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# Severed Ties:



## The Incarcerated Mother

by Emilyn Laura

The surreptitious rise in female imprisonment has come to represent years of entrenched poverty, drug sweeps and corresponding quotas, and a tangled maze of bureaucracy. Behind the common, but limited view of “female crime” that the larger society attributes to drugs, prison advocates make correlations between crime and the bitter harvest of Regan policies that created a new legion of the poor.

Of 1.1 million inmates currently serving time in America – a prison population that exceeds both apartheid South Africa and the Soviet Union – women comprise approximately 50,000. A disproportionate number are single parents, whose children, whether born within prison walls or “lost” within foster care systems are also doing time. Unlike prisoners who formerly served their time and began a new life, women starting over today must challenge and win against a system built for profits of racial and gender bias.

## Politicizing Crime

A little over a decade ago female arrests were far less frequent, comprising less than 1,000 inmates in state prisons and city jails. With the proliferation of drugs within Black communities, the incarceration of women began to reflect their evolution from low level users, to couriers and finally low level dealers. By 1987 the female rate of incarceration had outstripped their male counterparts. Drug related crimes committed by women in the 25 to 29 age category range from property theft involving burglary, grand larceny or forgery, prostitution, or welfare fraud; all indicators of recurring financial distress. Advocates attribute relentless rounds of cutbacks within social service agencies, elimination of job training programs for youth, and the long-standing deficit of "quality of life" basics such as education, jobs and housing as ongoing factors in the high rates of incarceration among women. Women without skills or economic means are far more vulnerable to the lure of selling drugs or sex to survive. Dr. Debra Prothrow-Stith, author of *Deadly Consequences* argues that,

...the scarcity of employed men in poor Black communities set in motion a train of destructive events... When large numbers of men are out of work and large numbers of families are headed by women, the rate of crime and violence in that community rises sharply... This data regarding single-parent families should not be interpreted as derogatory to single mothers... [but] highlights... the terrible stress under which impoverished single parent families live.

Statistics furnished by the Correctional Association of New York, prison advocates since 1844, indicate that more than half (66.1%) of the 3,500 women currently serving time in New York State prisons are first time drug offenders whose sentences may average one to three years. At least 75% of all female inmates across the nation are single parents who were raising, on the average, two dependent children prior to arrest.

Attorney Ellen Barry, Director of Legal Services for Prisoners with Children has worked extensively with female prisoners on the West Coast. She observes that female substances abusers seem to elicit particularly harsh sentences, invariably "for their own good." Take the case of Doris M., for example. She was sentenced to serve six months in the county jail in Oakland, California when she was seven months pregnant. Addicted to heroin, the judge made a decision to override the option of local community-based programs where she could receive treatment. Instead, she was forced to kick drugs cold turkey, received no obstetrical care for the first six weeks and at nearly nine months her stillborn daughter was removed by Caesarean section.

The mindset of this particular judge is not an aberration but one the attorney attributes to "...tremendous frustration on the part of sentenc-

ing judges who are aware of no other options. It also arises from a misunderstanding of the nature and treatment of substance abuse treatment and a growing tendency on the part of the general community to seek punishment for individuals involved with drugs...as opposed to treatment.”

This punitive approach to drug use is further demonstrated by the political bent of the 1973 Rockefeller Drug Sentencing Laws. In January of 1990, for example, 59 women were arrested at JFK airport and detained for their alleged role as “drug mules”. Held for nearly a year while lawyers wrangled over Class A-1 felony charges versus the defendants claims of coercion, eventually all charges were dismissed. In contrast, just a few years earlier, an undisclosed number of women, detained on similar charges, failed to convince authorities of coercion and received life sentences, despite the lack of any previous criminal record. Advocates argue that the mechanics of the law which carries a minimum of 15 years to life for criminal possession of controlled substances becomes a political tool in the hands of politicians, and is a prime factor in overpopulated prisons.

