehabilitation, or they are a drain on taxpayer funds and a horrific, restrictive environment within which to raise children. Despite some trepidation from the latter group, prison nurseries have seen an impressive growth period within the past twenty years. Since statistical data has borne out the many benefits these programs can provide, this is a wonderful trend amidst an otherwise dreary period in the history of corrections in America. Prison nurseries serve a vital function and should be nurtured in all state and federal correctional facilities throughout the country.

Despite their recent growth, prison nurseries are not the novel idea they may seem. While they did exist in the colonies, they were usually deplorable conditions for children. Among the first modern versions was a nursery program from Massachusetts that began in 1858 and ran successfully for a century (Jbara, 2012, p. 1832). The oldest such program that is continually in existence is right here in New York, where our penal system has had one in place since 1902 (Carlson Jr., 2009, p. 18). At the turn of the twentieth century, New York was not an anomaly, “prison nurseries like the program at Bedford Hills [in New York] were not unusual in the early part of the 20<sup>th</sup> century” (Luther & Gregson, 2011, p. 86). Citing “[c]oncerns related to security, nursery program management, liability, the potential adverse effect of the prison on child health and development, and the

difficulty of eventual separation”, most prison nursery programs were shuttered by the 1970’s (Goshin & Byrne, 2009, p. 273).

Today, the majority of pregnant inmates are required to give up their baby to family members or foster care immediately after delivery, “with no time given for any connecting or bonding between mother and child” (Carlson, 2001, p. 76). In general, infants are removed from their mother’s care within two days after birth (Goshin, Byrne & Henninger, 2013, p. 110). Of these births, “[m]ore than half of these mothers will never receive a visit from their children during the period of incarceration” (Gilad & Gat, 2013, p. 376).

The United States is in dubious company with this practice of swift removal of a newborn from his or her mother; according to a multinational survey of seventy countries, “only Suriname, Liberia, the Bahamas and the US routinely separated imprisoned mothers from their infants” (Byrne, Goshin, & Joestl, 2010, p. 377). In contrast, prison nurseries, “are available in virtually all European countries” (Gilad & Gat, 2013, p. 396). In many countries, children are also allowed to stay with their mother for far longer, “Germany, for example, allows children to stay with their incarcerate mothers until the age of 4 or 6 depending on the facility” (Campbell & Carlson, 2012, p. 1063).

With the increase in female offender populations, a renewed interest has been seen within the criminal justice system in how incarceration of the mother might affect children. When they cannot be cared for by their mother, 10 percent of children “are placed in foster care, 25 percent remain with their fathers and 65 percent live with grandparents” (Carlson, 2001, p. 76). It is the children who are placed within the foster care system who

are most in peril. These infants are “at risk of being moved frequently among caregivers and of suffering long-term emotional problems as a result of separation” (Gilad & Gat, 2013, p. 380).

These children are at a much greater risk of not forming *secure attachment* with their caregiver. Developed by the English psychiatrist John Bowlby, attachment theory states that

an infant has an inborn biological need for close contact with its mother (or other main carer), a normal bond developing within the first 6 months of life through the mother's responsiveness to these needs, and maternal deprivation during this critical period having adverse effects on psychological development (Colman, 2014).

Attachment is critical for the wellbeing of infants and will affect their long-term welfare. As Julie Campbell and Joseph R. Carlson note, a “healthy attachment with a primary caregiver appears to be associated with a high probability of healthy relationships with others, whereas a poor attachment with the mother appears to be associated with emotional and behavior problems later in life” (2012, p. 1065). Severe maternal deprivation may result in a failure to progress developmentally and can result in developmental retardation (Carlson, 2001, p. 76). There is a small window of opportunity to form a secure attachment, it “is formed when the child is between the ages of six months and two years” (Jbara, 2012, p. 1827).

Insecure attachment can have risks for society at large. Many studies of “children with incarcerated parents have consistently suggested multiple environmental risks, delays in social and emotional development, and high rates of intergenerational criminality during

pre-adolescent through young adult years” (Byrne et al, 2010, pp. 376-77). Among many other problems, children who are not securely attached may develop drug and alcohol addictions - one of the main reasons for the initial dramatic rise in prison populations (Gilad & Gat, 2013, p. 381). They are at “a greater likelihood of being convicted of a crime later in life” (Jbara, 2012, p. 1826). This is, of course, exactly the opposite of what crime prevention advocates desire.

As the female incarceration rate began to climb, other states began to take a more critical eye at the Bedford Hills nursery program. The first new program in decades was built in 1994 at the Nebraska Correctional Center for Women (Carlson, 2001, p. 75). By the spring of 2009, seven more states had instituted programs in “California, Illinois, Indiana, Massachusetts, Ohio, Washington and West Virginia” (Carlson Jr., 2009, p. 18). A year later, that number had risen to thirteen states (Gilad and Gat, 2013, p. 374).

