Jailcare

FINDING THE SAFETY NET FOR WOMEN BEHIND BARS

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Acknowledgments

When I first heard the steel door at the entry to the San Francisco jail click open nine years ago, I could never have imagined that it would lead to such a profound professional and personal transformation. I certainly could not have predicted that I, recently finished with my Ob / Gyn training, would return to school and someday write a book about this jail. But the people I met in jail compelled me to do so. It took only a few clinic sessions of my providing care to women in the San Francisco jail to realize there was something unsettlingly larger going on in that clinic than just an Ob / Gyn seeing patients. To the many incarcerated women who let me into their lives beyond the terms of a doctor-patient relationship, I offer my deepest thanks. With their tenacity, their resilience, their sense of humor, and their self-reflection, these women have left a mark on my spirit. The woman I call Evelyn remains in my thoughts daily. These women continue to inspire me to work for reproductive justice and criminal justice system reform.

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Contents

Introduction

RESCUE

"Everyone says I got arrested, but I got rescued." Evelyn was 34 weeks pregnant, although you could not tell that a baby was gestating beneath the baggy, extra-large, standard-issue orange sweatshirt she wore. She had just arrived at the San Francisco County Jail five days earlier, for the third time this pregnancy. On an outstanding warrants charge, Evelyn had turned herself into the cops who were patrolling the corner where she regularly sold, bought, and used crack cocaine. "I was so sick," she explained to me in jail, "I didn't want to get high no more. I just wanted to be in jail where I knew that I could eat, I could sleep, and that even if it's not the best of medical care, I was going to get some type of care."

This was Evelyn's self-proclaimed rock bottom. She had been addicted to drugs and in and out of jail more than twenty times since she was 18. She was now 29. Before this current incarceration, she had spent six weeks on San Francisco's streets, "rippin' and runnin'"—staying up for days at a time, smoking crack cocaine, getting into fistfights, selling any drug she could to make some money. The violence of this drug- and poverty-induced insomnia was familiar to her. But what was new, what made her

feel more desperate than ever, was that she had no place to lay her head, not even a dingy room in a daily rent hotel. When she tried sleeping on the hard tile floor in the subway station, she felt rats running over her feet. Before now, she had never had to eat out of garbage cans, had never been eager when people left half-eaten food on top.

Before she came back to jail, I had run into Evelyn one day when I exited the subway station that was the closest thing she had to home; she was about 32 weeks pregnant at the time. She sat alone on a concrete ledge on the perimeter of the subway plaza, a cool area shaded from the midday sun. She wore a purple and black–striped shirt, a black hoodie, jeans, and a jacket draped over her legs. If I had not known her, I would not have been able to tell that she was pregnant under all those layers. Evelyn knew me as her doctor from a stint in jail earlier in her pregnancy; I was the only obstetrician she had seen for prenatal care. "Is it OK if I sit down?" I asked. "Yeah," she said. As we spoke, she kept her head concealed in her hoodie, and her scratched face turned to the ground. She tried, not so subtly, to hide a crack pipe behind her ear. "How are you?" seemed too trite to ask, so instead I offered, "It's good to see you." And it was. I remembered Evelyn from her clinic visits in jail, and had been worried that after her jail release she had not shown up to prenatal appointments at the county hospital, where I also worked. It was a relief to see her in person. We sat quietly amid the strange recognition of interacting with each other outside of jail for the first time. After a few minutes, Evelyn broke our silence with, "I need some more prenatal vitamins. I ran out. Do you know how I can get some?"

Evelyn's question illustrates a poignant contradiction about women who are poor, pregnant, and dependent on the state for their survival. On the one hand, she was using drugs she knew to be harmful to her growing baby. Evelyn struggled with addiction and was overwhelmed with cravings. As she described, "I wasn't making my prenatal appointments because I didn't care about anything but getting high." On the other hand, the night she got into a fight that left her with scratches on her face and bruises on her belly, she got herself to the county hospital a mile away, because she was worried something had happened to the baby. She cared about the baby.