### **Children Doing Time**

The entire family is impacted by the arrest of one parent. For children it may mean the loss of youthful innocence, replaced instead with guilt and worry that may be expressed in a number of ways: an infant’s inability to form emotional attachment, an older child’s recurrent nightmares, in teens inappropriate or abusive behavior. For parent-inmates it unleashes a pervasive and often infectious sense of failure. For grandparents it means raising a second generation of children, straining financial resources and taxing physical strength.

According to the Correctional Association, an estimated 120,000 children have already experienced the emotional shock of having a parent imprisoned. This figure, primarily based on the incarceration of fathers who rely on the mother or female family member in the role of caretaker, fails to tell the story of children whose sole support are their mothers. For these children, various aspects of parental incarceration, particularly their removal from familiar surroundings, generates financial, emotional and social upheaval that may be long in healing. Citing standard police arrests as the beginning of a long destructive process, Barry explains, “In New York City, the police department has internal regulations instructing officers to permit women to make a phone call to a relative or friend to care for the child. In reality, however, most women are barely given time to say good-bye to their children...In numerous instances children are either taken to the police station with their mothers, or delivered to emergency shelter facilities.”

Irregardless of the “process” of incarceration, children tend to remain a vital, if overlooked anchor throughout booking, arraignment

and sentencing procedures, vicariously experiencing in greater or lesser degrees, the degradation of their parents.

Research conducted by the National Council on Crime and Delinquency (NCCD) show that most children of incarcerated mothers remain with their maternal grandmother (65%). Another 20% are placed with relatives and friends while 17% remain with their fathers. Children may be forced to encounter the maze of family courts, welfare agencies and foster homes at various times during parental incarceration, an even smaller percentage remain entangled for the duration of their formative years. While some foster home situations work toward positive reinforcement of the relationship between parent-inmates and their children, far too many compound the tragedy of incarceration. Writing in *Mothers In Prison*, Phyllis Jo Baunach comments,

Some foster programs tend to generate a pervasive and implicit anti-family bias... Parents are not encouraged to visit children, to maintain ties, or to meet caretakers; funds for services that might assist reunification of families are often unavailable; grievance mechanisms for parents or children are non-existent and the massive amount of paperwork often precludes case-workers from getting to know natural parents and their needs.

Further restraints are placed on the family unit by antiquated state laws. Although laws vary from state to state, many support the notion that parental rights may be severed if a basis for abandonment can be proven. Given the sentencing structure of most prisons where inmates are held for long periods before their case is disposed of, or the unstable atmosphere generated by prison officials who tend to treat family visits as a privilege, rather than a First Amendment right, the basis for upholding parental rights is constantly eroded.

In a recent case of a single parent father in Florida, identified only as B.W. and his children, J.W. and W., persistence may provide incentive. The Supreme Court overruled a lower court decision to award the children to state agencies stating,

a prisoner's efforts to assume his parental duties by communicating with and supporting his children must be measured against his limited opportunity to assume these duties while imprisoned.

The net effect of B.W.'s cards and letters explaining his inability to be with his children, both to them and the appropriate agencies, added emotional leverage to his appeal and subsequent victory. In New State however, parents are hampered by procedures of Child Welfare Administration (CWA) whose directives to arrange for visitation between imprisoned parents and their children are restricted to prisoners within fifty miles of New York City. This would mean that most women housed in state prisons remain outside of CWA's jurisdiction and also, outside of the lives of their children.

Finally, there is the seldom publicized, but volatile issue of women giving birth within prison. Lawsuits brought in California, Connecticut and Massachusetts read like a litany of horror stories: routine use of wrist shackles, leg restraints, abdominal shackles; lack of systematic OBYN treatment and inappropriate prison protocol and procedures have all been documented and form the basis for prison reform. There were typical cases like Linda H., for example, who was transported to the outside hospital in shackles, seated upright in a van. The baby was born in severe distress, was in neonatal intensive care for thirty-one days, and continues to have permanent disability as a result. Esperanza C. was not seen once by an obstetrician during the entire course of her pregnancy at the prison; the fetus died in utero at eight and a half months.