Despite their diverse locals and the hundred year time span between foundations, most US prison nursery programs are remarkably similar in whom they will admit. In order to be eligible, participants must be pregnant when they enter prison and cannot have committed crimes against children (Goshin et al, 2013, p. 110). Many of the programs stipulate that an offender’s release date be within a designated time-period, in the Nebraska program for example, inmates must have a release date within eighteen months of entering the program (Carlson, 2001, p. 84). No program allows children to stay in the nursery for more than thirty-six months (Campbell and Carlson, 2012, p. 1064). Interestingly, “[a]ll currently existing programs accommodate only infants that were born in state custody, while children born outside prison walls prior to the commencement of the mother’s incarceration are excluded” (Gilad & Gat, 2013, p. 374). Considering an infant born a

scant month before their mother's incarceration is still in jeopardy for the aforementioned risk factors, this is a rather arbitrary prerequisite.

One other stipulation all of the programs shared was an education requirement. Depending on her date of entry to the system, participants were required to attend prenatal or Lamaze classes (Carlson, 2001, p. 84). All of them required post-birth childcare classes. These programs are often described as "enriched, developmentally appropriate environments...[g]roup prenatal and parenting courses are required in most facilities" (Goshin et al, 2014, p. 110). These programs have an eye for the future as Michal Gilad and Tal Gat note, "[t]he inmates are obligated to participate in child development and parental skills classes, to improve their child-rearing skills in anticipation of their eventual release from prison" (2013, p. 375).

Kate Luther and Joanna Gregson conducted a qualitative study of a prison nursery, labeling the program with the pseudonym "Pacific Correctional Women's Center" or simply PC. The mothers in the nursery program expressed frustration that many of the things they learned in their parenting classes could not actually be implemented in the restrictive environment of the prison nursery. For example, the mothers were taught that "each of their children was unique" and that "infants follow their own developmental schedule". However, this "stood in direct contrast to several PC practices, including policies guiding when children could begin to eat solid foods, the amount of food a child could consume, [or] when children could be given over-the-counter medications..." (2011, p. 95).



Despite these inconsistencies, parenting classes are still considered some of the most productive aspects of prison nursery programs. In Joseph R. Carlson's landmark 2001 study of the Nebraska program, 95% of the participants "felt that the parenting classes had helped and that they should be required". This same amount (95%) indicated that if they had the opportunity to go through the program again, they would. The inmates ranked the classes as among the "best things" in the nursery program (p. 92-3).

Studies demonstrate that children within these programs do in fact benefit from these environments. In one study, "the proportion of infants coded as securely attached by the classic Strange Situation Procedure...vastly exceeded theoretical expectations...[i]nfants also reached developmental goals as measured by the Bayley Scales of Infant Development" (Goshin & Byrne, 2009, p. 279). An earlier study, had also "found that the program participants had strong bonds with their infants" (Jbara, 2012, p. 1839). In Bedford Hills, "71% of the babies achieved secure attachment with their own mothers while in the prison nursery setting" (Campbell & Carlson, 2012, p. 1065). Infants may even do better in these programs than on the outside, as one prison superintendent noted, "the children he saw at the prison nurseries were happy, healthy, alert and developmentally advanced because their mothers were guided by people who know a lot about raising kids" (Gilad & Gat, 2013, p. 382).

These programs offer benefits besides enhancing the parent-child relationship. Studies have shown inmates tend to be better behaved when in nursery programs. In 2004 of the participants in the Nebraska nursery program, "...none received a misconduct report. In contrast, 62 percent of women in the general population received misconduct reports" (Carlson Jr., 2009, p. 21). The nursery program can work as a powerful motivator for good

behavior, noted pediatrician Dr. Brazelton stated that mothers “need their infants for their own rehabilitation. Studies have shown that if...the baby [is used] as an incentive, 50 percent or more give up their addiction in favor of their baby” (Gilad & Gat, 2013, p. 387).

These benefits continue after mothers leave the prison system. One article noted, “[t]here is strong empirical evidence to support the claim that [prison nurseries] can lower rates of recidivism” (Gilad & Gat, 2013, p. 388). In one study that looked at the three years after release, it was found that “women released from a prison nursery have a low likelihood of recidivism” (Goshin et al, 2013, p. 113). Another study indicated “a 50% lower 3-year recidivism rate among nursery program participants” (Campbell & Carlson, 2012, p. 1066).

In contrast, when mothers are forced to separate from their children soon after birth, the mothers experience profound psychological trauma. “The separation at birth severed the treasured physical connectedness between mother and baby but not the emotional connectedness as evident by the mothers reporting that they felt ‘empty and missing a part of me’” (Chambers, 2009, p. 209).

