

INCARCERATION HARMS MOMS AND BABIES

AUTHOR
NICOLETTE WOLFREY

THE PROBLEM: MASS INCARCERATION IS HURTING PREGNANT PEOPLE AND THEIR INFANTS.

Mass incarceration is devastating communities in the United States and has taken a uniquely harmful toll on people of color and on women. According to the most recent available data, 2.3 million people¹ are confined in a U.S. correctional facility,[†] 231,000 of which are women.² Of these, roughly 109,000 are women of color, who are overrepresented in the incarcerated population. Among incarcerated women, three out of four are of childbearing age,³ more than half are mothers of minor children,⁴ and up to one in 10 were pregnant when they entered incarceration.⁵

Being incarcerated during pregnancy or childbirth exposes pregnant and birthing people^{††} to heightened risks to their and their infants' health and well-being, including extremely high levels of stress, exposure to violence and abuse, and substandard health care.⁶ Decisionmakers must take action to mitigate these harms, particularly given the ongoing maternal and infant health crisis among Black, American Indian, and other communities of color.

The United States has created a serious mass incarceration problem, especially when it comes to women. The nation is home to 4 percent of the world's female population, but 30 percent of all incarcerated women.⁷ There are, of course, racial disparities, with Black and Latina women much more likely to be imprisoned than white women: One in 18 African American and one in 45 Latina women will likely experience incarceration in their lifetime, as compared to one in 111 white women.⁸ In addition, three out of four incarcerated women are of childbearing age (18–44 years old), and 6 to 10 percent of women are pregnant when they become incarcerated.⁹ Between 1991 and 2007, the number of mothers in prison increased by 122 percent¹⁰ and by 2017, 58 percent of all incarcerated women reported being mothers to minor children.¹¹

Amid the backdrop of a broader national health care crisis, difficulties accessing care are amplified in correctional settings. While correctional facilities are constitutionally required to provide health care, and states and federal agencies may have their own standards for doing so, there are no universal minimum requirements related to

[†] For the purposes of this bulletin, "correctional facilities" is used as an all-encompassing term and refers to prisons, jails, and detention centers. It is important to note the differences in these facilities. Prisons are facilities that hold individuals long-term after sentencing, jails are facilities that hold individuals awaiting trial or sentencing, and detention facilities are entities that temporarily hold individuals awaiting sentencing or deportation. Further, detention refers to the "temporary holding of individuals accused of Federal crimes or those awaiting sentencing or deportation", whereas incarceration refers to the "long-term confinement of convicted and sentenced offenders". See <https://www.justice.gov/archive/ag/annualreports/ar99/Chapter5.pdf>

^{††} We recognize and respect that pregnant, birthing, postpartum, and parenting people have a range of gender identities, and do not always identify as "women" or "mothers." In recognition of the diversity of identities, this report prioritizes the use of more gender-inclusive language, where possible.

ABOUT THE SERIES:

Our maternity care system often fails to provide equitable, respectful, culturally centered, safe, effective, and affordable care. It spectacularly fails communities struggling with the burden of structural racism and other forms of inequity, including: Black, Indigenous, and other People of Color (BIPOC); rural communities; and people with low incomes. The multiple crises of the COVID pandemic, economic downturn, and national reckoning on racism have underscored the need to address the social influencers of health. This series identifies ways to improve maternal and infant health by tackling some of these factors. Topics were chosen based on importance and urgency, and availability of systematic reviews and complementary research.



standards of care, data reporting, or mandatory oversight.¹² As a result, there is great variability in pregnancy care for incarcerated and detained people.¹³ For instance, 24 states have failed to codify any policies related to planning for incarcerated pregnant women to give birth (for example, plans for hospital transfer or coordination of care).¹⁴

Moreover, pregnancy care in correctional facilities is not uniformly safe or health-promoting. Some practices can be immoral and physically and emotionally harmful to both birthing people and their infants – such as shackling and separating mothers from their newborns.¹⁵ Health care must be improved in correctional settings to prevent unjust harm and provide necessary care to incarcerated pregnant people and their infants.

