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Maternity care reform in English prisons: a century of unanswered concerns

Rachel Bennett

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Executive Summary

- Should not future citizens who are born to pregnant women in prison be offered the same care as all other babies? Should pregnant women even be imprisoned? These are questions that have faced the state since the inception of the modern prison system in the nineteenth century.
- A landmark enquiry into health care provisions in Holloway in 1919 made the specific needs of pregnant women in prison more visible than they had ever been before.
- However, one hundred years later, pregnant women remain subject to inconsistent treatment and variable maternity care. Issues raised by the 1919 enquiry, including the conditions in which they are imprisoned and their access to specially trained maternity staff before, during and after the birth of their babies, remain relevant today in an underfunded criminal justice system.
- The basic requirement that all babies — and therefore all pregnant women — in prison should receive high quality maternity care on a consistent basis remains unmet in many ways. The current calls for the development of a Prison Service Order, which pays heed to the recommendations of the Birth Charter developed by the voluntary body, Birth Companions, could and should be implemented in full.

Introduction

Historically, the prison system has been designed and administered with the containment of male prisoners in mind as they made up, and continue to make up, a much greater proportion of the total prison population. Providing penal spaces for women, and addressing their specific needs, has largely been an afterthought, with the systems in place being only modified versions of those created for men. A review into vulnerable women in prison, undertaken by Baroness Jean Corston in 2007, identified an 'institutional misunderstanding within the criminal justice system of the things that matter to women' and expressed dismay at the sheer level of 'unmet need'. However, one of the key recommendations of the Corston Report, namely the need to develop a visibly-led, holistic and woman-centred approach to the treatment of female offenders, has a long and complex history. A

particular group of women whose containment and care has posed difficult, and still unanswered, questions to the prison system are pregnant women, those who give birth during their sentence and new mothers with babies. Recurring questions include: should we imprison pregnant women and those with babies? And, if so, under what conditions to ensure the safe custody of the mother and the child?

During the past century medical practitioners, charities and reform organisations have sought answers to these questions and have provided extensive recommendations to the prison service and the government about these issues based upon empirical and ethnographical studies. This year marks the centenary of a landmark enquiry that was carried out in Holloway Prison in March 1919. Chaired by Adeline Marie Russell, the Duchess of Bedford and a notable penal reformer in the early twentieth century, the enquiry was the first of its kind to focus exclusively on the health needs of women and their babies in prison and offered extensive recommendations regarding the provisions for maternity care. At the time of the enquiry Holloway was the largest women's prison in England and conditions behind its turreted gates were becoming increasingly visible to the public due to the publication of cases in the newspapers where prisoners had died as a result of poor medical care. To uncover the inadequacies in health provisions in the prison, the committee observed practices in the main part of the prison and in its hospital and they questioned staff including the Governor and the doctors as well as the prisoners themselves. The ensuing report submitted to the Prison Commission made detailed recommendations regarding the conditions in which pregnant women were imprisoned, the arrangements in place for childbirth and the availability of specially trained maternity staff, notably midwives. Described by the Commissioners as a document 'of the greatest public value', it was the first major report to address the complex question of incorporating pregnancy, childbirth and the presence of new-born infants into the prison environment.

The significance of this enquiry was its illumination of an issue that had previously been unaddressed within official prison policy and its facilitating of some practical improvements to maternity care provisions in women's prisons. However, these changes were not implemented on a consistent basis and were subject to policy shifts and changing prison personnel. Therefore, this paper demonstrates that one of the fundamental questions that had prompted the enquiry, namely the question of how we ensure the safe custody of mothers and their babies in prison, is yet to be fully answered. Over the course of the past century answers have been provided and today we have extensive recommendations about what best practice should be. However, translating this into consistent and clear policy continues to be impacted by the complexity surrounding service provision in the prison environment. There is no Prison Service Order (PSO) to offer comprehensive guidelines to ensure that all women and their babies have access to high quality maternity care. The development

of this PSO would mark a significant step towards addressing the historic inconsistencies in maternity care provision in prisons and in ensuring that babies born to mothers in prison receive the same standard of care as those born in the community.