Some critics have pointed to increased costs associated with prison nurseries as a major detraction. They worry that given the enormous costs of caring for a massive prison population, “adding additional bodies in the form of young children to already overcrowded prisons appears to be an unnecessary, even ridiculous, expense” (Jbara, 2012, p. 1832). However, “taxpayers experience monetary savings for each woman who does not recidivate” (Campbell & Carlson, 2012, p. 1066). Considering the costs of housing prisoners, these savings can be considerable. In addition, after the initial outlay, most

programs find that “monthly expenditures have only been minor to update materials and supplies” (Carlson, 2001, p. 80). In general, “the cost to the state has been minimal (Carlson, Jr., 2009, p. 22). Finally, “the cost of running a prison nursery is often only a fraction of the typical taxpayer burden...[p]ublic funding provides the bulk of the economic support for this population of children of incarcerated parents whether inside or outside of prison nursery programs” (Jbara, 2012, p. 1843). These fiduciary savings may take a longer view to appreciate, yet when viewed as a whole, are certainly worth the relatively small initial outlay.

Other detractors have wondered if it is fair to raise children in such a bleak and restrictive environment. One major issue is that “children missed the opportunity for everyday activities and lacked contact with males” (Gilad & Gat, 2013, p. 383). Visits from the father or other male relatives should be encouraged if possible. Despite a lack of stimulation, “[w]hile prisons are by no means an ideal environment in which to raise a child, the alternatives many of these children face may be even worse” (Jbara, 2012, p. 1831). While the layman may conjure images of stark, maximum-security settings when imagining a prison, prison nurseries are exclusively the prevue of minimum security settings, which are far less bleak and bare than their more dismal counterparts.

While no one would say that a prison nursery is an ideal place to raise a child, the many benefits to the mother, to the child and indeed to the taxpayer, far outweigh any negatives. Studies do not show any substantial “negative effects of the locked correctional environment on infants” (Goshin & Byrne, 2009, p. 278). They have had a demonstrable positive effect on infant attachment, reduced recidivism and improved inmate behavior. The societal benefits of these programs far outweigh any monetary costs. Prison nursery

programs need to be expanded beyond their current limited use so that more of the children so desperately in need of them have the opportunity to take advantage of them. Children should not be punished for the transgressions of their mothers.

#### **Chapter 4: Mothering the child and teenager during incarceration**

While newborns are perhaps the most obviously in need of maternal care, children and teenagers still require mothering. Indeed, “[e]xperiencing the incarceration of a parent during adolescence may be particularly disruptive to already tenuous family dynamics” (Aaron & Dallaire, 2010, p. 1482). It is actually easier to investigate how the deprivation of a mother’s influence can affect these older children since they can verbalize this deficiency. It is also simpler for social scientists to use quantifiable measurements to examine how this loss will affect them in a host of various facets. The criminal justice system is placed in a unique position within this framework; it can either be a help or a hindrance to the parental relationship.

Motherhood greatly exacerbates the stress common to all inmates. Studies have demonstrated a “significant amount of stress and pain that can be directly attributed to child separation experiences” (Loper & Tuerk, 2006, p. 409). One theorist noted the importance relationships pose to a woman’s identity, stating that for women in prison the “[l]oss of close relationships has profound meaning for women and their self-concepts throughout the life course” (Poehlmann, Schlafer, Maes & Hanneman, 2008, p. 270). Indeed, “[f]or most inmate mothers, the most difficult prison stressors are concerns about their children’s wellbeing and sadness about separation” (Loper & Tuerk, 2010, p. 89).

One of the most stressful aspects for incarcerated mothers is the lack of contact she has with her children. Studies demonstrate that “...many mothers expressed a longing

for contact with children, and previous research has found that lack of contact is associated with elevated depressive symptoms...and parenting stress...in incarcerated women” (Poehlmann et al, 2008, p. 276). This dearth of communication may be severe, to the point that “...according to studies, [it] is often inconsistent at best but more often minimal or nonexistent” (Kennedy, 2012, p. 183).

There are three main avenues of communiqué open to incarcerated mothers: telephone calls, letters and in-person visits. Since many prisoners are required to make collect-calls, “[t]his rule can result in costly telephone bills for families and has been discussed as a potential barrier to maintenance of family ties during incarceration, especially for poor families” (Poehlmann et al, 2008, p. 269).

While one study indicated that “...the amount of letter writing was a stronger predictor of reduced parenting stress than were either the amount of visitation or the number of phone calls” (Loper & Tuerk, 2006, p. 419), “...incarcerated women may find sending cards and letters a difficult and ineffective means of expressing their complicated feelings for their children and about the situation in which they find themselves” (Kennedy, 2012, p. 183). In addition, this method of communication is only available once children have learned to read and write (Poehlmann et al, 2008).

