EXPECTANT MOTHERS IN THE MASSACHUSETTS CRIMINAL JUSTICE SYSTEM

OCTOBER 1985

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Acknowledgements

In addition to the research cited within, the following persons and agencies have consulted in preparation for this report. The Women's Health and Learning Center wishes to thank them for their time and consideration of the needs of pregnant prisoners.

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Dr. Enid Gamer - Clinical Child Psychologist, Boston, Massachusetts

Attorney Shelley Geballe - Connecticut Civil Liberties Union (West vs. Manson), Hartford, Connecticut

Dr. Polly Jean - Infant Psychiatrist, Floating Hospital, Boston, Massachusetts

Ms. Lori Jefferson - Reproductive Health Analyst, Women's Health Unit, Maternal and Child Health Division, Department Public Health, Boston, Massachusetts

Mr. Dan Kelley - Associate Director of Health Services for the Federal Bureau of Prisons, Washington, D.C.

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TABLE OF CONTENTS

Current Information on Expectant Mothers

Introduction

It is critical that Massachusetts re-examines its criminal justice policies in regard to the incarcerated expectant mother. Across the country, in both state and federal prison systems, alternative community-based programs have been successfully developed for expectant mothers and their newborn infants. This Report will offer information concerning the expectant mother, mother/infant separation and bonding issues, current pre and post natal services available at our state prison for women, and recommendations for improvements both within a correctional and community setting. Finally, innovative programs for expectant mothers in other states will be summarized.

Background Information

In 1984 over fifty pregnant women were incarcerated at MCI Framingham, the only correctional facility for pre-trial and sentenced women in Massachusetts. An unknown number of expectant mothers go before the criminal courts each year. Also undocumented is whether or not a woman's pregnancy is a factor in judges' bail setting and sentencing decisions. Through the efforts of the Women's Health and Learning Center and Aid to Incarcerated Mothers some current information is available about women in prison and specifically, the expectant mother.

In thinking about incarcerated expectant mothers & alternative community-based placements, it is important to have some basic information about women in prison. Last year seven women gave birth while they were in prison or jail only to be separated from their newborn forty-eight hours after delivery. On any given day, there are between seven and eleven expectant mothers at MCI Framingham. Although the number of women sentenced to prison has increased in the last several years, the seriousness of the crime and length of sentence has not.

The typical expectant mother is serving four to six months on a House of Correction sentence of 2 1/2 years or less for a property or drug-related crime. A random sample of commitments to MCI Framingham in 1984 showed that 63% of women sentenced had no prior incarceration. MCI Framingham is presently operating at 189% rated capacity with over 250 women on the compound on any day. In 1984, 2,500 women were processed through the institution, 800 women were committed illustrating the fact that the average woman is serving a short sentence.

The majority of women in jail awaiting trial are accused of relatively minor crimes. In fact, most women held in jail for lack of bail money do not receive a prison sentence. Pre-trial detainees are locked 22 hours a day often three to four women to a cell with a daily population of 60.

Seventy-five percent of incarcerated mothers are single parents, and many live below the poverty line. Most women have little formal education and minimal job experience. 80% of women in prison have a substance abuse problem.

The transition from prison to society is often difficult for a mother with a young baby who has been living with a relative or foster parent. Often,

upon release from prison, a mother faces a myriad of frustrating and difficult responsibilities with limited support from family or human service agencies. We believe incarcerated mothers are at a higher risk in bonding with their newborn baby due to their separation, socio-economic background, and history of substance abuse.

Many women serve their prison sentence never having the opportunity of gradual transition through a pre-release center. Caring for a baby, finding an apartment, making employment or welfare decisions, adjusting to daily routines and responsibilities, getting supportive treatment for drug/alcohol abuse, can be a very stressful situation. Given the patchwork of pre-natal services a prison is able to provide, the separation from their children and then the re-integration process, it is not surprising that many women go back to a cycle of crime and recidivism.