Two weeks after our subway plaza meeting, I saw Evelyn in jail. This was not the first pregnancy during which she had spent time in jail; in fact, she had been incarcerated at this jail during her other two pregnancies, and had given birth to her second son while in custody. She was not raising either of them. And here she was again, a belly full of baby in a place that had come to be familiar to her: jail. Jail: a place of punishment and deprivation; a place where guards watch constantly and order their charges into submission. The story behind a pregnant woman like Evelyn desiring to enter a punitive institution like jail is more complicated than her assessment—that at least in jail she would get access to prenatal care—might make it seem. In truth, this complex reality of finding care behind bars is about the interconnected forces of racial inequality, poverty, societal dependence on incarceration, imperatives of medical care, and the state's obligation to care. The version of care that pregnant Evelyn sought in jail is part of the everyday reality of mass incarceration.

MATERNAL BLISS

"Doctor, I just want to know, is it OK if I dance to Beyoncé?" Kima sat in front of me in the clinic exam room, 34 weeks pregnant, tilting her head and looking intently at me as she waited for my professional opinion. I had not been prepared for pop music to be part of my prescription strategy at a prenatal checkup, but Kima wanted to know. Tomorrow was the talent show in the D-pod housing unit at the San Francisco County Jail, and Kima was used to being the life of the party. Now that she had gotten sober in jail, she did not want to do anything to harm the baby growing inside her. I smiled, told her it was safe, and watched the next day as she took the makeshift stage in the common area of her jail dorm. She shimmied her shoulders vigorously to Beyoncé's "Get Me Bodied," issuing from an old boom box. Her orange T-shirt was loose, but still showed her protruding belly, which she rubbed with pride during the performance.

Four weeks later, still in jail, Kima began having painful contractions—familiar to her, since, like Evelyn, she had given birth two times before; also like Evelyn, the births occurred during incarceration. Due to her

struggles with addiction and a variety of other factors, Kima too had not been given custody of her children. That night, a jail nurse decided Kima needed to go to the hospital. Deputies escorted her to a car and drove her to the nearby county hospital. Kima arrived at the labor and delivery unit with the conspicuous fanfare of a jail inmate—bright orange clothes and a uniformed officer at her side. After a nurse checked her in, Kima exchanged her orange garb for a drab blue-and-white-checkered hospital gown. The sartorial shift transformed her from prisoner to patient, albeit with a guard sitting outside her room to ensure she would not escape between contractions.

Aside from the orange clothes discreetly balled up in a corner, the birthing room was like any other: filled with excitement and anticipation, and even a few family members, who came between 2 and 3 p.m., the jail's designated visiting hours for hospitalized inmates. To a cheering crowd of doctors (including myself), nurses, and a doula, Kima pushed her baby out. And then, "freed" from the incarceration of the womb, baby Koia was placed in her mother's arms. We joyfully congratulated her. Even the guard outside, hearing the unmistakable cries of new life, popped his head into the delivery room. Respectfully, he said, "I just want to wish you congratulations, Kima." A quick glance at the babe in arms, and then he returned to his post. Kima basked in the attention, a blissful look on her face as she held her newborn against her chest.

Kima was optimistic for a new start. She was eager to stay clean, to finally be able to be a mother. She had only two more weeks in jail, during which time her sister would take care of the baby, and then she was going to a residential treatment program for moms and babies. Kima dreamed that the connection she felt to her daughter at childbirth could be sustained well into the future. She hoped childbirth could be an escape route from her present life of drugs and petty crime.

These portraits of Kima and Evelyn—pregnant and incarcerated—are startling for those unfamiliar with the world of jails and prisons, yet strangely normal for those who directly encounter this world. Their portraits, furthermore, suggest that in our contemporary moment, jail accomplishes more than discipline and punishment. Indeed, the cultivation of maternal identity and pregnancy in the carceral environment urges us to think about the presence of care in a space presumed to be devoid of it.