INCARCERATION RISKS THE HEALTH OF PREGNANT PEOPLE AND THEIR INFANTS

Systematic reviews (rigorous reviews that collect, assess, and synthesize the best available evidence from existing studies) have found:

- Women in prison are a high-risk maternal health group.¹⁶ This is because incarcerated women are, among other factors, more likely to have a medical problem (such as diabetes, hypertension, epilepsy, or cardiac disease) that could negatively impact their pregnancy outcome, yet they are less likely to receive antenatal care.¹⁷
- Substance use disorders and mental health conditions that negatively impact pregnancy outcomes occur at high rates in incarcerated populations, increasing the need for effective interventions.¹⁸
 - Tobacco use among pregnant incarcerated people exceeds 50 percent, and has been recorded as high as 84 percent, compared to 17 percent among non-incarcerated adult women.
 - Alcohol use is common among pregnant incarcerated people, and 36 percent of incarcerated people report using illegal substances while pregnant.
 - Four out of five pregnant inmates reported having depression and anxiety.
- When prison perinatal care is enhanced, there can be positive outcomes. For instance, interventions that included not only enhanced care in prisons and co-residence with children after birth, but also coordination of community care on release, demonstrated reduced likelihood of future involvement with the justice system over the 10 years following release when compared to women in the same facilities that did not receive the intervention.¹⁹

APPROXIMATELY 56 PERCENT OF PRISON FACILITIES USE RESTRAINTS ON WOMEN WITHIN HOURS AFTER BIRTH.ⁱ



Other individual studies have found that:

- Only 37.7 percent of prison facilities test all women for pregnancy upon entry,²⁰ and 46 percent of pregnant women in prisons reported receiving no prenatal care.²¹
- Out of 16 general categories of national guidelines for healthy pregnancy recommendations (such as providing prenatal vitamins and adequate nutrition, or prenatal and postpartum mental health care), the U.S. Marshals Service (the entity responsible for individuals awaiting federal trial or sentencing) only provides incarcerated women three, and the Board of Prisons (the entity responsible for federally sentenced individuals) only provides eight.²²
- About 45 percent of prison facilities put pregnant women with opioid use disorders through withdrawal protocols without symptom alleviators, despite medication-assisted treatment being the standard therapy for this population, because it protects the fetus from repeated withdrawal episodes, thereby reducing the risk of obstetrical and fetal complications, in utero growth restriction, and newborn morbidity and mortality.²³
- Exposure to incarceration either personally or vicariously through a partner increased the rate of low birth weight and preterm births.²⁴
- Shackling is the use of a mechanical device (e.g., ankle cuffs, belly chains, soft restraint, hard metal handcuffs) to limit a person's movement, and is supposedly necessary to prevent escape.²⁵ However, a 2011 report found that there was not a single reported case of escape by any incarcerated woman who was not restrained during labor.²⁶
 - Approximately 56 percent of prison facilities use restraints on women within hours after birth,²⁷ and 83 percent of perinatal nurses for incarcerated women reported that shackles were used on their patients sometimes or all the time in the hospital.²⁸
 - Another report found that, of 19 responding prison facilities, six of them cuffed a woman's ankle or hand when labor began, one kept handcuffs on during labor, and four used ankle shackles during labor.²⁹
 - Shackling can delay prompt assessment for vaginal bleeding, increases the likelihood of falls and the inability to break a fall, restricts mobility during labor, limits maternal contact with newborns, and may also interfere with the safe handling of newborns.³⁰
- Most incarcerated mothers are only allowed 24 hours with their newborns in the hospital after birth.³¹ This practice of separating mothers and newborns can be psychologically traumatizing for both the parent and infant. In addition, early separation from a primary caregiver can disrupt an infant's early biological rhythms, dyadic regulatory processes, and efforts to explore and develop an autonomous sense of self. These disruptions can manifest in infants in inconsolable crying, tantrum behavior, eating and sleeping difficulties, clinging behavior, withdrawal, irritability, aggression, and/or physical symptoms and diagnoses that may require intervention.³²