Entitlement to health for mothers and babies

Upon its inception in the mid-nineteenth century, the modern prison system was intended to regulate the prisoner in body and in mind for the ends of reform. Although there have since been major changes to prison regimes and improvements to the standard of health care and education in prison, key elements of this heavily modulated system remain today and continue to impact upon service provision behind bars. Fundamental questions that have consistently posed a challenge to the criminal justice system include the extent to which people in prison were, and are, entitled to a certain standard of medical care, and balancing a prisoner's health needs with the disciplinary and security requirements of the institution. The enquiry of 1919 situated pregnant women and their babies at the centre of these debates. It placed particular emphasis upon the entitlements of all prisoners to 'proper care whilst in the charge of the state'. It spoke to the longer-term, and still ongoing, issue that incarceration — and the loss of liberty — itself was the punishment and thus the state had a responsibility to maintain a prisoner's physical and mental health. Crucially, it also highlighted how inadequacies in the medical care offered to their mothers infringed upon the distinct rights of babies born to women in prison, who were future citizens and innocent in the eyes of the law, to a certain standard of care. Although babies born to women in prison who remain with their mothers are not considered to be prisoners, they continue to live as part of restrictive regimes not designed to meet their specific needs and are impacted by the absence of a comprehensive set of guidelines to ensure they consistently receive the high standard of care and early development support to which all babies born in the UK are entitled.

Health care provision in prison has long been subject to a chain of decision-making processes that include prisoners, prison officers and the doctor, but also officials beyond the gates. Within this heavily regulated carceral environment decisions were, and are, made formally and informally regarding a prisoner's need for medical assistance and their access to it. In cases of pregnancy, it was, and still is, often up to the prisoner themselves to disclose their condition, especially at an early stage, if they themselves were even aware of it. It is impossible to know how many pregnancies remained undetected in the past century, particularly among the high proportion of women serving very short sentences. Even today we do not have accurate annual figures of how many women in prison are pregnant and how many are due to give birth during their sentences as they are not officially recorded.

However, it is estimated that 600 pregnant women are held in prisons in England and Wales each year, with at least 100 babies being born to mothers serving a prison sentence.

In 1919, the committee questioned the prison doctors about the case of Phyllis Ward, who entered Holloway to serve a one-month sentence in January. She asked the doctor if she was pregnant and after only a brief examination, he stated that she was not. However, shortly after her release into a remand home she had to be transferred to London's Marylebone Infirmary where she gave birth to a stillborn child in March. The committee corresponded with the Medical Superintendent at the infirmary and recorded his statement that there were obvious signs of pregnancy that should not have been missed. Despite recalling examining Phyllis briefly, the prison doctors could shed no light on how her pregnancy had gone undetected. Research conducted by Lucy Baldwin and Rona Epstein shows that the issue of sentencing mothers, including those who are pregnant, to short sentences remains problematic in terms of ensuring their proper care and the maintenance of contact with their families on the outside. In calling for a presumption against short sentences wherever possible, they provide evidence of their disruptive and adverse effects upon young children. The Female Offender Strategy published by the Ministry of Justice in June 2018 also acknowledged the potentially negative impact of short-term parental imprisonment upon infants and young children and expressed a desire to reduce the number of women serving short sentences in favour of more community orders.

In terms of the impact of decision-making processes upon pregnant women and their babies in prison, in 1919 the committee found that they had to 'book' to see the medical officer as did other prisoners. This effectively meant that officers were put in intermediate decision-making positions and had to make judgments about potentially complex medical needs, the understanding of which were beyond both their training and ordinary duties. Again, this is an issue that recurs within debates about maternity care reform today as women in prison have reported feeling anxious at the prospect of not being taken out to hospital in time for the birth of their babies. There are also instances where women have told officers they are going into labour but have not been believed or their removal to hospital has been delayed posing a danger to mothers and their babies. Birth Companions, and others, have called for women in prison to be given 24-hour telephone access to a labour ward so a midwife can make a decision on referring them to the hospital. This would relieve the responsibility placed upon prison officers, who are not trained in maternity care, to make this decision.

Access to specialist maternity care

One of the key themes to emerge from the enquiry of 1919 was the access pregnant women and newborn infants had to specially trained and experienced maternity staff. At the time of the enquiry, women found to be pregnant when they entered Holloway were supposed to be accommodated on

an observation landing where they could be more closely monitored, especially as they approached their due date. In the final month of pregnancy, it was intended that they be moved into the prison's hospital. However, these observation landings also accommodated cases of mental illness, epilepsy and tubercular diseases. In addition, the committee identified a lack of available space and noted how many pregnant women remained in cells in the main part of the prison and were often not sent to the prison hospital until they were full term. They reported the very real danger that 'sudden premature confinement can take place in a cell and in the absence of trained assistance'. One such case was that of May McCririck.