JAILCARE

Jail and the broader system of incarceration, which I refer to as the carceral system, have become an integral part of our society's social and medical safety net.[1] Evelyn and Kima have both been affected by this uneasy convergence. Their lives, including their pregnancies, have been shaped by a historical trajectory that is peculiar to the United States and that represents one of its greatest tragedies. This tragedy is defined by the whittling away of public services for the poor, coupled with an escalation in the number of jails and prisons serving as sites for the care of that same population. Indeed, a disproportionate number of those suspended in the criminal justice system are not only poor and addicted to drugs, but are people of color; they can expect to cycle through the system for years. Thus, poverty, drug addiction, racism, and recidivism are inextricably linked, in a complex carceral system in which prisoners know that they will not only be subjected to a regimented, disciplinary environment, but that they will receive certain services, many of which they do not receive outside of jail. Jail is the new safety net.

Carceral institutions are commonly and rightly understood as sites of various forms of violence. In them, both physical and sexual violence between guards and inmates and among inmates has been widely documented. There is additional violence in the daily degradation by which inmates' bodies and psyches are controlled, devalued, and limited, so that even decisions such as when inmates may go to the bathroom are made by others. The more subtle violence of this kind of disciplinary power entails constant surveillance and a detailed, systematic organization of human activity.[2] Finally, there is structural violence in the disproportionate confinement of the poor and people of color, and in the reproduction of inequalities within the carceral system, which disrupts communities and families in profound ways.[3] When I refer to the violence of carceral systems throughout this book, I am indexing these multiple forms of physical, psychic, relational, and structural violence. These violent realities within jails and prisons lead to a tacit assumption that relations of care are impossible.

And yet, the emerging equivalence between the carceral net and the safety net has created opportunities for care and discipline not only to coexist, but

to shape each other in unexpected ways. "*Jailcare*" suggests the disturbing entanglement of carcerality and care. Connections between these two domains are, of course, not new. The welfare state is founded upon a belief that the state bears some responsibility—the nature of which has been deeply contested throughout history—to care for its citizens. It is also simultaneously understood as inscribing certain groups of people into regimes of power, mirroring the controlling aspects of incarceration.[4] Medical apparatuses, too, integrate care into disciplinary regimes, by imposing expected norms of behavior in order to produce ideal, healthy citizens.[5]

But jailcare indexes different links between care and the disciplinarity of incarceration. Jailcare tends to the intimate, affective dimensions of care foreclosed by a strictly regulatory reading of relations inside punitive institutions.[6] In examining jailcare, I am concerned with care "as the way someone comes to matter and as the corresponding ethics of attending to that other who matters."[7] Pregnancy is a particularly revealing domain through which to examine care in jail—for the pregnant woman and her fetus raise a variety of questions about how specific subjects come to matter behind bars.

The expansive and generative nature of pregnancy poses problems for a carceral environment designed to confine, and challenges a simple understanding of carceral regimes as punitive. Accordingly, as poor, pregnant women of color, Kima and Evelyn encountered profound ambivalence within the jail medical system, its custody apparatus, the hospital, Child Protective Services (CPS), and drug treatment programs about how they and their offspring mattered. At the same time, their pregnancies in jail revealed that care is actually central to incarceration. This is the crux of jailcare: a form of care in which the state's impulses to govern and tend its citizens are knotted into each other not merely as a controlling strategy, but as everyday, affective relationships. This form of care that emerges behind bars is a symptom of broader social and economic failures to care for society's most marginalized people.