Existing Pre-Natal Services at MCI Framingham

In the last five years, the Massachusetts correctional system has recognized that women prisoners are often mothers and that they face many family-related problems during their incarceration and upon their release. This past year MCI Framingham has become more aware of the special needs of pregnant women in their custody and has strived to improve services. Maternity clothing is now more readily available, high risk pregnant women are seen in High Risk Clinics, milk is in each cottage and the Parenting Coordinator meets with individual mothers to discuss programs and medical services. Weekly pre- and post- natal classes, along with labor coaches offered at birth are provided by the Women's Health and Learning Center. Even with the combined

efforts of private organizations who work with expectant mothers there are still serious limitations to the range of services that can be delivered within a prison setting.

Any prison system finds it difficult to address a wide range of pre and post natal medical and psycho-social services. Overcrowding, enclosed spaces, limited exercise, an institutional diet, the dynamics of institutional human relationships, the absence of family and friends, the exposure to infectious diseases, the noise level and the difficulty of preparing for birth away from home are all built in problems for an expectant mother in prison. For the above reasons, we believe a pregnant woman and her unborn baby are at risk in a prison environment. In addition, the poor health status of many women entering prison and the high incidence of substance abuse, necessitates comprehensive pre and post natal services be offered to insure a healthy delivery and maternal bonding.

Mother/Infant Bonding

Women in prison have limited options to make personal plans for their infant and often have a diminished sense of self-worth given their inability to care for their child. Even before birth, an expectant mother is forced into thinking about separating from her child. For those women who have a good chance to make parole in time to avoid delivery in prison there are constant adjustments in planning for a birth while in prison and yet hoping for a birth at home. In the case where parole is unlikely, an expectant mother must make contingency plans for relatives or foster parents to care for her newborn. The stress related to the painful reality of delivery while in prison and

possible separation soon after birth traumatizes many women. Pre-natal anxiety and intense stress related hormones have been demonstrated to be hazardous to the unborn child and the mother. As. Dr. Muriel Sugarman of Beth Israel Hospital and Harvard Medical School states, "It is rapidly becoming clear that the events of pregnancy, birth and the post-partum period--prenatal events--can influence the development of mother infant attachment to a significant degree. . . Alterations in the birth process can produce distortions, deficiencies or delays in attachment, which may be reversible in time, with patience, prolonged contact, and special attention. . . It behooves us to treat the ecosystem of mother and infant with care and respect its vulnerability and immense importance deserve."[1]

"The accumulated evidence certainly suggests that the business of becoming firmly attached to one's newborn is accelerated and enhanced by early and sustained contact, probably the more the better. It seems safe to say that mothers who have advantage by virtue of socioeconomics status, education, marital status, planned nature of pregnancy, previous mothering experience, and generally less stressful circumstances during the first months postpartum can overcome the effects of separation and achieve a high degree of bonding with their infants....no one can, with complete reliability, predict which mother-infant pairs may experience the stresses of difficult conflict over the mothering role, etc., which would interfere with the ongoing process of attachment. Therefore, any "head start" in bonding resulting from minimizing mother-newborn separation may be a cushion protecting the dyad against

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[1]Dr. Muriel Sugarman, "Paranatal Influences On Maternal-Infant Attachment," American Journal Orthopsychiatry, July 1977, Page 408

unanticipated circumstances."[2]

Studies have only begun to examine the negative effects of maternal-newborn separation and the positive effects of increased mother-newborn contact. The literature on mother/infant bonding and our direct work with these families, clearly shows that the separation of mothers and their newborns creates problems in bonding. It is essential that we offer mothers and their infants a chance to develop a healthy, loving relationship.

