



LINC Eyes on the Law

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Dehumanized, Degraded & Disconnected

The Experience of Incarcerated Pregnant Women



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Introduction

While no woman's experiences with incarceration & pregnancy are the same, the stories of incarcerated pregnant women are woven into the fabric of our legal and prison systems and are often characterized by a severe lack of humane treatment and care of one of our society's most vulnerable populations. Although legislation like House Bill 608, also known as the Dignity for Incarcerated Women Act (6), designed to advocate for and protect incarcerated pregnant women has been signed into law, the stark reality is that practice oftentimes does not coincide with policy. Pregnant women not only face the trauma and hardship of incarceration, but do so with a severe lack of prenatal, mental and physical care.

Through the analysis of qualitative data from riveting interviews with women who have experience both working with justice-involved pregnant women and with being incarcerated while pregnant, these stories of incarcerated pregnant women can be uplifted and advocated for. There must be an examination of the legal protections and pitfalls impacting justice-involved women, as well as the data that exemplifies the failures of our society in protecting incarcerated pregnant women. Only through examining and acknowledging the disparities in our legal system can recommendations and changes be made to bring "justice" back into our court system.

It is important to recognize the downfalls of our ability to completely encompass the hardships of incarcerated pregnant women. The stories we are able to tell are only a drop in an ocean of impacted lives. While there can be no generalization of the presentation of this data, it does provide a groundwork for avenues of future research, awareness and increased advocacy.

Increase in Incarceration

58%

Of all incarcerated women are mothers to minors (3)

North Carolina incarcerates about 36 women per every 100,000 & the likelihood of one of those women being pregnant at the time of her arrest is about 3.5% (8)

Mass Incarceration

In the last quarter century, there has been a stark increase in the involvement of women and girls in the judiciary system. As of 2020, the population of incarcerated woman has grown almost five times in size, going from less than 30,000 in the year 1980 to over 200,000 by the end of 2015 (7).

The rate at which individuals are incarcerated in the United States makes that a large chunk of women being stripped away from their communities while pregnant. Not only is there almost no data that exists for this population, but there has also been an extreme and egregious history of maltreatment and abuse against the pregnant population within the legal system. Therefore, it is imperative that a call to action be made to address the disparities caused by the epidemic of mass incarceration

Disparities within Disparities

36% of women in the U.S. identify as women of color...



Yet WOC make up almost 50% of the female prison population (3)

2/3 of incarcerated women (3)...

are women of color.



Women & girls of color are...

4x

more likely to be incarcerated rather than referred to supportive services or mental health services than white women (3)

Approximately 700 women die in the U.S. each year as a result of pregnancy or its complications (2).



Black Women are...

3.5 x

more likely to die of pregnancy-related complications than white women (2)



Incarcerated pregnant women face increased risk of miscarriage, cesarian sections, premature births & postpartum complications

In the general population...

6 infants die per 1000 live births (10)

Black Infants die at birth at a rate of TWICE that

Now imagine ...

Experiencing the vulnerability of pregnancy and childbirth while being:

- Denied access to proper nutrition and prenatal care
- Denied the ability to properly exercise & rest
- Denied treatment for substance use disorders
- Denied the proper education about parental options and rights
- Denied the ability to experience labor in a healthy manner without the use of restraints
- Subjected to the stresses of incarceration
- Subjected to treatment as a second-class citizen
- Subjected to the lack of safety, care & compassion that all individuals deserve
- Subjected to the disparities within disparities

Empowering Epics...