Although she had been placed on an observation landing when she was six and a half months pregnant, May, like many of the women in Holloway, was still locked in her cell for up to 23 hours each day. One night May felt pain and called out to the officer on duty for help. However, her calls went unanswered and May gave birth to her child prematurely alone in her cell. Her baby son died, and May described how she 'wrapped the child up in a sheet and put it under the bed' until an officer finally checked on her the following morning. The committee used this case to state that 'no case of advanced pregnancy nor any pregnant woman with a complicating disorder should be isolated in a cell' as this posed a severe health risk to the mother and the baby. However, in its wake, women were still locked up for hours at a time due to prison regulations and continued to give birth and to suffer miscarriages alone in their cells when they could not get help in time. The policy related to prison births changed in the mid-twentieth century following intense debates about the specific rights of children not to be born within the confines of a prison, after which women would be taken to outside hospitals to give birth, which remains the practice today. However, current research by Dr Laura Abbott, a specialist midwife who has supported several pregnant women in prison, reveals that they are still locked in cells for large amounts of time with limited access to emergency medical assistance which poses a serious health risk to mothers and babies. Reporting upon Dr Abbott's research in November 2018, an article published in *The Guardian* detailed recent cases where women in prison went into labour and gave birth in their cells with no medical assistance. This provides further evidence of the need for official guidelines to direct against pregnant women being isolated behind locked cell doors without the ability to gain timely access to a midwife, either in person or on the telephone.

The medical staff in Holloway at the time of the enquiry in 1919 consisted of three male doctors and one female doctor who were responsible for administering medical treatment and overseeing the prison's hospital. However, the nursing in the hospital was done by wardresses who were not trained nurses. There had only been one certified midwife among the staff who had resigned and had not been replaced at the time of the enquiry. The committee considered the shortage of specially trained maternity staff as 'a serious defect in the prison administration'. They identified 20

cases of pregnancy under treatment in the hospital alone, including four cases complicated by haemorrhaging, three of the mothers had a venereal disease, one woman had epilepsy and three were under observation for mental illness. The committee stressed that specialised medical treatment was even more essential in these instances and used the case of seventeen-year-old Ellen Sullivan to illustrate the dangers of having inadequate maternity staff to attend cases of pregnancy and childbirth.

Ellen was a remand prisoner in Holloway and was almost seven months pregnant when she was placed in a hospital cell on 17 January 1919 after she began to vomit violently. During the night she was attended by a young, inexperienced wardress who was not a trained nurse and who also had the responsibility of patrolling the two floors of the hospital. During the night, Ellen was found to have given birth. The baby had fallen onto the floor during labour and the umbilical cord had been ruptured. When the officer discovered this, she sent for one of the prison doctors and a midwife from outside, which was sometimes the practice when there were no midwives employed within women's prisons. However, the child died before they arrived. Although Ellen's condition was deemed to be satisfactory and she was left in the care of the hospital staff, she died the following day. Her death was found to have been caused by traces of diabetes and due to her premature confinement but it was concluded by the coroner that Ellen's death and that of her child had not been caused by a lack of adequate care, despite the delay in the arrival of the midwife.

Women have continued to suffer miscarriages and premature labours in their prison cells over the course of the past century and, in many cases, have received very limited care and support thereafter. Today in the UK all mothers and babies have the right to high quality maternity care and when babies are born to women in custody the midwives who attend them have a statutory duty of care which is governed by the Nursing and Midwifery Council's rules and codes of practice. However, ethnographical research, including that carried out by Dr Laura Abbott and Birth Companions, has identified continuing difficulties of ensuring this right to maternity care on a consistent basis for both mothers and babies due to women having limited agency in prison, not having the ability to maintain regular contact with a midwife during their pregnancy and not being taken out to hospital in time when they go into labour.

Key outcomes and the legacy of the enquiry

The key outcome of the 1919 enquiry was the greater emphasis it placed upon the specific rights of pregnant women in prison to a certain standard of care and the rights of their children, who were deemed to be innocent in the eyes of the law. The committee were successful in uncovering certain failings and inadequacies and providing recommendations that could be immediately acted upon thereafter. Key recommendations made in their report that had the greatest impact were related to

the staffing of prison hospitals and the availability of specially trained maternity staff, notably midwives. More distinctions were drawn between medical and disciplinary staff and efforts were made to create a more definitive chain of responsibility in the prison hospital. In addition, the hospital staff would now include two nurses with a certified diploma from the Central Midwives Board and there would also be nurses employed with experience in treating venereal disease and mental illness. These members of staff had been appointed by June 1919. In addition, with a view to encouraging members of staff to undergo the necessary outside training to acquire the Certificate of the Board of Midwives, the Prison Commission successfully petitioned the Treasury to allow an additional fee to be paid in each midwifery case attended to by a prison officer holding this qualification. They pointed to the benefits to both the women themselves but also, crucially, their babies whose health the state had a responsibility to care for. By the 1930s, every nurse in Holloway was a qualified midwife and other women's prisons gradually followed suit.