Perhaps the richest form of communication is the in-person visit, but this type of contact is riddled with problems. In a qualitative study conducted by Suzanne Allen, Chris Flaherty and Gretchen Ely, the authors note

Several women with preschool-age and younger children described how painful it was for their children to visit because they had to visit through a glass partition; it

was too difficult for them not to have physical contact, to be unable to hug and kiss their children. Some of these women made a conscious decision to forgo visits by their children, deciding that they would rather not see them at all if they could not express their love physically (2010, p. 166).

The prison environment is not conducive to positive visits from children as “[f]ew correctional programs assess themselves through the eyes of children. Prison visiting facilities are created solely to address the issues of safety and security, without consideration for how a child experiences the prison environment” (Covington, 2003, p. 77).

Prisoners must traverse more than emotional difficulties when dealing with the in-person visit. Other problems include “...reluctance to expose children to the prison setting, lack of child-appropriate visitation space, [and] inconvenient visiting hours” (Poehmann et al, 2008, p. 269). Prisons are usually built in rural areas, meaning “[t]hese women are geographically distant from their children” (Kennedy, 2012, p. 183). This can greatly increase travel costs, which is another impediment to frequent visits (Stringer & Barnes, 2012). Interestingly, “[p]rison facilities for women are frequently placed farther from their homes than prisons for men” (Kennedy, 2012, p. 178).

An additional important factor in the frequency of visits is the relationship between the imprisoned mother and the temporary caregiver. One study noted, “[d]eveloping a stronger partnership with caregivers may lead to even greater gains in communication with children” (Loper & Tuerk, 2010, p. 90). Fortunately, “[t]he vast majority of imprisoned mothers’ children are cared for by relatives, friends or neighbors” (Stringer & Barnes,

2012, p. 316). However, it is important to note that even with amenable caregivers, “...most children experience a change in nonmaternal caregivers more than once during a mother’s incarceration” (Poehmann et al. 2008, p. 267). This is unfortunate as, “[r]esearch on attachment relationships of incarcerated mothers and their children demonstrates the importance of stable caregiving and maternal contact during imprisonment” (Faris & Miller, 2010, p. 143).

For those women without access to caring relations, the alternative is for their children to be placed in foster care settings, where the luck of the draw will determine whether they receive frequent or infrequent visits from their children (Kennedy, 2012). As one author states “[t]he placement of their children often affects the type of contact women may have with them” (Moe & Ferraro, 2006, p. 140). Researchers have documented a consistent lack of communication between child protective services and incarcerated mothers (Allen et al, 2010). Studies have also demonstrated “...that if there is a conflict between the mother and the caregiver, contact with children can be minimal or nonexistent” (Faris & Miller, 2010, p. 143).

When a mother’s children are placed in foster care, her long-term relationship with her children is immediately placed in peril. This is a result of the Adoption and Safe Families Act of 1997 (hereafter referred to as the ASFA), which “requires states to file a petition for termination of parents’ rights if a child has been in state care for 15 of the past 22 months” (Faris & Miller, 2010, p. 143). To terminate parental rights, “[f]irst, a finding that the parent is unfit or unsuitable is made under a clear and convincing standard. Then, if a parent is found unfit, most states weigh whether terminating parental rights would be in



the child's best interest" (Kennedy, 2012, p. 176). It is important to note that "[t]he average prison sentence for women is 18 months" (Allen et al, 2010, p. 163).

While perhaps demonstrating poor decision-making skills, a criminal conviction in and of itself does not establish lack of parental fitness, yet this is exactly the position the ASFA seems to take. As Deseriee A. Kennedy notes, "...applying a best interests idealism to termination proceedings results in greater number of terminations. However, the children affected do not necessarily find permanent homes, and the number of children in foster care continues to climb" (2012, p. 186). Foster care settings are far from ideal, "[c]hildren placed in the foster care system...often experience shifts in care that are associated with negative developmental outcomes" (Poehlmann et al, 2008, p. 268). Still, "...terminations of parental rights of women who have come into contact with the criminal justice system have increased dramatically since 1991" (Kennedy, 2012, 165). It is estimated that "[c]hanges in the female incarceration rate explain 30% of the increase in foster care caseloads between 1985 and 2000" (Wildeman, 2009, p. 277).

Maternal incarceration is not only detrimental to mothers; it can have profound negative consequences for children. In general, "[e]xposure to parental incarceration is associated with higher rates of maladjustment in children" (Aaron & Dallaire, 2009, p. 1471). Among these, they are "...at risk for a host of negative outcomes, including separation reactions and attachment insecurity...behavior problems...cognitive delays...and delinquency" (Poehlmann et al, 2008, p. 268).

Perhaps the most detrimental of these effects is the lack of attachment. While we have discussed attachment with infants, attachment is fluid and needs to be enforced

throughout a child's life to be effective. "Insecure attachments to the mother have been linked to problems with socio-emotional adjustment (primarily behavior problems) and poorer cognitive outcomes" (Cho, 2009, p. 12). When a mother is incarcerated, a child may be separated from their siblings as well. Since "...siblings can function as subsidiary attachment figures for young children during a parent's temporary absence" (Poehlmann, 2008, p. 269) this additional separation can have further deleterious effects.

