

# Babies Behind Bars

Should women who give birth while incarcerated **have the right to keep their children with them in prison?**

BY DIANE SELKIRK

**A** Twenty-four-year-old Jennifer Smith expertly settles her daughter, Sierra, on a blanket, then shows off a few pictures of the little girl. Smith seems like your typical proud new mother—until she begins to tell her story.

Smith gave birth during her ten-month incarceration at British Columbia's Alouette Correctional Centre for Women (ACCW). When she delivered Sierra in June 2007, she didn't know if she'd be permit-

ted to keep her baby; fortunately, she met the eligibility criteria for the centre's mother-baby program, an informal project. Her eyes fill with tears when she tries to imagine what would have happened if her daughter had been seized by provincial authorities: "Having to fight to take her back when I got out? It's hard to see that as an option I could have managed."

After Smith's release in August 2007, she began creating a new life



for herself and Sierra. But when the mother-baby program was discontinued in April 2008, Smith decided that other imprisoned mothers should be able to benefit the way she had. In the months that followed, she shared her story with the public at speakers' panels and with the media. She overcame her embarrassment at having been in trouble with the law and found herself acting as an advocate for incarcerated mothers and their children.

## A Child Changes Everything

Smith says she had a typical childhood—up until the age of 19, when her father died. Soon after she fell into heavy drug use; she was first arrested in 2005 and ended up in prison. But after her release, drug-addicted and on the run from an outstanding warrant, she was sent away a second time, in late 2006. That's when she found out she was pregnant—and began to question her lifestyle. At least in prison she'd be clean and sober, she thought, yet she wondered if she could handle motherhood. Soon she realized she might not have the option.

But Smith was lucky. When she arrived at the ACCW, she met two women who were incarcerated with their babies and learned that, unlike most provincial prisons, the ACCW had a mother-baby program. During her last trimester, Smith was trans-

ferred to Fir Square Combined Care Unit at BC Women's Hospital & Health Centre in Vancouver, where she spent the rest of her pregnancy. The unit's medical director, Dr. Ron Abrahams, has been working since 1983 to, among other things, help imprisoned pregnant women access the resources needed to maintain child custody once their babies are born.

Abrahams knows some people are opposed to mothers keeping their babies with them in prison. But he points to emerging research that shows infants who are cared for by their mothers during their vulnerable first few months may be better able to cope with stress as they grow up. And a 2003 joint study by the Centre for Children and Families in the Justice System and the Council of Elizabeth Fry Societies of Ontario ("Waiting for Mommy") revealed that babies who are separated from their incarcerated mothers not only lose their primary caregivers and stop breastfeeding but often end up in foster care. Once these kids are teenagers, the news is even worse: A disproportionate number become school dropouts, live in poverty and end up in prison themselves.

Abrahams says that in his experience, mothers separated from their babies are more likely to turn to drugs, street life and even suicide. "It's healthier for mothers and babies to stay together," he says. "Medically and socially, it leads to the best outcomes."

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Smith would agree. After giving birth and going through an extensive parenting assessment, she was given permission to keep Sierra with her while she served the remaining 1½ months of her prison term. She returned to the ACCW to an impromptu baby shower, then settled back into her cramped cell—with its thin mattress, single window and limited floor space—to begin to learn how to be a mother.

"It was so hard," Smith recalls. Sierra often cried. "One night she was crying and I was crying, and Betty Krawczyk, another inmate, came to help. She held Sierra in the rocking chair for two minutes; then the guards came and told us it wasn't allowed."

Despite the restrictions, the experience was positive and the ACCW provided everything Smith needed. "We had cribs and strollers and playpens," she says. "And the other girls gave me advice and support." The predictable

schedule and regular meals also helped with her adjustment to life with a baby. Plus, there were programs to help the young mother prepare for a productive life without drugs.

Having Sierra with her kept Smith motivated to do well. "It wasn't just about me, anymore," she says.

**Kelly Murphy, 47, was another inmate who helped Smith.** A lifelong struggle with addiction had kept Murphy yo-yoing in and out of jail, with the result that she never had custody of her daughter, now 18. But being incarcerated while the ACCW babies were there "brought out a strong mothering instinct," she says. Realizing what she had lost with her own daughter, she reached out to help. "One baby changes so many lives," says Murphy of her experience with the prison babies. "One program can give so much hope."

