

Breastfeeding Support for Female Offenders & Their Children

New Mexico State Legislature
 Courts, Corrections, and Justice Committee
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Objectives

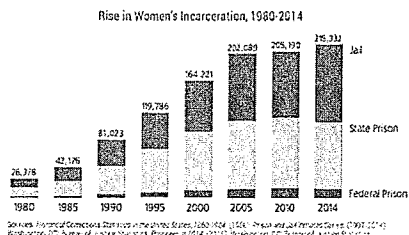
- Share background and recommendations towards improving support for:
 - safe and therapeutic bonding of lactating female offenders with their children
 - breastfeeding and expressing breast milk within the NM criminal justice system

Agenda

- Introduce Recommendations
- Statement of the Problem & Background
- Dive Deeper Into Recommendations
- NM History & Status Update
- Next Steps
- Questions and Discussion

Statement of Problem & Background

Incarcerated Women



Incarcerated Women

- Between 1980 and 2014, the number of incarcerated women in the US increased by more than 700%, rising from a total of 26,378 in 1980 to 215,332 in 2014 (The Sentencing Project, 2015).
- The rate of growth for female imprisonment has outpaced men by more than 50% (The Sentencing Project, 2015).
- **New Mexico incarcerated more women per capita than the national average** (The Sentencing Project, 2015).

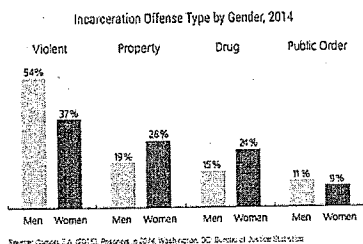
Incarcerated Women

- In New Mexico, females comprised 10.7% of the total inmate population in 2015 (NM Sentencing Commission, 2015).
- NM Prison System
 - The NM female prison population in 2015 was 693 (The Sentencing Project, 2015); 782 (NM Sentencing Commission).

Incarcerated Women

- NM Detention Centers
 - From 2010 to 2014, the percentage of female inmates incarcerated in county jails in New Mexico has increased from 12.9% to 15.7% of the total jail census (NM Sentencing Commission).
 - The NM total jail population in 2013 was 8,900 (The Sentencing Project, 2015).

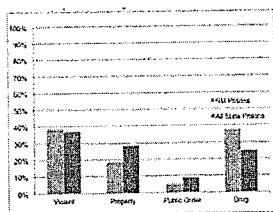
Types of Crimes by Women



Types of Crimes by Women

- Women are more likely than men to be in prison for fraud and robbery, while men are more apt to have committed violent crimes (Kaufman, 2015).
- Almost one-third of all female prisoners are behind bars on property charges vs 18 percent of male prisoners, according to 2012 Bureau of Justice Statistics.
- In 1986, 12% of women in state prisons were incarcerated for a drug offense; by 2014, 24% were incarcerated for a drug offense (The Sentencing Project, 2015; Carson, 2015).

Comparison of NM Female Population by Crime Committed



NM Sentencing Commission, 2015

	FY2004	FY2005	FY2006	FY2007	FY2008	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014
New Admissions											
Violent Crimes	11	12	9	8	11	10	21				
Other violent (e.g., kidnapping, robbery, child abuse)	41	31	49	43	33	25	54				
Sex Offense	3	3	0	2	1	2	3				
Assault & Battery	13	15	18	11	18	14	15				
Property Crimes											
Burglary	12	12	20	15	16	19	24				
Other Property (e.g., larceny, motor vehicle theft)	61	69	73	25	59	91	78				
Drug Crimes											
Drug Trafficking	25	38	48	41	42	41	52				
Drug Possession	41	43	37	37	33	42	71				
Public Order Crimes											
Disorderly Conduct	12	11	9	8	23	9	18				
Other Public Order (e.g., possession of explosive, non-possession of explosive, violation of alcohol, tobacco, lottery or athletic regulation)	11	15	9	14	13	29	21				
Total	143	150	149	127	133	97	125				
Other Admissions Type (e.g., probation, suspended sentence)	21	49	73	83	79	74	81				
2014	44	118	448	441	461	412	342				

NM Sentencing Commission, 2015

Pregnancy & Breastfeeding in Female Inmates

- On average, 6–10% of incarcerated women (~10,000) are pregnant, with the highest rates in local jails (ACOG, 2011).

Testimony

Graciela was sentenced to more than 30 days in a county jail for failing to complete community service. She had exclusively breastfed her three-month-old daughter up until that time, and upon their abrupt separation, both mother and baby were in serious distress. Graciela was both in extreme pain and also at risk for mastitis and losing her milk supply; her infant faced a dwindling supply of frozen breast milk, and was diagnosed with bronchitis, which her pediatrician attributed to the sudden cessation of breastfeeding.

