

Implementing Policies and Practices on the Non-Use of Restraints with Incarcerated Pregnant Women

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National Resource Center on Justice Involved Women
A project of the Bureau of Justice Assistance and the National Institute of Corrections

Today's Agenda

- Describe the health risks of using restraints on pregnant women
- Articulate the key principles and recommendations outlined in the Best Practices Statement
- Describe the current mix of laws, policies, and practices
- Reflect on the challenges to implementation that healthcare and corrections practitioners face
- Identify efforts for future reform to more adequately meet the needs of pregnant women in custody in regards to not restraining pregnant women

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Presenters



Becki Ney

- Principal, Center for Effective Public Policy
- Project Director for the National Resource Center on Justice Involved Women
- Provides TTA on topics such as evidence-based decision making, domestic violence, justice involved women, prison and jail overcrowding, parole release decision making, reentry, probation/parole violations, and sex offender management



Micah Haskell-Hoehl

- Senior Policy Associate, Public Interest Government Relations Office, American Psychological Association
- Policy portfolio includes criminal and juvenile justice, with an emphasis on mental and behavioral health, gender, identity and sexual orientation, ethnicity, and socioeconomic status
- Administers APA's Congressional Fellowship Program



Dr. Carolyn Sufrin

- Ob/Gyn and Ph.D in Medical Anthropology
- Assistant Professor, Department of Gyn/OB, Johns Hopkins School of Medicine, and in the Department of Health, Behavior and Society, Johns Hopkins Bloomberg School of Public Health
- Provided clinical care to and conducted research on women in jails
- ACOG liaison for the National Commission on Correctional Health Care



Jamie Clayton

- Chief Deputy of Corrections for the Imperial County Sheriff's Office (California)
- Past President of the American Jail Association
- Certified Jail Manager with AJA, Certified Professional with the National Association of Pre-Trial Services Association, a graduate of POST Command College class #49 and the National Jail Leadership Command Academy Class #1
- Adjunct faculty for Imperial Valley College and Humphreys College

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Why focus on the use of restraints with pregnant women and girls?

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The National Focus on the Use of Restraints with Pregnant Women and Girls

- An increased interest in women in corrections – there are more justice-involved women than ever in our history!
- Implementation of more evidence-based, gender responsive, and health related strategies
- Growing national focus on trauma-informed care and the reduced use of seclusion and restraint (e.g., SAMHSA's Trauma and Justice Initiative)
- Changing human rights standards around the world (Amnesty International, Human Rights Watch, ACLU, UN)

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The National Focus (continued)

- Growing body of case law and legal considerations
 - Human rights violations
 - Inadequate medical care
 - Wrongful death of infant

"The opposition of medical, legal, and international communities to routine shackling during childbirth establishes that it is better policy to limit restraints to extreme cases in which a record can be established justifying the practice. This view also reflects the safer course for correctional administrators to avoid litigation."

—Myrna Raeder, J.D., Professor of Law at Southwestern Law School

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How common are pregnancy & childbirth in custody?

- 6-10% of incarcerated women are pregnant

1999 BJS report
on women in
custody

- Women who report being pregnant at intake:

5% (@4,700) of women in jail

4% (@ 4,052) of women in state
prison

3% (@ 411) of women in federal prison

2002 and 2004 BJS
inmate surveys
Self-report
Representative sample

- 1400 births per year

1998 ACA survey of
43 state prisons

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Help improve care for pregnant women in custody!



- We are seeking jails and prisons to participate in a new research project to report updated, comprehensive information on pregnancy outcomes in corrections.
- This will help to establish a national reporting system and will help to improve services for pregnant women in custody
- Collaboration between Hopkins researchers, NIC, NRCJIW

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Help improve care for pregnant women in custody!



- Starting March 2016, facilities will report aggregate data on pregnancy outcomes on a monthly basis for 1 year

IF YOUR FACILITY IS INTERESTED IN PARTICIPATING,
PLEASE CONTACT:

Dr. Carolyn Sufrin

pips@jhu.edu

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Health Risks of Restraints in Pregnancy

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Health risks of restraints in pregnancy: Key principles

- Risks to pregnant woman and fetus/newborn are present throughout pregnancy, labor, delivery, and postpartum period.
- Balance between health risk and security risk
- Physiologic changes of pregnancy:
 - Low blood pressure
 - Increased risk of blood clots
 - Change in center of gravity
 - Nausea/vomiting of pregnancy
- Signs of danger in pregnancy can be subtle
- Obstetrical emergencies are unpredictable and can occur at any point