This is why the cancellation of the ACCW's mother-baby program has

## Facts: Mother-Baby Programs

► It's estimated that at least 25,000 Canadian children a year are separated from their incarcerated mothers; this number is expected to continue to increase. Researchers involved in a 2004 study titled "The Children of Women in Prison" called these children "among the most vulnerable in our communities."

► The current federal Mother-Child Program was implemented in 2001. ► Many other countries allow imprisoned mothers to keep their young children with them, including Japan, Australia, Finland, Mexico, Russia and France. (Source: Quaker United Nations Office) ► Professor Joseph Carlson

of the University of Nebraska at Kearney completed a ten-year study of a prison-nursery program in the States and found the recidivism rate for women who kept their children with them while incarcerated was 17 percent, compared with 50 percent for mothers who couldn't keep their babies with them.



The now-defunct mother-baby program at a B.C. prison allowed Jennifer Smith to keep Sierra (pictured, above, at 18 months) with her while she served her time.

mobilized Smith and others who believe in its value. This past November, an action was filed in B.C. Supreme Court by five women who want the program to be reinstated. They argue that women who give birth while serving time should have the right to keep their babies with them, and that these babies have the right “to the personal care of their mothers, including the social and health benefits associated with breastfeeding and maternal bonding.” The action states that the above are aspects of the right to life, liberty and security of the person, as set out in the Canadian Charter of Rights and Freedoms.

### Programs Under Scrutiny

Mother-child prison programs are evaluated on a case-by-case basis. The Correctional Service of Canada (CSC)

has a federal mother-child program that allows a child to live with his imprisoned mother during his first four years of life (or six years for “part-time residency” such as on weekends and holidays), provided the women apply for—and are granted—this dispensation. However, according to the CSC, the program’s availability “is contingent on space availability.”

After reviewing the program last year, Stockwell Day—then minister of public safety—made several changes to it. These included adding a requirement that social service agencies support mothers who wish to participate. But despite stricter rules overall (see box, next page), a June 2008 press release from the minister’s office revealed that the government recognized the benefits of the program, stating it allows some incarcerated women to “foster positive relationships” with their children.

JAN SMITH/ANCOUVER SUN

Still, few women are in the federal mother-child program, says Kim Pate, executive director of the Canadian Association of Elizabeth Fry Societies. Even though two thirds of imprisoned women have children under the age of five and often are single parents, Pate says, some are given the impression that the program isn’t available. “Even when women know the program exists, they don’t receive the information they need to access it,” she says.

While other countries have adapted to the increasing number of incarcerated women by expanding their parenting programs, Pate says Canada is lagging. Indeed, the decision to cancel the ACCW program seems to run counter to this international trend. According to a spokesperson for the office of the B.C. Ministry of Public Safety and Solicitor General who was quoted in the media prior to the court case, the decision was due to an increase in the prison population. (The office would not comment while the matter is before the court.)

ACCW doctor Ruth Martin felt the prison took a big step backward with this decision. “The program was a phenomenal success,” she said shortly after it was cancelled. At that time, BC Women’s Hospital staff wrote letters in support of the program.

While the letters seem to have had limited impact, Smith and Murphy have been receiving national media attention. Both also work with Women Into Healing, a group dedicated to helping female inmates reintegrate into the community. And law student

Katie Brownell, who volunteers for this group, has taken on the issue. “People think these programs mean letting unfit mothers raise babies in an unfit place,” she says, adding that the benefit to babies is not considered. Plus, she says, “These programs decrease the rate of recidivism—which is the whole point of prison.”

For women like Smith and Murphy, the need for these programs is more basic. As Murphy says, “Mothers and children need each other.”

### Changes to Federal Programs

After a review of the Correctional Service of Canada’s Mother-Child Program, Stockwell Day, then Canada’s minister of public safety, announced in June 2008 the following changes to the federal program:

> Offenders who have been convicted of major crimes involving violence, children or sexual assault are excluded from the program.

> The part-time program (residency on weekends and holidays, for example) is restricted to women with children ages six and younger.

> The support of local social service agencies is required before an offender can be approved for participation in the program.

> If an offender refuses to allow her child to be searched for drugs or other contraband before entering an institution, her participation in the program will be re-evaluated.