STRUCTURAL RACISM DRIVES THE MASS INCARCERATION OF (AND SUBSEQUENT DISPROPORTIONATE HARM TO) PEOPLE OF COLOR, INCLUDING PREGNANT PEOPLE AND THEIR INFANTS

The consequences of mass incarceration disproportionately impact communities of color. When compounded with the fact that Black women overall are three times more likely than white women to die because they were pregnant, and three times more likely to suffer severe complications like fibroids (benign tumors in the uterus that can cause postpartum hemorrhaging), the added risks for Black pregnant people of being incarcerated during pregnancy are unconscionable.³³

Furthermore, Black women and other women of color have a painful history of experimentation, eugenics, and forced sterilization in detainment settings. For instance, from 2006 to 2010, 144 women were sterilized in California's prisons without the state's approval, and 39 did not consent.³⁴ Furthermore, in 2020, there were whistleblower allegations of women in Immigration and Customs Enforcement detention that were being sterilized without their consent or knowledge.³⁵

In addition, infants and children of color are disproportionately harmed by mass incarceration. Having a parent who is incarcerated is considered an "adverse childhood experience" (ACE).³⁶ There is a significant body of evidence that shows a strong correlation between the number of ACEs a person had in childhood and the greater likelihood of poor health later in life.³⁷ Parental incarceration increases the risk of a child living in poverty or experiencing

An illustration of a pregnant woman with long black hair, wearing a yellow jumpsuit, standing behind vertical grey bars of a jail cell. To her right is a large blue rounded rectangular bubble containing a testimonial. On either side of the woman are black rectangular panels with two blue keyhole icons. At the bottom right of the illustration is a small circular icon showing a woman hugging a child.

“BECAUSE I WAS SHACKLED TO THE BED, THEY COULDN'T REMOVE THE LOWER PART OF THE BED FOR THE DELIVERY, AND THEY COULDN'T PUT MY FEET IN THE STIRRUPS. MY FEET WERE STILL SHACKLED TOGETHER, AND I COULDN'T GET MY LEGS APART. THE DOCTOR CALLED FOR THE OFFICER, BUT THE OFFICER HAD GONE DOWN THE HALL. NO ONE ELSE COULD UNLOCK THE SHACKLES, AND MY BABY WAS COMING BUT I COULDN'T OPEN MY LEGS.”



household instability, independent of any other factors present in that child's life.

- Black women are incarcerated at a rate twice that of white women,³⁸ and Latinx women are incarcerated at a rate 1.3 times that of white women.³⁹
- Black girls are also three times as likely to be incarcerated and American Indian girls are four times as likely to be incarcerated than their white peers.⁴⁰
- Formerly incarcerated Black women's unemployment levels are 37 percent higher than non-formerly-incarcerated Black women, whereas formerly incarcerated white men's unemployment levels are only 14 percent higher than non-formerly-incarcerated white men.⁴¹
- Formerly incarcerated Black women are four times more likely to experience homelessness than formerly incarcerated white men.⁴²
- One in 9 Black children and one in 28 Hispanic children have an incarcerated parent, in contrast to one in 57 white children.⁴³