Both Graciela and her husband had made numerous requests for lactation accommodation at the jail, to no avail. They were told that it was too hard for the Sheriff's Department to accommodate her lactation needs, either by pumping or allowing her to breastfeed her infant. After five days in jail, with the help of the ACLU, the County agreed to address the situation by sending her home to finish the remainder of her sentence on house arrest.

Another woman, Beth, gave birth while incarcerated. Upon return from the hospital to the jail and separation from her infant, she needed to pump her milk to alleviate pain. "My breasts were becoming painful and swollen because they were filled with milk. [The next day], a nurse came and she brought me a breast pump kit with an un-assembled pump and written instructions. I had never used a breast pump before. The written instructions were hard for me to understand. That same day, I kept calling for the nurse. Some hours later, she came back and gave me a fully assembled pump, which she explained how to use."

Walters, A. (2016)

Focus Groups & Interviews



- "We want to be with our babies"
- "I would have liked to breastfeed but I couldn't"
- "My sister is going to fight me for custody after I am done with my parole."
- "Getting clean is easier when you have someone to fight for"
- "I breastfed my baby and he never got sick"

Benefits of Breastfeeding



Breastfeeding & Substance Use

- We know rates of substance use disorder are high among women who are incarcerated.
- The AAP, ACOG, and AAFP all support breastfeeding by women "who are enrolled in a supervised methadone maintenance program and have negative screening for HIV infection and illicit drugs."
- Moreover, breastfeeding has been shown to reduce the symptoms of neonates experiencing neonatal abstinence syndrome as a result of in utero opioid exposure.

Pregnancy Related Inmate Care

- Prenatal Diet
- Medications
- Medical Visits (Including Transportation)
- Complications
- Labor & Delivery
- Recovery

Lactation Related Inmate Care

- Postnatal Diet
- Medication
- Pumps and/or Attachments
- Breast Pads/Ointment
- Freezers
- Locks
- Cooler Bags
- Office Supplies
- Security Accommodations

Recommendations

Recommendations

- Most correctional facilities across the nation are required to provide necessary reproductive health care, as well as information and education on certain reproductive health topics, protection from sexual assault, and specific pregnancy-related accommodations.
- Since 2013, the courts have recognized lactation as a pregnancy related condition that is protected under the pregnancy discrimination act (PDA)

Recommendations

1. Alternative sentencing and early release options that allow non-violent lactating offenders to be housed with or near their child.
2. Lactation policies in both prisons and detention centers that:
 - permit caregivers to bring infants to the correctional facility for breastfeeding visitation sessions (daily is preferred).
 - ensure mothers are able to express milk
 - in order to maintain milk supply while the mother/child dyad is separated
 - that can be later be fed to the off-site child

Community Custody/GPS Tracking

Shifts healthcare costs to Medicaid or other outside source.

- Allows for
 - bonding and breastfeeding
- For inmates with substance use disorders, this may not provide enough supervision resulting in relapse and less optimal outcomes.

Alternative Sentencing to a Supportive Care Facility

Shifts healthcare costs to Medicaid or other outside source.

- Allows for
 - bonding and breastfeeding
 - substance use disorder monitoring
 - parenting skills classes

Prison Nurseries

- Costs to corrections are high, however this option allows for
 - bonding and breastfeeding
 - substance use disorder monitoring
 - parenting skills classes

Breastfeeding/Lactation Support in Correctional Facilities

- Costs to corrections are minimal, however this option allows for
 - an legal pregnancy related accommodation
 - maintenance of milk supply
 - increased bonding
 - intermittent breastfeeding
 - some substance use disorder monitoring

**Breastfeeding Behind Bars:
History & Update**

Local Policy

- ~2005-2015 NM Youth Diagnostic & Development Center collaborated with PB&J Family Services to provide breastfeeding & lactation support to juvenile inmates.
- NM Legislation
 - 2015 - SB 363 EXPECTANT & POSTPARTUM PRISONERS ACT (Torraco) *passed unanimously in the Senate, died in the House*
 - 2017
 - SB 277 PREGNANT/LACTATING ALTERNATIVE SENTENCING (Ortiz y Pino) *pocket vetoed*
 - HB 277/SB 293 LACTATION POLICIES FOR FEMALE INMATES (Maestas Barnes/Padilla) *pocket vetoed*

Local Policy

- ~2016 Santa Fe County Correctional Facility adopted and began implementing a pregnancy management policy which included lactation support and continued opioid replacement therapy for post partum inmates.
- 2017 - 2017, NM now has 7 “Baby-Friendly” designated hospitals (or 1 out of every 3 babies is born in a Baby-Friendly designated hospital). Inmates that deliver at Baby-Friendly hospitals choose to breastfeed at higher rates (WKKF, 2017).