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Restraints can cause complications from these changes and interfere with providing emergency care

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Health risks of restraints: During Pregnancy

- Increased risk of blood clots
- Nausea/vomiting of pregnancy, dehydration
- Low blood pressure
- Change in center of gravity

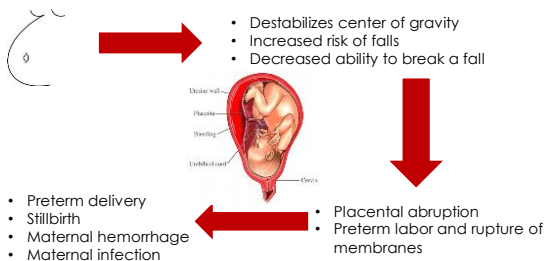
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Health risks of restraints: During Pregnancy

- Increased risk of blood clots
 - Nausea/vomiting of pregnancy, dehydration
 - Low blood pressure
 - Change in center of gravity
- Immobility further increases risk of blood clot
- Risk of falls

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Health risks of restraints: Falls in pregnancy



*ACOG Committee Opinion 511, 2011

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Health risks of restraints: Unpredictability of OB emergencies

- Hemorrhage
- Preterm labor
- Seizures/pre-eclampsia

Health care staff need unimpeded access to evaluate and treat patient symptoms

*ACOG Committee Opinion 511, 2011

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Health risks of restraints: Worrisome signs can be subtle

- ANY bleeding (even light spotting) in pregnancy is concerning and must be evaluated in a timely fashion by qualified provider
- Preterm labor
- Full term labor
- Miscarriage
- Placental separation, placenta previa
- Headache (pre-eclampsia)
- Abdominal pain (ectopic , preterm labor, infections)

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Health risks of restraints: Worrisome signs can be subtle

- Symptoms should be evaluated by qualified health care professional (not triaged by custody staff)
- Policies which limit restraints only during labor and delivery ignore the acuity, subtlety and unpredictability of pregnancy complications
- Avoidance of restraints is necessary throughout pregnancy

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Health risks of restraints: Labor and Delivery

- Adequate monitoring of the baby
- Proper positioning for epidural
- Bodies need to move freely to relieve labor pains
- Emergent, unpredictable procedures during labor
 - Fetal distress
 - Baby getting stuck in birth canal
 - Hemorrhage
 - Eclampsia
 - Emergency C-section



*ACOG Committee Opinion 511, 2011

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Health risks of restraints: Transport



Any of these scenarios
can occur during transport!

*ACOG Committee Opinion 511, 2011

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Health risks of restraints: Postpartum

- Interference with safe holding of the newborn
 - Importance of mother-infant bonding
 - Breastfeeding
- Post-partum emergencies
 - Hemorrhage
 - Seizures
- Immobility increases risk of blood clots
- Increased risk of falls, interferes with healing after vaginal delivery or c-section



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Best Practices on the Non-Use of Restraints with Pregnant Women



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The National Task Force on the Use of Restraints with Pregnant Women under Correctional Custody

Co-sponsored by the U.S. Department of Health and Human Services and the U.S. Department of Justice

- SAMHSA's Promoting Alternatives to Seclusion and Restraint through Trauma-Informed Practices
- SAMHSA's National Center for Trauma-Informed Care
- U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance's National Resource Center on Justice Involved Women

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Task Force Membership

- American Correctional Association
- American Congress of Obstetricians and Gynecologists
- American Jail Association
- Association of State Correctional Administrators
- U.S. Bureau of Prisons
- ICE, Department of Homeland Security
- Human Rights Project for Girls
- National Commission on Correctional Healthcare
- National Institute of Corrections
- National Women's Law Center


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National Commission on Correctional Health Care

Position Statement (2010)
<http://www.ncchc.org/restraint-of-pregnant-inmates>

"Restraint of pregnant inmates during labor and delivery should not be used. The application of restraints during all other pre- and postpartum periods should be restricted as much as possible and, when used, done so with consultation from medical staff."



Standard J/P-G-09 (2014)
 Restraints are not used during active labor and delivery.
 Discussion: Restraint during transport. . . Should not be used except when necessary due to serious threat of harm. . . . Restraint during all other pre- and postpartum periods should be restricted as much as possible and used only in consultation from medical staff"

Committee Opinion 511 (2011)
 "Shackling during transportation. . . and during receipt of health services should only occur in exceptional circumstances for pregnant women and women within 6 weeks postpartum after a strong consideration of health effects of restraints by the clinician providing care. . . . If restraint is needed, it should be the least restrictive possible."

