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CALIFORNIA'S MOTHER-INFANT CARE PROGRAM: AN ALTERNATIVE MODEL FOR PRISON MOTHERS

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Between 1980 and 1989, the number of women incarcerated in American jails and prisons jumped from approximately 13,000 to over 40,000,¹ posing major economic and social challenges to the criminal justice system. Housing the rapidly growing population of women prisoners is only a small part of the problem. More troubling is how to deal with the impact of the women's incarceration on their families: over seventy-five percent of the women are mothers, many of whom lose their parental rights when they are jailed.² Studies have shown that this separation of mother and child has serious adverse effects on both the emotional development of the child and on the rehabilitation of the offender.³

Increasingly, both judges and prison administrators have attempted to alleviate the problem through the development of alternative sentencing options for women offenders. Typical of such measures is California Mother-Infant Care, a residential program which allows low security⁴ women prisoners to live with their young children⁵ during the women's sentences. During their stay at the program facility, mothers take parenting classes, do community

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1. Elizabeth L. Spaid, *Advocates Urge Better Conditions for Women Inmates*, CHRISTIAN SCI. MONITOR, May 29, 1991, at 9.

2. *Id.*

3. *Id.*

4. The majority of imprisoned women are serving sentences for nonviolent economic crimes which would qualify them for minimum security incarceration. *Id.*

5. Children up to the age of six years are allowed to live in the program facilities. Typically, older children are placed with relatives until their mothers are released. Elizabeth L. Spaid, *Women Offenders Right at "Home,"* CHRISTIAN SCI. MONITOR, July 9, 1991, at 12.

service work, and are permitted to take part in job-training and continuing education courses.⁶

Although the Mother-Infant Care program appears to be a major innovation, it has been in place in California for more than twelve years. In 1985, however, a group of women prisoners filed suit against the state Department of Corrections to force reforms of the program, which at the time consisted of one center serving only three women.⁷ The suit settled in 1990;⁸ the settlement required that low security mothers be properly informed of their right to apply for the program. Since then, the Mother-Infant Care program has grown to include seven centers serving 125 women and 125 children.⁹

Even in states which do not currently offer residential programs for incarcerated mothers, judges are demonstrating an increased willingness to impose alternative sentencing options for offenders with young children. In 1991, for example, a woman in Evanston, Illinois was ordered to spend her one year sentence for second-degree murder confined to her home. The judge in the case said that she¹⁰ chose the sentence because of the "benefit of the [defendant's preschool age] children having a mother."¹¹

Beyond the obvious advantages of maintaining a parent-child relationship, alternative sentencing participants receive substantial benefits which are unavailable to them in a normal prison environment. During their time in the California Mother-Infant Care program, for example, participants may receive job training in areas which will permit them to better the economic conditions that, in many cases, led to their incarceration originally.¹² These rehabilitative aspects of the programs lead to lower recidivism rates among participants. After four years in operation, a San Francisco alternative sentencing center for women reports that eighty-four percent of its former residents have had no further trouble with the law, a suc-

6. *Id.*

7. *Id.*

8. *Lawsuit Settled in Prison Mom's Case*, UPI, May 25, 1990.

9. Spaid, *supra* note 5.

10. It is, of course, notable that the judge in this landmark case was a woman. While it is reasonable to predict that female judges would be more sympathetic to the plight of women prisoners with children, there are currently no data available to suggest that female judges are more likely than male judges to impose home detention or other alternative sentences.

11. John Lucadamo, *Killer Gets Home Confinement*, CHI. TRIB., Jan. 8, 1991, at C4.

12. In prison, by contrast, job training is generally limited to traditionally female-dominated field such as sewing or typing. Spaid, *supra* note 1.

cess rate twenty percent higher than that of women who serve their sentences in prison.¹³

Finally, many programs offer their services at a cost significantly lower than the average cost of prison incarceration. Typical Mother-Infant Care centers can house women and their children for about forty to sixty dollars a day, while traditional imprisonment might cost the states as much as one hundred twenty dollars per day.¹⁴ Unfortunately, many jurisdictions continue to ignore the evidence of these advantages in favor of a long-standing bias for incarceration. The prevailing trend nationwide continues to be to build more and more prisons to handle the rising population of offenders.¹⁵ It is clear that, despite their growing numbers, women prisoners remain invisible to the administrators of the criminal justice system. It will, therefore, likely be a considerable time before the promise of programs such as California Mother-Infant Care is fulfilled.

13. Spaid, *supra* note 5.

14. *Id.*

15. *Id.*