This Report suggests that there are significant limitations to the kinds of services and programs that can be offered to mothers and children within a prison setting. Even with labor coaches, pre-natal education, counseling, extended children's visits--all valuable services--women's prisons are unable to provide a high support residential program that will prevent the post-partum separation and rupture in bonding. For any mother, separation from her newborn 48 hours after birth for as long as 3 to 12 months would be a negative and traumatic situation. For the average mother in prison, the trauma is even greater. Many expectant mothers who have been involved in criminal activity need a community based residential setting to rebuild their own lives and care for their children.

The young pregnant woman who is paying for her crime through incarceration, may also suffer longer-term psychological and physical effects related to her limited relationship with her newborn infant. The child suffers an

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[2]Dr. Muriel Sugarman, "Recent studies of Maternal Infant Bonding: An Overview and Analysis," unpublished, September 1982, page 23.

unnecessary, unhealthy and potentially family-threatening situation because of his/her mother's incarceration. As a study published in 1980 inquired, "Why Punish the Children?" These children should not be denied maternal love and contact 48 hours after birth.

Recommendations for the Care and Placement of Incarcerated Expectant Mothers

These recommendations concern the care and placement of expectant mothers who are under the jurisdiction of the Courts, the state correctional system or the Parole Board. These recommendations fall into two basic categories: 1) improvements in the pre and post natal care (medical and psycho-social services) provided in the correctional setting; and 2) community-based options that could serve as Maternity Reassignments for expectant mothers and their infants.

Pregnancy Detection and Testing

The utilization of the BETA Subunit HCG Radio--immunoassay test for earlier detection for all detained and sentenced women is essential. This test is sensitive enough to detect a pregnancy eight days after ovulation. The HCG urine testing is currently used and is not appropriate because drug use will often mask the true results. In addition to narcotics and other central nervous system active drugs, protein or blood in the urine can affect the results of HCG urine testing. Early detection is important so that pre-natal care and educational services can begin as soon as possible.

Medical Services

Expectant mothers in their third trimester need to be seen daily by a nurse practitioner. The fetus should be monitored by a fetal monitor. Vital

signs including blood pressure should be taken daily. Toxemia is a high risk problem in this population of pregnant women and should be monitored.

Housing Issues

The housing of pregnant women in their ninth month at the Health Service Unit from 8 P.M. to 8 A.M. with ill women and medically uncleared women should not continue. Pregnant women and their unborn baby should not run the risk of being exposed to infectious diseases. Special attention should be given to AIDS and AIDS-related diseases that children have developed.

Pregnant women should not be held at the Awaiting Trial Unit in overcrowded conditions (sometimes four women to a cell) or in the HSU with women who are not medically cleared. Presently, pregnant women detained on a pre-trial status at MCI Framingham are locked 22 hours a day with limited ventilation and exercise or detained at the Hospital Service Unit.

Alternative placement for pregnant women currently being held in maximum security should be explored. This maximum security setting is stressful and harmful to the unborn child. One possible option is for a pregnant woman to be locked in her room in the cottage instead of in the maximum security unit.

Methadone Maintenance Program

Dr. Janet Mitchell, Director of Maternal Fetal Medicine at Boston City Hospital and renowned expert in the field of high risk pregnancy and pregnant

addicts, recommends that pregnant women in their second trimester who wish to detoxify from methadone be hospitalized. Dr. Mitchell recommends that high risk pregnant women be seen in a High Risk Pre-Natal Clinic bi-weekly and the psychosocial counseling of pregnant addicts be included in any treatment plan. Presently, expectant mothers who wish to be detoxed from methadone do so at MCI Framingham and not in a hospital setting. Pregnant women at MCI Framingham need written individualized pre-natal plans that specify medical care, psychosocial counseling, nutrition, housing, and work assignment.

Post-Partum Family Planning Clinic

Currently a woman can sign a pink slip to see a Doctor about birth control but there is no regularly scheduled time when comprehensive family planning services are available. Birth control pills are usually prescribed and the full range of family planning methods are not offered. For a woman who has delivered her baby while incarcerated, a post partum family planning clinic is necessary.