RECOMMENDATIONS

1. Congress must pass the Justice for Incarcerated Moms Act (H.R. 948/S. 341), part of the Black Maternal Health Momnibus, which would end shackling, provide funding to improve care for pregnant and postpartum people who are incarcerated, and study the drivers for maternal health inequities among incarcerated people.
2. Congress must pass the Stop Shackling and Detaining Pregnant Women Act (H.R. 3563/S. 648 in the 116th Congress), which would prohibit the Department of Homeland Security from detaining a woman during pregnancy or postpartum recovery, require the immediate release of any detainee found to be pregnant unless they pose a significant risk to public safety, prevent the use of restraints on pregnant detainees, and more.
3. We must interrupt criminalization at its roots by investing in historically marginalized and underserved communities across all sectors, including but not limited to education, housing, transportation, public health, and health care. These investments must not rely on criminal or carceral approaches, but instead must be oriented toward providing communities with the services and support necessary to thrive.
4. Our carceral system must be dismantled. Policing and the criminal justice system harms communities and perpetuates centuries of trauma. It is time to shift investments at the federal, state, and local levels from policing and incarceration to programs that support communities. Congress should introduce and pass the Breathe Act, a bill that divests from brutal and discriminatory policing and invests in a new vision of public safety.
5. Federal and state agencies charged with managing incarceration and detention facilities should enact policies that ensure consistent access to high-quality health care, including prenatal care, comprehensive reproductive health care, mental health care, and treatment for substance use disorders.
6. Federal, state, and local governments should enact and enforce universal bans on shackling during labor and birth, implement long-term programs that keep birthing parents and infants together, and provide coordinated community services on release.
7. Federal and state prisons, detention centers, and local jails should collect more data on the quality of care and health outcomes for pregnant incarcerated people, including disaggregation by race and ethnicity.



