

CABWHP Issue Guide: September 2005

Reproductive Justice and Incarcerated Women

Black women are disproportionately represented in the prison systems. Black women are *three times* as likely as Latinas to be imprisoned and *six times* more likely than Caucasian women to be imprisoned.¹ Since the “war on drugs” women’s rates of imprisonment have risen 95%, with the number of women sentenced to state prison for drug-related crimes increasing ten fold. African Americans make up approximately 12.7% of the United States population and 15% of the people using illegal drugs, but account for 36.8% of those arrested for a drug related offenses. Most of the women in California prisons, roughly 80%, are mothers, who are often the only caretaker for their child(ren).² Racism, poverty, health and mental health disparities, as well as sexism, all impact the reproductive health issues among Black women in prison. Advocacy for women in prison can be unfortunately overlooked, and the issues that women face in prison are often similar to the reproductive justice issues facing all women of color. California Assembly Bill 478, introduced by Assemblymember Sally Lieber and co-authored by Karen Bass and other members of the Legislative Women’s Caucus, specifically addresses the reproductive health needs of women in prison.

AB 478, which became law on September 8, 2005, requires that women in prison receive prenatal care and childbirth education, as well as minimal care that includes a dental cleaning, vitamins, healthy nutrition while pregnant and childcare information and education. In addition, this legislation mandates that no pregnant inmate may be shackled or handcuffed (by the legs or wrists) at any time while in labor, giving birth, or recovering from delivery.³ AB 478 will impact the reproductive rights of thousands of women in prison and their children.

In California between 1998 and 2004, over 1,300 infants were born to incarcerated mothers, most of whom, under current policy, could legally be shackled or handcuffed to the hospital bed during periods of labor, delivery, and recovery (with the exception of “active labor”).⁴ Opponents of the Bill from the Department of Corrections and Rehabilitation defended the practice of shackling pregnant prisoners, saying, “Basically, we don’t want them to escape—that’s the bottom line. It’s part of our mission of public safety. When any inmate is away from an institution, they need to be appropriately supervised and restrained to prevent escape.”⁵ Critics of the practice point to the potential health impact on mother and baby, citing evidence that early labor is a crucial time where walking and changing positions helps the progress and comfort of delivery.⁶ Reproductive Justice advocates have spoken out about the oppressive treatment of women in prison for decades, especially noting the disproportionate number

¹ Bureau of Justice Statistics, Prisoners in 2000, Department of Justice, www.ojp.usdoj.gov

² Legal Services for Prisoners with Children (Fact Sheets: Statistical Abstract of the U.S., Sourcebook of Criminal Justice Statistics, National Household Survey of Drug Abuse, and Bureau of Justice Statistics Bulletin) www.prisonerswithchildren.org

³ Bill AB 478 <http://info.sen.ca.gov>

⁴ Bureau of Justice Statistics, Incarcerated Parents and Their Children, Women Offenders, Department of Justice, www.ojp.usdoj.gov; UNION (United for No Injustice, Oppression, or Neglect) www.1union1.com

⁵ San Jose Mercury News, 7/29/05

⁶ San Jose Mercury News, 7/29/05

of women of color who are incarcerated. This legislation begins to address the reproductive health concerns of these often ignored women.

Sexual Assault in Prison

Reproductive Justice in communities of color also includes the right to be free from sexual abuse, assault, and exploitation. These violent acts impact women's rights to control their own bodies, and thus their reproductive health. Sexual assault in prison, as in the community, has long-lasting physical and psychological consequences for the survivor. Rates of sexual assault on women in prison have been reported to be as high as 27% in some facilities. Young women, women with disabilities, and first-time offenders, are especially at risk for this type of abuse by prison staff.⁷ These inmates are exposed to disease, sometimes impregnated by guards, and then subjected to inappropriate segregation and inadequate access to healthcare. The horror of prison rape is intensified by the fact that women in prison have often experienced prior sexual abuse or assault at a higher rate than the general population of women.⁸ Guarding of female inmates by male guards is opposed by human rights activists, as it is known to increase sexual abuse, but California's non-discrimination laws prohibit hiring of only female guards in women's detention centers.⁹

The Prison Rape Elimination Act of 2003 set up a National Prison Rape Elimination Commission, which on August 19, 2005 heard testimony from formerly incarcerated individuals who are survivors of sexual assault, gang rape, and sexual torture within the penal system. For women in prison, these attacks can come from other inmates or from the corrections officers that have total control over their lives while incarcerated.¹⁰ The first data coming out of the studies done on national correctional facilities showed that 2,100 incidents were substantiated by prisons, jails, and detention centers in 2004. Of these, 42 percent were alleged to be perpetrated by correctional employees against prisoners and another 11 percent constituted sexual harassment of prisoners by correctional staff. Most of the over 8,200 complaints made last year were deemed closed due to "lack of evidence" by corrections investigators.¹¹

Reporting sexual assault is rare for women in the community for a variety of reasons including: embarrassment, fear of not being believed, and lack of trust in authorities. Less than 1 in 10 victims ever report to the authorities.¹² Prisoners are even less likely to report due to fear of retaliation by prison staff. Also, these women have little access to rape crisis services and do not know their rights. In many prisons across the state, women reporting a sexual assault are not entitled to the same services provided to women in the community. A woman (or man) reporting a recent sexual assault in the community will be taken to a specialized hospital site where s/he will be met by a Sexual Assault Response Team (SART). SART consists of a Forensic Nurse or physician trained to collect medical evidence, a law enforcement agency (detective, officer), a Sexual

⁷ Stop Prisoner Rape www.spr.org

⁸ "HIV and Incarcerated Women" by Kelly Safreed Harmon from the Test Positive Aware Network on www.thebody.com

⁹ Stop Prisoner Rape www.spr.org

¹⁰ Stop Prisoner Rape www.spr.org

¹¹ Prison Rape Elimination Act of 2003, Bureau of Justice Statistics Status Report

¹² California Coalition Against Sexual Assault (CalCASA) www.calcasa.org

Assault Crisis Intervention Counselor/Advocate, and sometimes a District Attorney.¹³ The specialized team will take the report, collect evidence, interview the survivor, and provide expert counseling and referrals to the survivor. In most prison settings, outside services from a Forensic Nurse, a rape crisis center, or district attorney's office are not accessible. Moreover, evidence is often lost when women are examined by a prison healthcare provider or forced to shower by guards.¹⁴ Women raped in prison rarely receive the specialized counseling or advocacy necessary to help them deal with the trauma of sexual assault and do not have access to the community to seek such help on their own in a confidential manner. Groups such as *Stop Prisoner Rape* offer resources and assistance to incarcerated women, men, juveniles, and their families and are vocal agents for policy change in how we protect incarcerated individuals from these vicious attacks.

Women in prison face significant barriers to reproductive justice. The community outside the prison walls can fail to think of the mental and physical health of incarcerated women. As a result, we stand by while injustices take place. Through advocacy inside and the work of allies for justice outside, we can help to ensure all women will have reproductive rights.

¹³ "Rape Trauma Syndrome" packet, Sexual Assault Crisis Agency, Long Beach

¹⁴ Stop Prisoner Rape www.spr.org