A weekly Family Planning Clinic should be offered with the purpose of providing reproductive health services, birth control and family planning counseling. A private organization that specializes in family planning such as Planned Parenthood could be contracted to provide these services.

The Clinic would provide medical information and counseling about all birth control methods and prescribe the method of the woman's choice on a confidential basis. This Clinic could serve post-partum women as well as all other woman at MCI Framingham who desire family planning services.

Nutrition

A specific pre-natal diet recommended by the Surgeon General must be provided for pregnant women. Food should always be provided for pregnant women traveling to courts or medical appointments to insure that women have three meals a day. Further improvements should include the availability of nutritional snacks and milk in the cottages and a range of special foods for pregnant women at the institutional store.

Work Assignments

Pregnant prisoners should not be given work assignments that could be hazardous to the health of the woman or the fetus. At present, pregnant women can only change their work assignment with a physician's approval. A daily institutional schedule should allow ample opportunity for rest and treatment programs for pregnant women.

Maternity Reassignment

As discussed earlier in this report, incarcerated expectant mothers and their newborns are separated forty-eight hours after birth. Separation has occurred as early as twenty-four hours after birth. In the short-term, a correctional policy needs to be implemented that specifies post-delivery mother/infant contact during the hospital stay.

The separation of mothers and infants soon after birth is a compelling reality that demands immediate attention. To avoid family separation, to

prevent the placement of many children in state foster homes and to maximize mother/infant bonding, we recommend that a Maternity Reassignment Program be established. Numerous states have successfully developed comunity-based alternative placements for mothers and their infants (See page 15, Community-Based Programs for Expectant Mothers--A National Survey).

Various options exist for Maternity Reassignments for expectant mothers who may need different levels of programming or supervision. Maternity Reassignments may vary depending on factors such as family support, history of substance abuse, criminal charge, and length of sentence. Release mechanisms could involve:

- o pre-trial third-party custody release;
- o alternative sentencing options;
- o correction reassignment; and
- o parole release.

These various release mechanisms could range from home confinement (with or without a day program) to placement at a community-based residential program. Some mothers may be likely candidates for home confinement, and other mothers may need a residential program. Given that the majority of women in prison have a history of substance abuse, we envision that many women on Maternity Reassignment will need high support in the context of a residential program.

A residential program would offer a wide range of pre and post natal services such as; pre-natal health, nutrition education, parenting programs, day care, women and children's health, well baby care, alcohol and drug treatment, peer support, family contact, children's services, community medical and psychosocial services, referrals to human

services, and after-care planning and advocacy. Pregnant women would serve their sentence through their participation in this program. If a woman's sentence ended before birth, she could voluntarily decide to stay in the program until after delivery. For a mother who is unsuccessful in her Maternity Reassignment to home confinement, she could be re-assigned to this program and not sent back to MCI Framingham.

One option is to develop a residential placement for both incarcerated and community expectant mothers who have a history of substance abuse. This model concept was introduced by Dr. Janet Mitchell to insure for drug-free healthy pregnancies of a high risk population of mothers and infants. Any residential program will need to have substance abuse treatment and counseling as an integral component.

Although Maternity Reassignment to a community residential program is costly, it is no more expensive than a prison bed. In addition, it is impossible to calculate the future societal costs of mother/infant separation. This community residence would help a woman establish herself in the community--something Corrections and Parole are unable to do. Because the flexibility of a community program is far greater than a prison, services and length of participation can be geared to the needs of the individual mother and child.

There is nothing in current Massachusetts law or regulations that prevents a Maternity Reassignment. Massachusetts General Law, Chapter 127, Section 142 reads:

"Permits to be at liberty or discharge of pregnant females." "Whenever,

in the opinion of the physician of any prison or other place of confinement in which is imprisoned a woman who is about to give birth to a child during the term of her imprisonment, the best interests of the woman or of her unborn child require that she be granted a permit to be at liberty or discharged, he may so certify to the board or officer empowered to grant permits to be at liberty or discharges from the institution in which she is imprisoned, and such board or officer may, subject to such terms and conditions as appear necessary, grant the permit to be at liberty or the discharge."