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The Best Practices Statement

A set of principles to guide corrections agencies in the development of policies and practices.....

Designed to maximize safety and minimize risk for pregnant women and girls, their children, and correctional and medical staff

The Best Practices Statement can be applied:

- Across a variety of settings (i.e., criminal justice, juvenile justice, psychiatric and forensic hospitals, law enforcement transport)
- To both women and girls
- During pregnancy, labor, delivery, and post-partum

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Best Practices Statement: Principles

- There should be **written policies and procedures**.
- Policies and procedures should be **developed collaboratively** (corrections and medical staff).
- Policies and practices **specific to the unique needs of pregnant women and girls** are necessary to ensure health and safety for pregnant women and their fetuses/newborns.
- Policies and procedures should **be gender responsive**.
- The use of restraints on pregnant women and girls under correctional custody should be **limited to absolute necessity**.

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Recommendations: Brief Highlights

- The following types of restraints and restraint practices should never be used:**
 - Abdominal restraints
 - Leg and ankle restraints
 - Wrist restraints behind the back
 - Four-point restraints
- Wrist restraints may be used** only in a manner that allows the pregnant woman or girl to protect herself and her fetus in the event of a forward fall

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Recommendations: Brief Highlights

3. Restraints should never be used during labor and delivery
4. The use of restraints should not be used during the post-partum period and during transportation unless absolutely necessary
 - If restraints are deemed absolutely necessary, they should not interfere with the mother's ability to safely handle and promptly respond to the needs of her newborn

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Recommendations: Brief Highlights

5. All uses of restraints should be documented thoroughly and a debrief should occur following any use of restraints.
6. Correctional staff should receive training on use of restraints.
7. Quality control and assurance methods should be in place to track adherence to policy and procedure, the impact/ effectiveness of the restraint policy, and the need for adjustment in policy or practice over time.

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CURRENT STATUS OF LAWS, POLICIES AND PRACTICES ON RESTRAINTS



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Efforts by the American Psychological Association

- Opportunity: federal criminal justice reform
- What can APA say that's relevant to federal policy?
- How did we define the issue?
- What is the picture at the state level?

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How many states allow the use of restraints?

- Great research; changing policy landscape
- [New York Times editorial](#) (Nov 2015): 28
- [Elle magazine](#) (Nov 2015): 32
- [Daily Beast](#) (Jul 2015): 28
- [Al-Jazeera America](#) (Mar 2015): 30

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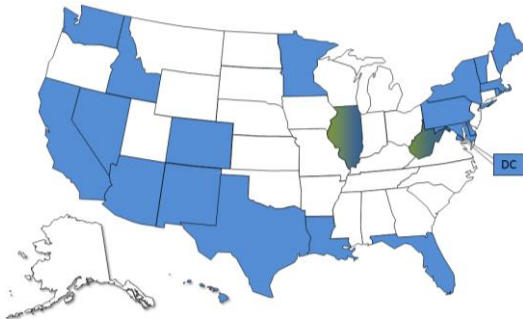
Thirteen states have no restrictions



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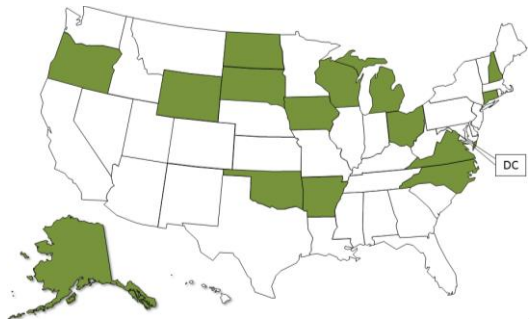
Twenty-two states (plus DC) have laws



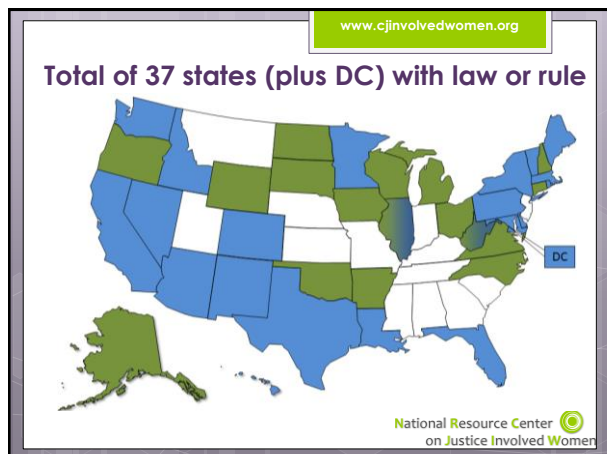
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Fifteen states have rules only