Children of incarcerated mothers are at a much higher risk of incarceration themselves. One study demonstrated that "...having a convicted parent was one of the strongest childhood predictors of adult incarceration" (Aaron & Dallarie, 2010, p. 1471). In general, one in ten children of incarcerated parents will become incarcerated in their lifetime (Kazura, 2001). Researchers observe generations of "...cycles of poverty, abuse, violence, drugs, pain and prison" (Greene, Haney & Hurtado, 2000, p. 21). Many studies have indicated that children of incarcerated mothers "...not only face greater sociodemographic risk experiences, but they also may experience more negative family dynamics, including receiving more harsh and sometimes abusive parenting behaviors" (Dallaire & Aaron, 2010, p. 107). In general, "[t]he existing literature suggests that [when parents are incarcerated] children suffer from both emotional and behavioral difficulties which often lead to problems such as academic failure, gang involvement, anxiety, drug abuse, and early pregnancy" (Kazura, 2001, p. 69).

For example, one study demonstrated that "boys separated from a parent before age 10 because of parental incarceration are more likely to exhibit antisocial behaviors and internalizing symptoms in adolescence and adulthood than boys who experience other types of childhood separation" (Shlafer & Poehlmann, 2010, p. 127). These results held true even

after controlling for other mitigating factors. Another study "...found that boys whose parents had been incarcerated were almost five times as likely to be incarcerated themselves when compared to boys separated from their parents for other reasons" (Aaron & Dallaire, 2010, p. 1471).

Not all studies indicate negative outcomes for children if their parents are incarcerated. One author notes, "...it is unclear whether parental incarceration helps, harms, or has no effect on children - research in this area is, after all, still in its infancy..." (Wildeman, 2009, p. 277). Some studies "...suggest that although parental incarceration is associated with negative family processes and children's delinquent behavior, when familial factors are accounted for, parental incarceration may no longer predict child delinquency" (Dallaire & Aaron, 2010, p. 108). In her study, Rosa Minhyo Cho's results actually "...suggest that having a mother enter prison may slightly improve a child's chance of grade promotion albeit for a short time period" (2009, p. 12). The reason for this discrepancy is that "[m]ost of the problems of inmate children were evident before incarceration, which undermines a conclusion that prison separation directly causes negative childhood outcomes (Loper & Tuerk, 2006, p. 408).

Whether the act of incarcerating mothers in and of itself produces negative results is still in dispute; researchers categorically assert that "[c]hildren with mothers incarcerated in prison are indeed one of the most disadvantaged groups of children in the low income population" (Cho, 2009, p. 11). Since they will be spending time in the corrections system, it behooves us as a society to utilize this time to benefit the parent-child relationship and attempt to improve outcomes for both generations. Prison parenting programs present an excellent opportunity for this.

More than half of all of US state correction systems have some type of program aimed at improving parent-child relationships while the parent is incarcerated. Yet Ann Booker Loper and Caitlin M. Novero note, these “numbers overestimate the percentages of inmates involved in parenting programs...only 11 percent of the parents in state prison reported participation in parenting or child-rearing classes” (2010, p. 189). The authors explain that the reason for such a small participation rate revolves around the unique aspects of prison life. These numbers are even more dismal in jail settings, as one article notes “...few jails have programs that foster parenting skills or contact between mothers and children, and there are virtually no programs designed to assist children with problems related to the incarceration of their mothers” (Ferraro & Moe, 2003, p. 13). This is unfortunate as studies have demonstrated that “parenting training during incarceration could be effective during incarceration” (Kazura, 2001, p. 78).

The best programs are designed with the specific needs of incarcerated mothers in mind, as “...the typical skills covered in “outside” parenting interventions may not be applicable to parents “on the inside” (Loper & Novero, 2010, p. 189). There is no standard program, though various programs might contain “...parenting classes, programs allowing children and parents to live together at prison while receiving support and consultation, relationship-building visitation activities, parent counseling, and postrelease assistance” (Loper & Tuerk, 2006, p. 408). In most instances these programs are “...short term and classroom based” (Eddy, Kjellstrand, Martinez, Jr., & Newton, 2010, p. 239).

Among the most common programs are parental training classes, “[m]ost prison programming for parents has the overarching goal of improving outcomes for inmates and

their children, both during and after incarceration” (Loper & Tuerk, 2006, p. 410). Specific goals for these programs,

...include *knowledge and attitudes*, defined as acquisition of information regarding child development and more socially normative beliefs about appropriate child rearing, discipline, and the role of a parent; *mental well-being and parental stress*, defined as improvement in mood, self-image and stress levels; and *behavioral changes*, such as frequency of contact and communication with children, recidivism rates, and reductions of negative or harmful behaviors” (Loper & Novero, 2010, p 197).