This law is still on the books and could be amended to create a strong presumption in favor of a Maternity Reassignment or Discharge/Liberty Permit for expectant mothers in prison and in the courts.

This Report has examined current Massachusetts policies concerning the incarcerated expectant mother and possible alternative placements for the expectant mother and newly delivered mothers and infant. We recommend that innovative community-based programming be implemented as Maternity Reassignments for expectant mothers. We believe these community-based options are in the best interests of infant and mother as well as serve society's interests.

When a woman's pregnancy is confirmed, whether she has pre-trial, sentenced, or parole status, we recommend that a Maternity Reassignment be considered. This section offers information about programs that exist in other states for both state and federal incarcerated expectant mothers. Through our research we found these program models to be extremely helpful in thinking about viable options for Massachusetts.

Brandon House, San Jose, CALIFORNIA

The Federal Bureau of Prisons and recently the State Department of Correction contracts with Brandon House, an emergency shelter for women and children with beds for expectant mothers. The Volunteers of America opened this program in May of 1978. Eligible federal prisoners are transferred in their seventh month of pregnancy and remain at Brandon House with their newborns up to four months.

Brandon House provides a residence in the community where inmate mothers

are allowed to live and take primary responsibility for the care of their infants. Women are responsible for maintaining their residence, attending all classes and maintaining a healthy drug free maternity program. Classes are conducted, often in conjunction with the local community college, in the following areas; health care, exercise, nutrition needs of both the mother and baby, parenting skills, child development, and family planning. An alternative birth center is available and the program's obstetrician and pediatrician work with the women to ensure the best possible infant/mother care. In addition, Brandon House recognizes that women have needs beyond those of mothering. To address these issues, vocational and educational counseling is available, and participation in appropriate community programs is encouraged.

In addition, Brandon House has a contract with the California Department of Corrections for a 15 bed pre-release facility for mothers and children under six years of age. Until recently, the Department of Correction was not referring state expectant mothers to this program. In May 1985 Legal Services for Prisoners with Children obtained a temporary restraining order from the Superior Court allowing California state prisoners who had just delivered an infant to be placed in the Brandon House program. These prisoners may also be eligible to participate in the pre-release program at Brandon House and thereby stay in the house after the four month period.

The Brandon House is a unique program in that it is made up of a shelter for battered women, a pre-release center for mothers and children, and a component for federal pregnant prisoners and state prisoners with delivered infants. These various programs are housed under one roof with some overlapping staff.

The Task Force for Inmate Mothers and Their Children Under the Age of Thirty Months, Niantic, CONNECTICUT

The court case West v. Manson, challenged the conditions of confinement at Niantic Prison, Connecticut's correctional facility for women. The case was settled with the establishment of a task force that would make recommendations on the treatment of pregnant inmates and their children. The purpose of this Task Force was to develop potential programs to house incarcerated mothers with their children under the age of 30 months to avoid the negative effects of separation. The Department of Corrections also considers pregnancy or recent birth as a factor in recommending home placement.

The Connecticut Task Force Report of June 1985 used the following principals to evaluate different program models being considered to meet the needs of incarcerated expectant mothers of their infants: support of mother-child relationship, developmental needs of children, least restrictive environment, provision of services, alternatives to incarceration, and numbers to be served/ cost of service

The following is a summary of the Task Force's June 1985 findings:

1. We recommend that, for purposes of participation in a mother-child residential program, the Department of Correction extend consideration for community release to inmates serving 4 years or less.

2. We recommend that the Department of Correction in conjunction with Department of Children and Youth Services establish one (or more) community based facilities in or near major urban areas in which

mothers who are interested, willing and able to care for their children and who meet the criteria for community release can reside with their infant children under the ages of thirty months.