Local Policy

- May 2017, UNMH follows current recommendations that babies of mothers in opioid replacement therapy be kept together and encouraged to breastfeed until the child is stable and ready for discharge (Well-Strand 2013; Abrahams, 2010; Abdel-Latif, et al, 2006).
- 2013 - 2017 Bernalillo County Metropolitan Detention Center is expected to pilot a comprehensive Breastfeeding Behind Bars Program.

State Policies

- 2014 - CA voters pass proposition 47 which reclassifies certain low-level property and drug crimes from felonies to misdemeanors, and are reinvesting some of the fiscal savings into prevention programs.
- 2009 - NY policymakers reformed the Rockefeller drug laws, which had previously imposed harsh mandatory minimum sentences for low level drug offenses.

State Prisons That Provide Lactation Support

- 2012 - Ohio Prison System
- 2012 - California Dept of Corrections
- 2013 - Oregon Dept of Corrections
- 2015 - Nevada Dept of Corrections
- 2015 - Hawaii Dept of Corrections
- 2017 - Washington DC Dept of Corrections
- 2017 - New Mexico Corrections Dept

County & Municipal Detention Centers That Provide Lactation Support

- Prior to 2010 - New Mexico Youth Diagnostic Development Center, NM
- 2011 - Washington County Jail, NY
- 2013 - Sutter County Jail, CA
- 2013 - Taos County Jail, NM
- 2015 - Santa Fe County Jail, NM
- 2015 - Travis County Jail, TX
- 2016 - Cook County Jail, NV
- 2016 - Ingham County Jail, MI

Correctional Facilities w/ Onsite Nurseries

- Hartford House, CT
- Tallahassee MINT Program, FL
- Decatur Correctional Facility, IL
- Indiana Womens Prison, IN
- Nebraska Correctional Center for Women, NE
- Bedford Hills, NY
- Washington County Jail, NY
- Rose M Singer Center, Rikers Island, NY
- Ohio Reformatory for Women, OH
- South Dakota Womens Prison, SD
- Washington Corrections Center for Women, WA
- Lakin Correctional Center, WV
- Volunteers of America, TX
- Greenbrier Birthing Center, WV

Alternative Sentencing to Community Custody Programs

- Lovelady Center, AL
- Project Pride, CA (Oakland)
- Turning Point, CA (Bakersfield)
- Fresno, CA
- Pomona, CA
- Santa Fe Springs, CA
- San Diego, CA
- NEON Women's and Children's Halfway House, CT
- MOMs Program, IL
- Spectrum Women & Children Program, MA
- Our Children's Place, NC
- Summit House, NC (3 locations)
- Lund Family Center, VT

Federal Policy Initiatives

- National Commission on Correctional Health - Lactation Support is expected to be added to the J-G-09 Counseling and Care of the Pregnant Inmate Standard by 2018

Hidalgo v NM Dep't of Corrections

- In August 2017, Judge Thomson of the 1st Judicial District Court Ruled:
- NMCD is prohibited and enjoined from implementing a broad ban on live breastfeeding or mechanical production of breastmilk.
 - NMCD is prohibited and enjoined from interfering in any manner with breastfeeding during regular contact visits with inmate's infants (using a cover).
 - NMCD is prohibited and enjoined from interfering with plaintiff's use of an electric breastpump to express milk when an inmate is away from her baby.
 - If inmate violates a policy resulting in the loss of her visitation rights, live breastfeeding may be banned but milk expression continued.
 - If the violation involves ingestion of a banned substance, per the NMCD lactation policy, the inmate may be removed from all lactation support.

Collaborating Partners

- University of New Mexico Milagro/FOCUS Programs
- Southwest Women's Law Center
- Wings for Life International
- UNM School of Law Clinical Law Programs
- Gordon Bernell Charter School
- New Mexico ACOG Chapter
- New Mexico Pediatric Society
- New Mexico Voices for Children
- New Mexico Academy of Family Physicians
- New Mexico Public Health Association
- PB&J Family Services

Next Steps

More Data: Continuing the Conversation

- # of pregnant inmates in all facilities
- # of inmates receiving prenatal meal plans
- # of pregnant inmates who are on opioid replacement

Recommendations

- Allow for mother and child to be housed together while mother is in custody:
 - Add consideration for alternative sentencing to:
 - community custody (when criminal and substance use history allows)
 - a properly staffed supportive care facility for those with documented substance use
 - Establish prison nurseries
- Add pregnancy and lactation status as factors that shall be considered during determination of conditions for release and bond

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Questions & Discussion

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Thank You!