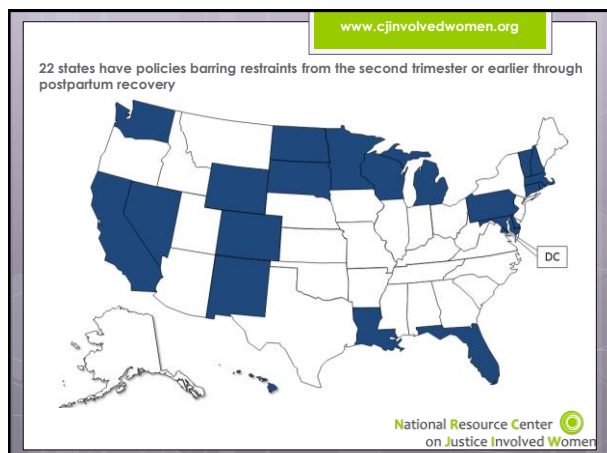
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More important to ask what does “allows the use of restraints” mean?

- Even comprehensive restrictions allow for restraint under certain conditions
- HUGE variation in state restrictions

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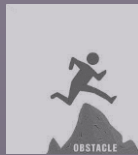


Some states' restrictions are much less comprehensive

- Arizona and Arkansas have no restrictions on the use of restraints during pregnancy
- Idaho has no restriction on the use of restraint during postpartum recovery
- Iowa requires full restraint through second trimester, along with a Staxi or wheelchair, during transport
- Ohio:
 - Leg iron attached to hospital bed during pregnancy
 - Leg irons during recovery in hospital, unless holding infant
 - Full restraint during transport back to correctional facility after birth

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IMPLEMENTATION CHALLENGES AND STRATEGIES FOR OVERCOMING BARRIERS



Panel Discussion Topics

- Policy and procedure with respect to restraining pregnant women
- Transportation of pregnant inmates to outside doctor's appointments
- Risk to staff or other issues when not using restraints
- Hospital requirements regarding restraints
- Effective strategies for collaboration between corrections and medical staff
- Responding to pregnant inmates who "act out," are violent, and/or are mentally ill
- Staff training and oversight re: implementation of laws, policies, and procedures
- Current federal reform efforts

Questions?
Type them
in the chat
box.

Please send policies
and procedures to:
rramirez@cepp.com

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Efforts at the federal level

- Coalition consensus principles
 - Data collection
 - Leadership from BOP
 - Training and technical assistance
 - Community-standard care
- Additional APA recommendations
 - Incentives for states to implement comprehensive restrictions
 - Ensure women can report violations of policies

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Anticipated House Legislation

- Sponsored by Reps. Karen Bass (D-CA) & Katherine Clark (D-MA)
- Data collection
- BOP and Federal Marshal Service
 - Codifies restriction on restraint
 - Provides for training of COs and Marshals
- Sense of Congress that state and local governments should restrict the use of restraints

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S. 1851, Human Rights for Girls Act

- Sponsored by Sens. John Cornyn (R-TX) & Charles Schumer (D-NY)
- Amends Juvenile Justice and Delinquency Prevention Act (JJDP)
- Directs states to:
 - Eliminate use of restraints within three years
 - Outline related policies, procedures, and training

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S. 1169, Juvenile Justice and Delinquency Prevention Reauthorization Act of 2015

- Sponsored by Sens. Charles Grassley (R-IA) & Sheldon Whitehouse (D-RI)
- Amended bill approved by Senate Judiciary Committee in July
- Directs states to:
 - Develop a plan to eliminate the use of shackling during the third trimester, labor, delivery, and postpartum recovery
 - Describe related policies, procedures, and training

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Next steps

- Get these bills into law
- Use data to inform the next round of reforms
- Enhance U.S. Department of Justice training and technical assistance to corrections and law enforcement
- Broaden the conversation at the federal level around gender-responsive policy and practice

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Contact us for more information

- National Resource Center on Justice Involved Women:

Becki Ney, bney@cepp.com

To express interest in  **PIPS**
Pregnancy In Prison Statistics

- Dr. Carolyn Sufrin, pips@jhu.edu

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