The best programs are those that utilize a multi-pronged approach. The parent-child relationship is inherently complex and the unique needs of the inmate population make these needs even more multifarious. One such program is the *Parenting From Inside: Making the Mother-Child Connection* program, also known as the PFI program, created by Ann Booker Loper and Elena Hontoria Tuerk. Utilizing “...the theoretical underpinnings and techniques of cognitive-behavioral therapy” (2011, p. 91), the program addresses the emotional stressors common to parenting, the unique communication difficulties associated with imprisonment, and methods for dealing with the psychological traumas so common amongst this population. The program was multi-modal in nature, incorporating videos, handbooks, computer programs and group therapy sessions. A study by the PFI program creators found that “...mothers reported reduced parenting stress and improvements in emotional adjustment, increased alliance with children’s caregivers as well as increased communication with children through letters” (2011, p. 99). While the program had some

limitations, in general it provided favorable outcomes for mothers under a huge amount of strain (Loper & Tuerk, 2011).

In their article, J. Mark Eddy, Jean M. Kjellstrand, Charles R. Martinez, Jr. and Rex Newton laid out the components of another program utilizing a coercion theory scaffolding. Though this was only a proposal, it is well thought out and showed great potential for long-term use (2010).

Though educational programs show great potential, in their current iteration, there are several problems with many of the parenting programs currently in use. First, “[e]fforts at rehabilitation pay little attention to the pathways women travel to prison, journeys that are shaped by abuse, poverty, and the dynamics of gender inequality” (Brown & Bloom, 2009, p. 314). In addition, these programs seem to exist in a vacuum and often have little bearing on the inmates’ real life situations. “Parents have limited opportunities to implement knowledge gained from parenting programs” (Loper & Tuerk, 2006, p. 410). While it may seem obvious, instructors need to remember that “[p]arenting from prison is substantially different from parenting on the outside...Parents in prison need instruction on how to maintain healthy bonds, communicate in truthful and developmentally sensitive ways, and collaborate with caretakers within the context of incarceration” (Loper & Tuerk, 2006, p. 424).

Another major concern is the lack of study most of these programs have received. For example, one of the most widely used programs currently in correctional facilities is a program designed by the Center for Children and Incarcerated Parents (CCIP) called the Prison Parents’ Education Project (PPEP). Unbelievably, “...despite its presence in the

correctional community and reasoned objectives and methods, it has not been empirically evaluated” (Loper & Novero, 2010, p. 192). The other impediment is poorly trained instructors, “[m]any existing programs, run by well-intentioned volunteers, are rarely evaluated in a systematic way” (Loper & Tuerk, 2006, p. 424).

Despite some drawbacks, the potential for parental training programs is strong. It has great potential to head off some of the damaging effects having a mother incarcerated can cause for a child, and can potentially aid during the parole period. It is imperative that the limited time between mother and child prove mutually advantageous as “...increased contact with children is likely to be beneficial only to the degree that such contact is positive” (Loper & Tuerk, 2010, p. 90).

### **Chapter 5: Parenting during the parole period and beyond**

Mothers often look toward the post-incarceration period with great anticipation, conjuring visions of extreme happiness between her and her instantly reunified offspring. Yet the parole or post-release period is in actuality, far more complicated to navigate, both in terms of the emotional complexities and the bureaucratic web parolees must traverse. For mothers, “[a]long with finding housing, employment, and satisfying the conditions of their supervision, parenting women must also reassume their roles as mothers” (Brown & Bloom, 2009, p. 313).

Specific parole requirements may vary by a prisoner’s individual needs, the locale they will reside in and the reason for their conviction, but in general they must “...achieve financial stability, access health care, locate housing, and attempt to reunite with their family...in addition, they must obtain employment...find safe and drug-free housing, and in many cases, maintain recovery from addiction” (Covington, 2003, p. 86). This is a large list of expectations for a group of individuals who have already demonstrated difficulties dealing with societal norms. In addition, “...the majority of women find themselves returning to the same communities in which they lived prior to their incarceration, where they face the same problems of poverty, addiction, and dysfunction” (Mallicoat & Ireland, 2014, p. 285).

Parolees are usually expected to procure steady employment very soon after their release. However, this can be extremely difficult for several reasons. First, “...reports show



that 64% of women in prison have not completed high school” (McGrath, 2012, p. 115). In addition, “[v]ocational education and training programs for women in most corrections facilities are extremely limited” Dodge & Pogrebin, 2001, p. 52).

Lack of training or education would make job procurement difficult in any circumstance, yet this obstacle is only compounded by a criminal history. Businesses are also loath to hire women with a felonious background. As Mary Dodge and Mark R. Pogrebin note, “[t]he negative reactions of potential employers toward their past criminal lifestyle make attaining meaningful employment with future growth potential nearly impossible for these women” (2001, p. 50). Studies have demonstrated that all other factors being equal, female offenders have a more difficult time acquiring gainful employment after incarceration than their male counterparts (Michalsen, 2011).