REFERENCES

- 1 Wendy Sawyer and Peter Wagner. "Mass Incarceration: The Whole Pie 2020," Prison Policy Initiative, March 24, 2020, <https://www.prisonpolicy.org/reports/pie2020.html>
- 2 Aleks Kajstura. "Women's Mass Incarceration: The Whole Pie 2019," Prison Policy Initiative, October 29, 2019, <https://www.prisonpolicy.org/reports/pie2019women.html>
- 3 Carolyn Sufrin, Lauren Beal, Jennifer Clarke, Rachel Jones, and William D. Mosher, "Pregnancy Outcomes in U.S. Prisons, 2016–2017," *American Journal of Public Health*, May 2019, DOI: [10.2105/AJPH.2019.305006](https://doi.org/10.2105/AJPH.2019.305006)
- 4 Laura M. Maruschak, Jennifer Bronson, and Mariel Alper. "Parents in Prison and Their Minor Children," U.S. Department of Justice, Bureau of Justice Statistics, March 2021, <https://www.bjs.gov/content/pub/pdf/pptmcspi16st.pdf>
- 5 See note 3.
- 6 Soumyadeep Mukherjee, Dudith Pierre-Victor, Raed Bahelah, and Purnima Madhivanan. "Mental Health Issues Among Pregnant Women in Correctional Facilities: A Systematic Review," *Women & Health*, September 4, 2014, DOI: [10.1080/03630242.2014.932894](https://doi.org/10.1080/03630242.2014.932894)
- 7 See note 3.
- 8 See note 4; Jamal Hagler. "6 Things You Should Know About Women of Color and the Criminal Justice System," Center for American Progress, March 16, 2016, <https://www.americanprogress.org/issues/criminal-justice/news/2016/03/16/133438/6-things-you-should-know-about-women-of-color-and-the-criminal-justice-system/>
- 9 See note 3.
- 10 Rebecca J. Shlafer, Rachel R. Hardeman, and Elizabeth A. Carlson. "Reproductive Justice for Incarcerated Mothers and Advocacy for Their Infants and Young Children," *Infant Mental Health Journal*, 2019, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6973282/pdf/IMHJ-40-725.pdf>
- 11 See note 4.
- 12 Alexandra Gates, Samantha Artiga, and Robin Rudowitz. "Health Coverage and Care for the Adult Criminal Justice-Involved Population," Kaiser Family Foundation, September 5, 2014, <https://www.kff.org/uninsured/issue-brief/health-coverage-and-care-for-the-adult-criminal-justice-involved-population/>
- 13 See note 3.
- 14 Roxanne Daniel. "Prisons Neglect Pregnant Women in Their Healthcare Policies," Prison Policy Initiative, December 5, 2019, <https://www.prisonpolicy.org/blog/2019/12/05/pregnancy/>
- 15 Equal Justice Initiative. "Shackling of Pregnant Women in Jails and Prisons Continues," January 29, 2020, <https://eji.org/news/shackling-of-pregnant-women-in-jails-and-prisons-continues/>; Alysia Santo. "For Most Women Who Give Birth in Prison, 'The Separation' Soon Follows," PBS Frontline, May 6, 2020, <https://www.pbs.org/wgbh/frontline/article/for-most-women-who-give-birth-in-prison-the-separation-soon-follows/>
- 16 Eleanor Bard, Marian Knight, and Emma Plugge. "Perinatal Health Care Services for Imprisoned Pregnant Women and Associated Outcomes: A Systematic Review," *BMC Pregnancy & Childbirth*, September 29, 2016, DOI: [10.1186/s12884-016-1080-z](https://doi.org/10.1186/s12884-016-1080-z)
- 17 Marian Knight and Emma Plugge. "Risk Factors for Adverse Perinatal Outcomes in Imprisoned Pregnant Women: A Systematic Review," *BMC Public Health*, October 17, 2005, DOI: [10.1186/1471-2458-5-111](https://doi.org/10.1186/1471-2458-5-111)
- 18 See note 6.
- 19 *Ibid.*
- 20 C. M. Kelsey, Nickole Medel, Carson Mullins, Danielle Dallaire, and Catherine Forestell. "An Examination of Care Practices of Pregnant Women Incarcerated in Jail Facilities in the United States," *Maternal and Child Health Journal*, February 24, 2017, <https://link.springer.com/article/10.1007/s10995-016-2224-5>
- 21 U.S. Department of Justice, Bureau of Justice Statistics. "Medical Problems of Prisoners," 2004, <https://www.bjs.gov/content/pub/html/mpp/tables/mppt10.cfm>
- 22 U.S. Government Accountability Office. "Pregnant Women in DOJ Custody: U.S. Marshals Service and Bureau of Prisons Should Better Align Policies with National Guidelines," January 2021, <https://www.gao.gov/assets/720/711917.pdf>
- 23 See note 21.
- 24 Alexander Testa and Dylan B. Jackson. "Incarceration Exposure During Pregnancy and Infant Health: Moderation by Public Assistance," *Journal of Pediatrics*, June 23, 2020, DOI: [10.1016/j.jpeds.2020.06.055](https://doi.org/10.1016/j.jpeds.2020.06.055)
- 25 Ginette G. Ferszt, Michelle Palmer, and Christine McGrane. "Where Does Your State Stand on Shackling of Pregnant Incarcerated Women?" *Nursing for Women's Health*, February 2018, [https://nwhjournal.org/article/S1751-4851\(17\)30335-5/pdf](https://nwhjournal.org/article/S1751-4851(17)30335-5/pdf)
- 26 American Psychological Association. "End the Use of Restraints on Incarcerated Women and Adolescents during Pregnancy, Labor, Childbirth, and Recovery," August 2017, <https://www.apa.org/advocacy/criminal-justice/shackling-incarcerated-women.pdf>
- 27 See note 21.
- 28 Equal Justice Initiative. "Shackling of Pregnant Women in Jails and Prisons Continues," January 29, 2020, <https://eji.org/news/shackling-of-pregnant-women-in-jails-and-prisons-continues/>
- 29 Andrea Hsu. "Difficult Births: Laboring and Delivering in Shackles," *NPR All Things Considered*, July 16, 2010, <https://www.npr.org/templates/story/story.php?storyId=128563037>
- 30 See notes 26 and 27.
- 31 See note 26.
- 32 See note 11.
- 33 Samantha Artiga, Olivia Pham, Kendal Orgera, and Usha Ranji. "Racial Disparities in Maternal and Infant Health: An Overview," Kaiser Family Foundation, November 10, 2020, <https://www.kff.org/report-section/racial-disparities-in-maternal-and-infant-health-an-overview-issue-brief/>; National Partnership for Women & Families. "Black Women's Maternal Health: A Multifaceted Approach to Addressing Persistent and Dire Health Disparities," April 2018, <https://www.nationalpartnership.org/our-work/health/reports/black-womens-maternal-health.html>