Stories from Impacted Women

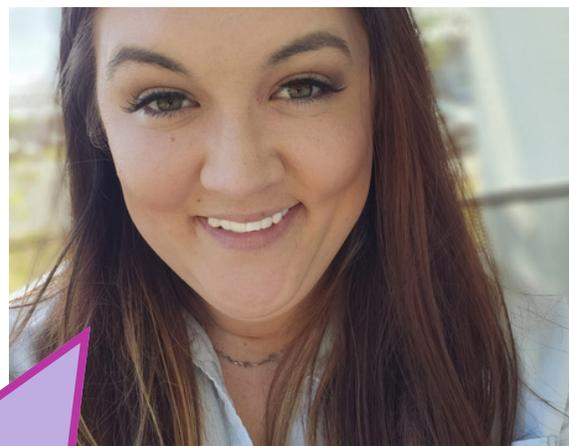
Interview Highlights

- Kristie Puckett-Williams** currently serves as the Deputy Director for Engagement & Mobilization for the ACLU of North Carolina. Her personal experience with substance use disorder, incarceration, domestic violence and poverty, made her a perfect candidate for an interview about pregnancy while incarcerated. Kristie's first-hand experience being pregnant while incarcerated provided passionate and striking testimony about the disparities and hardships that impact incarcerated women. Kristie has been instrumental in advocating for policy change and implementation in North Carolina.
- Haley Vandergrift** not only experienced being pregnant while being justice-involved, but afterwards utilized her experience to begin working with women who faced similar histories of substance use and trauma at the TIDES program. Now, Haley continues her advocacy and support of justice-involved individuals as a case manager at LINC's M.E. Roberts Transitional Living Campus.

"Let's just be clear, most of the pregnant people who are incarcerated, including myself, were incarcerated for the criminalization of their mental health and substance use disorder"



Kristie Puckett-Williams, ACLU



Haley Vandergrift, LINC Case Manager

"It's a nightmare already to begin with, because you're going in to have this baby you've waited so long to meet and then they have to take the baby and then you're reminded very quickly that you're a prisoner. That baby's not coming with you".

"It just depends..."

The inconsistencies of sentencing pregnant women

58,000

Pregnant women are estimated to enter prison or jail each year (8).

And yet...

Policies or statutory duties exist for judges stating pregnancy should be considered during sentencing.

So the fate of women and their children is left up to discretion...

"I have seen it work both ways as regards sentencing..."

That's why justice is so bad.

Because it depends on who you get. Where, what you got, what you look like, those variables can make your outcome different or better."

~Kristie Puckett-Williams, ACLU

This discretion is being allowed without proper regulation...

And compassion often comes at a price...

72%

Of detentions and forced interventions are enacted upon low-income women (3)

59%

Are women of color (3).



Realities of Incarceration

Once ensnared in the criminal legal system, individuals are subjected to:

- Complete loss of autonomy
- Trauma & Violence
- Overcrowding
- Solitary Confinement
- Lack of mental & physical health care



When pregnant, that subjection is amplified...

82% of nurses who cared for incarcerated mothers said shackles were used during birth "sometimes" to "all of the time" (9)

20% of prison pregnancies resulted in miscarriages (9)

Only 54% of pregnant women in prisons report receiving prenatal care while incarcerated (3)

> Pregnant women have a greater chance of being placed in safekeeping (solitary confinement) (11)

...Is this not "cruel and unusual" punishment?

Truths uncovered from behind bars...

"I can't tell you how many babies are born stillborn to incarcerated mothers because the lack of care they received, or the mothers whose babies were born stillborn because their labor was delayed (due to shackles). That's the reality of being pregnant. It's hard in any state, but especially in North Carolina."

~Kristie Puckett-Williams, ACLU

"Everybody was nasty. There could be me (who was arrested for substance use) and somebody that's accused of homicide and they're gonna treat us exactly the same. And that is just that we're both the dirt that they walk on, because that's how it is." ~Hayley Vandergrift, LINC



Legal Analysis: Policies Impacting Incarcerated Pregnant Women



NORTH CAROLINA

Senate Bill 167

Healthy Mother, Healthy Child

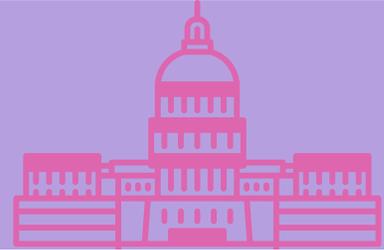
SB 167, introduced in 2017 prohibits the use of shackles on women known to be pregnant, during medical transportation, labor or postpartum recover unless there are "extraordinary circumstances". (12)