Women who have served time for a drug offense are subjected to far more penalties when they finish their sentences, stacking the decks against them. The Housing Opportunity Program Extension Act (HOPE) of 1996 allows housing authorities to deny public housing for drug convictions (S. 104-120, 1996), making it extremely difficult to find safe and affordable housing. This can impede reunification as “[I]ack of adequate housing and economic difficulties have been identified as barriers to reunification for families involved with the child welfare system” (Hayward & DePanfilis, 2007, p. 1330).

Even more damaging, the “Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) imposes a lifetime ban on receiving money assistance and food stamps for people convicted of a drug-related offense” (McGrath, 2012, p. 116). Researchers noted that as of 2006,

...more than 92,000 women were affected by the lifetime welfare ban. They also estimated that the denial of benefits placed more than 135,000 children of these mothers at risk for future contact with the criminal justice system due to economic struggles (Mallicoat & Ireland, 2014, p. 287).

Above all of these interests, "...maternal concerns are uppermost in the minds of reentering women – constituting a critical subjective aspect of their lives after prison" (Brown & Bloom, 2009, 314). The ultimate goal for most mothers is reunification. "The term 'family reunification' can mean any 'optimal level of reconnection' along a continuum that ranges from visitation to physical return to the family of origin" (Hayward & DePanfilis, 2007, p. 1322). Regrettably, "the chances of reunification were not nearly as positive as the women anticipated, and...the separation of mothers and their children lasted beyond the jail term" (Hayes, 2008, p. 66).

There are a variety of reasons why a woman may have difficulties reunifying with her child. Many women experience "...a downward impetus with regards to intimate and family relationships, societal functioning, physical and mental health status, and economic status" (Hayes, 2008, p. 62) after their release from a correctional facility. In particular, "[r]establishing relationships and social ties often represent a barrier to successful reintegration" (Dodge & Pogrebin, 2001, p. 44).

Of these issues, reassuming the role as primary parent is perhaps the most difficult. The reason for this is two-fold – rectifying the damage to the relationship with her child and navigating the emotional minefield between her and her other relatives, particularly those who had assumed the role as parent in her absence. "...the opinion of

affected relatives and children about the worthiness of the woman to return to her maternal status is frequently a controlling factor” (Brown & Bloom, 2009, p. 319). Converse to what many (particularly the mother in question) would expect,

[c]hildren in kinship placements are less likely to be reunified with their biological parents and are more likely to spend longer periods of time in kinship foster care than children placed in non-relative care. This may be due to a variety of factors including financial incentives that make kinship care a more viable option for TANF [the Temporary Assistance for Needy Families program] eligible families, child characteristics, or other unmeasured variables (Hayward & DePanfilis, 2007, p. 1325).

Another barrier is averseness on the part of the temporary caregiver to return the child to the mother. This may be due to reservations about her capabilities, the inevitable attachment the temporary caregiver has formed with the child or a fear that she will recidivate and hurt the child once again (Hayes, 2008).

Women may also lose a husband or partner due to incarceration, exacerbating the familial pressures she experiences. “...a great many women prisoners report being divorced by their husbands or deserted by men with whom they lived before coming to prison...only 22% say that they can depend on the fathers of their children to care for them...” (Dodge & Pogrebin, 2001, p. 43). Unfortunately, when the father leaves, it is not only emotionally devastating, it can have negative consequences on her future parental rights since “[c]hildren from two-parent families have been found to reunify faster than those from single-parent households” (Hayward & DePanafilis, 2007, p. 1323).

Reestablishing a relationship with her offspring is also extremely difficult for these mothers. “Conviction, incarceration, and absence have eroded parental authority in both its moral and practical dimensions. Mothers remain a loving figure, but her stature as a moral leader in the home has been irrevocably discredited in very public ways (Brown & Bloom, 2009, p. 326).

It is unfortunate that parole presents so many obstacles, when it can be an effective agent for positive change. “...if the proper support is in place upon a mother’s homecoming, she may have the opportunity to make a permanent shift away from the behaviors that led to her illegal conduct, allowing her to strengthen ties with her children” (McGrath, 2012, p. 114). There are a variety of factors that can enable this positive change. Studies have found that the most beneficial were (in no particular order) “...belief in G-d (Higher Power), rehabilitation and freedom from drug addiction, support groups...supportive friends, supportive families, role models, personal determination, children as a driving force, employment, helping others, and learning to deal with feelings and issues from the past” (Hayes, 2008, p. 62). While authorities cannot facilitate all of the aforementioned components, there are many opportunities to assist these women.