- 34 Bill Chappell. "California's Prison Sterilizations Reportedly Echo Eugenics Era," NPR, July 9, 2013, <https://www.npr.org/sections/thetwo-way/2013/07/09/200444613/californias-prison-sterilizations-reportedly-echoes-eugenics-era>; Reuters. "California Bans Sterilization of Female Inmates Without Consent," NBC News, September 26, 2014, <https://www.nbcnews.com/health/womens-health/california-bans-sterilization-female-inmates-without-consent-n212256>
- 35 NPR 1A. "ICE, A Whistleblower and Forced Sterilization," September 22, 2020, <https://www.npr.org/2020/09/18/914465793/ice-a-whistleblower-and-forced-sterilization>
- 36 Youth.gov. "Children of Incarcerated Parents: The Impact of Incarceration," accessed May 6, 2021, https://youth.gov/sites/default/files/COIPInfographic_508.pdf
- 37 Harvard University Center on the Developing Child. "ACEs and Toxic Stress: Frequently Asked Questions," accessed May 6, 2021, <https://developingchild.harvard.edu/resources/aces-and-toxic-stress-frequently-asked-questions/>
- 38 See note 3.
- 39 The Sentencing Project. "Incarcerated Women and Girls," November 24, 2020, <https://www.sentencingproject.org/publications/incarcerated-women-and-girls/>
- 40 *Ibid.*
- 41 Lucius Couloute and Daniel Kopf. "Out of Prison & Out of Work: Unemployment Among Formerly Incarcerated People," Prison Policy Initiative, July 2018, <https://www.prisonpolicy.org/reports/outofwork.html>
- 42 Lucius Couloute. "Nowhere to Go: Homelessness Among Formerly Incarcerated People," Prison Policy Initiative, August 2018, <https://www.prisonpolicy.org/reports/housing.html>
- 43 See note 37.
- i See note 21.
- ii Amnesty International. "Not Part of My Sentence: Violations of the Human Rights of Women in Custody," March 26, 2011, <https://www.amnestyusa.org/reports/usa-not-part-of-my-sentence-violations-of-the-human-rights-of-women-in-custody/>

ACKNOWLEDGMENTS

**This bulletin was authored by:
Nicolette Wolfrey, Health Justice Intern, NPWF**

Sinsi Hernández-Cancio, Vice President for Health Justice, NPWF
Carol Sakala, Director for Maternal Health, NPWF
Shaina Goodman, Director Reproductive Health and Rights, NPWF
Nikita Mhatre, Health Justice Policy Associate, NPWF
Jessi Leigh Swenson, Director, Congressional Relations, NPWF
Roseline Jean-Louis, Birth Equity Research Scholar, NBEC
Karen Dale, Market President/CEO, AmeriHealth Caritas DC
Jorge Morales, Editor
Three(i) Creative Communications

Support for this series was provided by the Robert Wood Johnson Foundation. The views expressed here do not necessarily reflect the views of the Foundation.

© 2021 National Partnership for Women & Families. All rights reserved.

National Partnership for Women & Families

1875 Connecticut Avenue, NW | Suite 650 | Washington, DC 20009
202.986.2600 | [NationalPartnership.org](https://www.NationalPartnership.org)

National Birth Equity Collaborative

1301 Connecticut Ave, NW | Suite 200 | Washington, DC 20026
202.964.0213 | [BirthEquity.org](https://www.BirthEquity.org)

FOR MORE INFORMATION:
[NATIONALPARTNERSHIP.ORG/MOMSANDBABIES](https://www.NationalPartnership.org/MOMSANDBABIES)