In New York State, establishment of Bedford Hills prison nursery came about as the result of a lawsuit. Established by penal laws more than two decades ago, prison officials failed to comply until a lawsuit, filed in 1973 by a county jail prisoner who accused prison officials with taking her child away after its birth. The lower court which heard her case ruled

Incarceration in a jail or correctional institution *per se* does not constitute such unfitness or exceptional circumstances that require a newborn infant be taken from its mother...

Following the suit, the nursery, located in a special wing separate from the general population, created policy that allowed a minimum of ten female inmates to remain with their infants for the first year of life, with medical care, food and clothing provided by the State. The facility's 1984 follow-up report on the 28 women who gave birth while incarcerated, list robbery as the most common offense committed by women in the 20-34 age category. Again, most of the women were single mothers and in instances where the infant was released while the mother finished her sentence, the inmates family played an instrumental role as caretaker. Only two instances of infants being placed in the custody of the Department of Social Services for future foster care were reported. Overall, prison authorities concluded that when inmates were allowed to bond with their child, recidivism was markedly lower. Only three women violated parole after release.

### **Forging New Ties**

Increasingly, imprisonment has taken on dimensions of an undeclared war on the Black family; a battle in which our children are the heaviest casualties. Bureaucracy dictates the survival of women who seek reunification with their family. Overcoming charges in Family Court, for example, requires many women who may be homeless when released, to obtain public assistance which many landlords refuse to accept. If seeking employment many women face seemingly insurmountable odds that

require them to obtain a GED or job training. Without an apartment, or other demonstrated means of stability, retrieving their children from "the system" involves an uphill battle.

Growing efforts by advocates who push for alternative sentencing, halfway houses and drug treatment have begun to make some inroads. Clearly, however, the most significant fight is within. Barry maintains that real change begins "by putting a name and face on prisoners that society wishes to remain anonymous. No matter how many lawsuits we bring," she emphasizes, "we have no illusions that it will make prison a place to want to be. Prisons destroy...It's about empowering people so they don't have to be there."

Listed are a few of the many organizations in New York working to provide information, or direct services to the families of incarcerated mothers:

#### **Ace**

Bedford Hills Correctional Facility  
247 Harris Road  
Bedford Hills, NY 10507  
(914) 241-3100, ext. 384  
Prepares incarcerated women for release through mentorship and support programs

#### **AIDS in Prison Project**

Correctional Association of N.Y.  
135 East 15th Street  
New York, NY 10003  
(212) 477-9633  
Information, referrals, support and advocacy for incarcerated persons living with HIV/AIDS

#### **Fortune Society**

19 West 19th Street  
New York, NY 10018  
(212) 206-7070  
Advocacy for prisoners on behalf of their families, HIV counseling, and support groups

#### **The Incarcerated Mothers Program**

Edwin Gould Services for Children  
104 East 107th Street  
New York, NY 10029  
(212) 410-4200  
Provides advocacy, foster care prevention counseling and vocational training

#### **Justice Works Community**

1012 8th Avenue  
Brooklyn, NY 11215  
(718) 499-6704  
Offers comprehensive services to children of incarcerated parents

#### **The Odyssey House**

309-11 East 6th St.  
New York, NY 10003  
Provides educational, vocational and advocacy for former inmates. Family center provides housing for women with one or two children under age five.

#### **Single Parent Resource Center**

141 West 28th St.  
New York, NY 10001  
(212) 947-0221  
Services for children aged 5-13 impacted by the incarceration of their parents.

#### **Womencare Inc.**

236 East 27th St., 2nd fl.  
New York, NY 10001  
(212) 463-9500/9506  
Referrals, advocacy and mentorship programs for mothers in prison.

#### **Legal Aid Society Prisoners' Rights Project**

15 Park Row, 23rd floor  
New York, NY 10038  
(212) 577-3938, 3907

#### **Women's Prison Association and Hopper Home**

110 Second Avenue  
New York, NY 10003  
(212) 674-1163/677-1981  
Provides foster care prevention, counseling and housing placement assistance.