



## **Joint Statement on the Federal Role in Restricting the Use of Restraints on Incarcerated Women and Girls during Pregnancy, Labor, and Postpartum Recovery**

Our organizations, representing the fields of health, mental health, human rights, criminal and juvenile justice, and corrections, call on federal policymakers to support and encourage state and local government efforts to restrict the use of restraints on incarcerated women and girls during pregnancy, labor, and postpartum recovery.

The number of incarcerated women has risen dramatically in recent years, as has the proportion of girls in the nation's juvenile justice systems. Most incarcerated women and girls are non-violent offenders, and the vast majority of them report a history of trauma prior to incarceration. Incarcerated women have pregnancies that often are high risk, experience a lack of adequate prenatal care, and have elevated rates of mental health disorders, HIV infection, and substance abuse, all of which can contribute to poor birth outcomes.

Gender-specific issues deserve greater attention in the national conversation about criminal justice reform, and the use of restraints on incarcerated women and girls during pregnancy, labor, and recovery warrants immediate action. The practice compromises the health and human rights of the mother and child and raises serious concerns over legal liability of correctional facilities and personnel. There is growing consensus at the state and national levels about the need for far-reaching restrictions on the practice. The need remains, however, for stronger federal leadership to limit the use of restraints on incarcerated women and girls during pregnancy, labor, and recovery to only exceptional circumstance, after the clinician providing care has considered any potential health effects.

This use of restraints during pregnancy and the postpartum period carries serious health and safety concerns. It limits the ability of medical care providers to assess and evaluate their patient and increases the likelihood of falls, inability to break a fall, life-threatening embolic complications, and impediments to epidurals, emergency caesarian section, and other emergency obstetrical interventions, which may also affect the fetus. Given that a majority of incarcerated women's backgrounds include domestic and sexual violence, trauma, and mental health problems, restraint during this period of increased physical, mental, and emotional vulnerability risks retraumatization and worsening symptoms. Many women also experience nausea and vomiting during early pregnancy and restraining women suffering from these symptoms is cruel and inhuman. Finally, medical authorities report that restraint after childbirth can interfere with a mother's ability to bond with and safely handle her infant, with potential negative effects on the infant's health.

Recent actions by federal agencies, state governments, and national organizations reflect a growing consensus about the need to set very broad restrictions on using restraints on incarcerated women and girls during pregnancy, labor, and postpartum recovery. The U.S. Bureau of Prisons (BOP), Immigration and Customs Enforcement (ICE), U.S. Marshals Service and a number of states maintain policies that provide at least some level of restriction on the practice, though these policies vary widely in their comprehensiveness. In addition, a diverse set of organizations came together to develop a 2012 document, [\*Best Practices in the Use of Restraints with Pregnant Women and Girls Under Correctional Custody\*](#), that represents the high degree of concurrence on the issue. The federal task force that

developed this report represented criminal justice, corrections, health, and human rights organizations and recommended:

“The use of restraints on pregnant women and girls under correctional custody should be limited to absolute necessity. The use of restraints is considered absolutely necessary only when there is an imminent risk of escape or harm (to the pregnant woman or girl, her fetus/newborn, or others) and these risks cannot be managed by other reasonable means (e.g., enhanced security measures in the area, increased staffing, etc.).”

As the use of restraints on pregnant incarcerated women and adolescents may not only compromise health care but is demeaning and rarely needed, we urge the federal government to provide additional leadership restricting this practice to only absolutely necessary circumstances, and in those circumstances, to restrict the kinds of restraints that can be used. Unfortunately, news and unofficial reports from states even with strong restrictions in place reveal that the restraint of incarcerated women during pregnancy, labor, and postpartum recovery continues with regularity. Therefore, the undersigned groups recommend the following specific federal actions:

- *Incorporate data elements on pregnancy and restraint into the Department of Justice’s (DOJ) voluntary National Prisoner Statistics Program.* Progress on the issue of restraint requires additional knowledge about the number of pregnant women and instances of restraint in state and local corrections. States already collecting this data should be encouraged to share it with the National Prisoner Statistics Program. Jails and prisons, on a voluntary basis, can document and report known pregnancies and all cases of restraint during pregnancy, labor, and postpartum recovery with minimal additional paperwork burden, and reporting would provide information on trends and locales in need of support for reform. In addition, an institutional policy to report cases of restraint provides an incentive to scrutinize the need for the practice in each individual case.
- *Provide training and technical assistance under DOJ’s Bureau of Justice Assistance (BJA).* While state and local corrections should maintain authority over their own systems, federal guidance can help state and local governments implement and maintain best practices. Training and technical assistance through BJA represents the appropriate federal investment in ensuring implementation success at the state and local levels related to the use of restraints on incarcerated women and girls during pregnancy, labor, and postpartum recovery.
- *Lead by example.* BOP Program Statement 5566.06 provides strong guidelines against such use of restraints on women and girls in BOP custody. This puts the agency in a leadership role upon which it can expand. BOP can develop products and reports around the lessons learned in restricting the use of restraints on women and girls during pregnancy, labor, and recovery and support DOJ’s related training and technical assistance.

DOJ may be able to implement these efforts under existing statutory authority; however, the strong focus in Congress on criminal justice reform represents an opportune moment to highlight the specific needs of incarcerated women and girls and make progress toward codifying gender-responsive policies that include broad restrictions on restraint. Ideally, such policies would also include standardized pregnancy care by qualified health professionals, as well as evidence-based trauma-informed care and mental health services for those in need. We are committed to working with both the Administration and leaders in the U.S. House and Senate to increase public awareness and greatly reduce the frequency of this harmful practice.

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