One of the best ways to aid these women is to coordinate efforts between the various government agencies that are involved in the process. Too often parole officers, welfare agencies, and family members each function as islands unto themselves. Yet researchers note that “[s]tronger state and local partnerships between child welfare and corrections...[should] be forged to meet the special needs of children in state custody during a parent’s incarceration” (Hayward & DePanfilis, 2007, p. 1332).

One example of this coordinated effort is the Reentry court. Based on the drug-court model, this allows “the court to impose graduated sanctions and positive reinforcements in a team setting that typically involves a judge, probation officer, assistant United States attorney, assistant federal defender, and contract services provider” (Vance, 2011, p. 64). They have “six components: (1) assessment and planning; (2) active oversight; (3) management of support services; (4) accountability to the community; (5) graduated and parsimonious sanctions; and (6) rewards for success” (McGrath, 2012, p. 118). While these programs are extremely new, studies have generally shown positive outcomes for participants (Vance, 2011). In addition, studies have shown a large monetary savings for tax payers. For example a study “...in Fort Wayne, Indiana showed a 30% reduction in recidivism among Reentry Court participants, saving the city \$1,753,787 within two years of operation” (McGrath, 2012, p. 122).

The corrections system has gone too far away from its core mission to rehabilitate offenders and is too concerned with the punitive measures it doles out, particularly during the parole period, after a prisoner has paid her debt to society. It is imperative that parolees receive guidance during the post-incarceration period so they do not recidivate. The more support they receive, the less likely they are to recidivate, which is mutually beneficial for the parolee, her community, her children and society at large.

### **Conclusion**

At first glance, these issues may seem like the sole purview of women. Whether discussing prison nurseries or rehabilitative programs for mother's on parole, the focus has always been on females. Yet these are issues that actually affect all of us. They speak to how we value motherhood, children and civil rights as a society. Currently, they do not speak very highly of us.

While we should strive for equality in many instances in this country, the female experience, particularly as it relates to motherhood, is simply not the same as the male experience. Yet in large part due to their much smaller numbers, corrections facilities attempt to paint both sexes with the same broad stroke, utilizing the same policies and procedures for both. This is a major blunder with far reaching consequences. As Stephanie S. Covington wrote, "[w]omen are often invisible in the many facets of the correctional system. This invisibility, in turn, can act as a form of oppression. Where sexism is prevalent, frequently something declared genderless or gender neutral is, in fact, male oriented" (2003, p. 70). While we can look to many examples of this, it is perhaps best illustrated when women are shackled during their labor. This practice was started as more gender neutral policies took hold in the corrections system. Yet a woman's experience during labor is not truly analogous to any experience a male may have. To keep her shackled in the name of impartiality is ludicrous, a travesty of justice and indeed, a human rights violation.

Mothering from prison is fraught with difficulties and it is the rare woman who can navigate so many quagmires and have her relationship with her children remain unscathed. We must ask ourselves if this is truly the best way to serve a population that is usually among the most poverty stricken, abused, uneducated and psychologically damaged in our country. For the vast majority of female inmates are non-violent offenders who would probably be better served in community treatment settings instead of separated, isolated correctional facilities.

A woman's identity is usually wound up tightly in her familial relationships and her friendships. "A woman's primary motivation...is to build a sense of connection with others. Women develop a sense of self and self-worth when their actions arise out of, and lead back to, connections with others" (Covington, 2003, p. 72). It can easily be argued that drug use or prostitution is indicative of poor self-worth to begin with. To further erode this is not the right way to combat it in the future. When we take her precious relationships away from her, we make it that much more difficult to make long lasting change. It is counterproductive since "[s]tress related to parenting in prison is also associated with poor inmate adjustment" (Loper & Tuerk, 2006, p. 409). We spend far more money to lock up prisoners than any treatment plans might cost, and for all of the finances we throw away each year, we have little benefit to show for it.

When we force a woman to give birth in chains, we tell her that her health and safety are unimportant. Regardless of the crime she has committed, she is still a person, about to bring new life into the world. When we wrest a newborn babe from the arms of his mother, we tell the child that his immediate needs are not as important as society's need for vengeance. When we fail to ensure that a child sees her parents on a regular basis, we tell

that child that her emotional development is less important than the monetary costs to bring her to a facility. When we tell a mother that she must immediately solve all of her problems as soon as she is released from prison without any aid, we tell her that we do not truly believe in the rehabilitative process.

The real travesty is the people who get lost in the shuffle, the children. Instead of breaking the horrific cycle of incarceration, these policies seem to speed the process along, dooming the next generation to the same wasted life as the previous. “A mother’s incarceration often sets in motion some of the same events that speed girls and women along a pathway to prison” (Brown & Bloom, 2009, p. 326). This costs society financially both in loss of future productive citizens and in the future cost to house more inmates. Yet even if there was no fiduciary incentive, we have an obligation to stop the anguish of our citizens. Society’s mothers and children are suffering; we have an obligation to change things for the betterment of us all.



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