Certainly, the presence of a fetus in jail raises thorny questions for a punitive institution. Is the fetus incarcerated? Does the fetus mark pregnant inmates' bodies as worthy of special protection, or of excess punishment? What aspects of motherhood does incarceration foreclose and what does it enable? These questions signal tensions between various risk-

management approaches to the pregnant inmate and the fetus. Prisoners are seen as dangerous, and thus must be confined and controlled.[8] Pregnant women and their fetuses are seen as at-risk, which thus justifies medical and political interventions on their bodies and behaviors, in the name of fetal protectionism.[9] When a carceral institution so pervaded by risk management discourses is faced with a woman whose body has come to be an exemplary site for managing risk, relationships of care are elaborated in ways that differentially value and devalue such woman's reproduction and motherhood.

Jailcare is also evocative of "health care," one of the services the public safety net struggles to provide amid the ongoing national debate about who deserves health care and who should pay for it. In terms of health care in carceral institutions, the landmark 1976 Supreme Court case *Estelle v. Gamble* is critical to the debate. *Estelle* determined that not to provide prisoners with medical care was cruel and unusual punishment, and therefore a violation of the Eighth Amendment of the U.S. Constitution.

Since *Estelle*, prisoners have been the only segment of the U.S. population with a constitutional right to health care. This fact raises two important contradictions. First, incarceration is a deliberate technique for suspending most rights of prisoners as part of their punishment.[10] And yet, a prisoner's constitutional right to health care is something that nonincarcerated U.S. citizens cannot claim. Ironically, more than half the people in jail were among the more than thirty million Americans without health insurance prior to jail.[11] Indeed, for many, including Evelyn and Kima, jail is the only place where they access health care. A second contradiction is the presence of healing medicine in an institutional state setting designed to administer dehumanizing, repressive punishment.[12] Medical care has the potential to nourish people in this environment of deprivation; but it can also, when inadequate, inflict further harm. Amid these contradictions, a therapeutic discourse pervades the criminal justice system: from notions of rehabilitating the criminal (limited as these commitments might be in the age of mass incarceration) to diversion programs like drug courts, the therapeutic rationality of transformation and cure is partially embedded in state approaches to confinement.[13]

The existence of care within jails should, then, be expected. But jailcare emerges from the everyday activities of providing care to people who are

also prisoners. This book examines how the contradictions of prisoners' right to health care take shape in the everyday lives—specifically the reproductive lives—of women like Kima and Evelyn, as well as the people charged with caring for them while they cycle through jail.

A SNAPSHOT OF MASS INCARCERATION

The conditions surrounding Evelyn and Kima's pregnancies arise from a perfect storm of two deeply entrenched crises in U.S. society:[14] mass incarceration[15] and health care inequalities. Since the 1980s' escalation of "the war on drugs," the United States has seen an exponential rise in the number of people behind bars, from 501,886 in 1980 to 2,173,800 in 2015.[16] The U.S. holds only 5 percent of the world's population, but more than 20 percent of the world's prisoners.[17] We incarcerate more women than Russia, China, Thailand, and India combined.[18] Blacks have been disproportionately targeted, imprisoned at a rate that is more than five times that of whites,[19] a statistical fact which reflects the continuities between racist criminal justice system policies and plantation slavery and Jim Crow segregation.[20] Amid this expansion, women are the fastest-growing segment of the prison population.[21] And yet incarcerated women and their health needs remain consistently excluded from public discussions of mass incarceration.[22]

Numerous scholars have chronicled the rise of mass imprisonment, arguing that the phenomenon reflects not a response to a rise in violent crime, but the "penal treatment of poverty."[23] Put simply, where the state once had a strong moral and financial investment in robust public services for the poor, it now invests in an increasingly large and punitive penal system to manage them. The public safety net has failed to help millions of people stabilize lives made precarious by inequality and trauma.

The health status of incarcerated persons is a case study in structural violence. Marginalized by poverty, limited in their access to health care, and abandoned through the siphoning of public resources from their communities, the incarcerated also suffer from higher rates of HIV, hepatitis C, sexually transmitted infections, tuberculosis, chronic illness, drug addiction, and mental illness.[24] Yet while mass incarceration has generated