3. We recommend that the Department of Correction contract for services/facilities with an agency trained in the provision of child care.

4. We recommend that the initiation of operation and community based Infant/Toddler programs be monitored by an Advisory Board of interested professionals to assure that standards of excellence are developed and maintained.

5. We recommend that the Department of Correction in conjunction with the Department of Children and Youth Services establish a system to professionally evaluate the needs of each interested and eligible inmates, the needs of each eligible child and the options available to best meet the needs of both.

6. We recommend that the Department of Correction include unsentenced inmates in the evaluation system with the inmate's consent a copy of the evaluation be forwarded to the appropriate court(s).

Community Control, Tallahassee, FLORIDA

The Department of Correction in Florida, first experimented with a prison nursery and now is instituting new options for pregnant inmates. It is

interesting to note that hospitals and medical care costs attendant to childbirth for an offender are paid by the Department for those mothers who remain incarcerated. The Department does not assume the financial responsibility of providing health services to pregnant inmates on furlough, in Community Control, or in probationary or parole status; these inmates obtain their own personal health services. The current options provide for alternatives to incarceration for women prisoners who are pregnant, obstetrical care and child placement. Options available to pregnant women are:

1. Community Control (House Arrest) at the time of sentence.

2. Sentence modification when a woman's pregnancy is confirmed during the period of retained jurisdiction of the Court. Classification staff reviews the woman's case and if deemed appropriate the Court will consider a sentence modification and possible placement in the Community Control Program (similar to an extended furlough prison).

3. Early release under parole for those women sentenced prior to October 1983 or who are back on parole revocation.

4. Furloughs for a second to third trimester woman with work release (pre-release) status for the baby's birth and extended furlough until the end of her sentence.

Maternity Reprieve Program, Hardwick, GEORGIA

Six years ago, the Georgia Women's Correctional Institution in Hardwick,

Georgia instituted a Maternity Reprieve Program where expectant mothers are released to home thirty days prior to their due date and are with their infants for at least thirty days post delivery. If a new mother is close to her parole eligibility date and is doing well, she is paroled while on reprieve. An average of forty-five women a year are released to their communities to await the birth of their babies.

Mothers and Infants Together, Fort Worth, TEXAS

Mothers and Infants Together (MINT) is a program housed in a pre-release facility with contracted beds and services specified for expectant mothers. Eight babies were born to women at this facility during the past year. Six of those mothers were able to nurse their infants. The MINT Program is a project of Volunteers of America. Financial support is received through the Federal Bureau of Prisons, Medicaid, Aid to Dependent Children (available at the time of the baby's birth) and the WIC Program. MINT offers programs in vocational/educational training, parenting skills, prenatal, reproductive health, drug and alcohol education, and recreation. Pediatric care for infants is available. All residents of the MINT Program must attend an educational series. Health education services such as; pre-natal and infant care classes are provided by community groups. For example, Planned Parenthood provides a seven part on-going health education series on birth, sexually transmitted diseases and family planning.

Residents participating in the MINT Program are federal prisoners from several different states. Once a baby is three months old, the mother is allowed a furlough to place her infant with relatives or in foster care. A majority of mothers must return to their different states for pre-release or half-way houses to complete their sentence.

Conclusion

Creation of a Task Force on Incarcerated Expectant Mothers

The Women's Health and Learning Center and Community Services For Women will convene a Task Force of medical doctors, child and family specialists, criminal justice professionals, state officials, and community activists to follow-up on the findings of this Report. This Task Force will further investigate state regulations and release mechanisms necessary to implement a Maternity Reassignment Program for pregnant and new mothers and their infants. This Task Force will also focus on program development of a community residence for mothers and their infants as an alternative to incarceration and family separation.

One of the Task Force's responsibilities will be to garner feedback and input from this Report. Progress reports will be sent to all interested parties.