Despite the improvements to maternity care provision that followed in the wake of the 1919 enquiry, it did not prompt the establishment of a central policy to regulate the care of pregnant and perinatal women and their babies in prison. Instead, experiences of pregnancy, birth and new motherhood continued to be impacted by broader shifting prison policy, the closure or rebuilding of prisons, including Holloway, and relied heavily upon the efforts of individual staff members and voluntary organisations. In turn, debates about the entitlement to and availability of maternity care in prison continued. Following the agreement of a formal contract between HM Prison Service (HMPS) and the National Health Service (NHS) in 2000, prisons are required to provide the same level of care and access to services as those available to women in the community. The Corston Report found that significant improvements in health service provision for women in prison had been made as a result. However, persisting inconsistencies in the care of pregnant women prompted the Royal College of Midwives (RCM) to issue position statements in 2008 and 2014 respectively calling for a specific PSO for pregnant prisoners to ensure that they, and their babies, have access to safe and consistent healthcare to the same standard as mothers and children in the community.

In 1996, following a high-profile campaign to end the use of handcuffs on female prisoners during labour, the Holloway Doula Group was founded by a group of London-based antenatal teachers. The group eventually expanded to become Birth Companions. Birth Companions work with pregnant women and women with babies in prison to offer support during pregnancy, birth and in the perinatal period. In 2016 they published their Birth Charter offering detailed recommendations related to the accommodation of pregnant women, their access to specially trained medical practitioners, the conditions under which they give birth in hospital and offering support to mothers and babies in the prison environment. Many of the recommendations made in the Birth Charter have

a long and complex history and it is possible to draw notable parallels with the report made in 1919, namely their respective emphasis on the need for more clear and consistent guidelines to govern maternity care provision in prison. At a recent policy event at the University of Warwick, Naomi Delap, the Director of Birth Companions, reiterated their call for the development of a Prison Service Order to address systemic inconsistencies and ensure that women in prison have the same choices, advice and support during pregnancy and labour as women in the community. She also restated the recommendation that parenting groups should be available to mothers and babies in prison as they are in the community to offer specialist advice on things like nutrition and breastfeeding but to also support a healthy environment for family visits, which are vitally important to a baby's early development.

Conclusion

The question of ensuring the safe custody of mothers and their babies within the complex environment of service provision in prison has been raised and debated time and again in the past century. Extensive practical recommendations have been made to address how to properly meet the specific health needs of pregnant women in prison and those of their babies, who are citizens in their own right and are not deemed to be prisoners but whose wellbeing is impacted by the restrictive prison environment. Despite some significant improvements, changing prison personnel, cuts to funding and staff, and the lack of a single, comprehensive policy to dictate their treatment has meant that many mothers and their children have not received the high quality maternity care to which they are entitled in prison. Today we have extensive evidence-based recommendations provided by medical practitioners, charitable organisations and penal reform groups who have delivered expert and essential services and support to pregnant women and new mothers in prison stating what best practice should be. However, we still do not have a Prison Service Order to ensure that it is implemented on a consistent basis. There are extensive studies and recommendations, including the Birth Charter, that could and should play a central role in the development of this PSO. If implemented, it would provide the most comprehensive set of guidelines to ensure that all pregnant women, new mothers and the babies born to them in prison receive high quality care. The Minister taking the initiative would be long-remembered for instituting a crucial landmark in the history of maternity care reform in English prisons.

Further Reading

Baroness Jean Corston, *The Corston Report: A review of women with particular vulnerabilities in the criminal justice system* (London: Home Office, 2007).

Birth Companions, *Birth Charter for women in prisons in England and Wales* (March 2016).

'Female prisoners in England left to give birth without midwife, report reveals', *The Guardian*, 13 November 2018.

For extensive research exploring the experiences of mothers in the criminal justice system see the collection of chapters in Lucy Baldwin (ed), *Mothering Justice: Working with Mothers in Criminal and Social Justice Settings* (Hampshire: Waterside Press, 2015). For a discussion of the experiences of pregnant women see Laura Abbott's chapter 'A Pregnant Pause: Expecting in the Prison Estate', pp. 185-210.

Lucy Baldwin and Rona Epstein, *Short but not sweet: A study of the impact of short custodial sentences on mothers and their children* (Leicester: Oakdale Trust, 2017).

The National Archives, Prison Commission records PCOM 7/40 *Holloway Prison: Duchess of Bedford's Committee of Enquiry into Various Matters* (1919).