Dignity for Incarcerated Women Act

HB 608 was signed into NC Law by Governor Roy Cooper on September 10, 2021. This bill aims to define dignity for incarcerated pregnant women by guaranteeing protections during both their pregnancy and labor. The bill addresses shackling, prenatal & postpartum care, restrictive housing, bonding time and more. (6)

House Bill 608

Pending Federal Legislation



Pregnant Women in Custody Act

H.R. 6878 is a bipartisan bill which would require that the Bureau of Prisons & U.S. Marshall Services comply with the following requirements:

- Implement and abide by care standards
- Provide medical & mental health services, as well as, education about nutrition, parental rights and child care for incarcerated pregnant women
- Evaluate incarcerated pregnant women for high risk pregnancies and ensure proper care and attention is given
- Authorize research about the conditions and outcome of pregnancies for incarcerated women and make this data both mandated and publicly available
- Require training and guidelines that must be adhered to by prison staff
- Offer grants for State prisons to implement similar programs, training & guidelines (5)

Dignity for Incarcerated Women Act

Reintroduced by Senator Cory T. Booker in 2017 & 2019 as well as recently introduced again as legislation for federal consideration. Similar to the NC Dignity for Incarcerated Women Act this act would protect:

- Women's access to their families
- Access to feminine products
- Care for pregnant women
- Implementation of trauma informed care programs

REMEMBER



The policy of North Carolina's Department of Public Safety has always prohibited the use of excessive restraints and inhumane treatment of pregnant women. However, policy has not always been reflected in practice. Now that policy has been transformed into law, there must be increased transparency and enforcement of those policies in North Carolina prisons & jails. **No longer** should the term "safe-keeping" be used to house pregnant women in the tortuous conditions of solitary confinement. **No longer** should pregnant women be inhumanly shackled during labor. **No longer** should pregnant women be routinely denied access to parental education, mental health services, substance use treatment & proper prenatal and postpartum care.





Methodology

- Breakdown:
 - Research what data is available at the state- and national-level in the public sphere.
 - Determine how many women who have experienced pregnancy during incarceration will be willing and available to share their stories & insight during the study-time. Goal was 1-5 interviews due to month-long timespan, we were able to accomplish 2.
 - Create guided and open-ended interview questions based on the quantitative data what was available in the public sphere. Questions were primarily based on where the gaps in information and where the highest needs for the population was lying based on our analysis of the literature.
 - Conducted interviews.
 - Each respondent was given a consent form and gave verbal consent at the time of the interview.
 - Each interview lasted 30 minutes- 1.5 hours and yielded 8-12 pages of qualitative responses.
 - Interview responses were coded thematically into categories based on the questions agreed upon by researchers and by the findings from our directed content analysis of available information (depicted in parts 3,5, 6 & 9).
 - Themes were broken down into two categories of Progress (defined as positive changes or statements) or Detriments (harmful conditions still being reported) to direct the implications. If quotes did not fit into one or the other, they were counted as progress as it was not directly detrimental (depicted by asterisks in Table 1.1).
 - After coding, the predominant themes were counted nominally as to their frequency and analyzed in Table 1.1 then compared to the recommendations that arose from the content analysis with the implications that arose from the responses in our interviews.

Table 1.1: Qualitative Analysis & Implications from Interviews

Themes	Progress Frequency	Detriments Frequency	Total Theme Frequency % by Theme
Correctional Officer Treatment	0	6	10.7% (6)
Policies	2	4	10.7% (6)
Restraints	3*	6	16.1% (9)
Medical Care	4*	6	17.9% (10)
Safekeeping	0	1	1.9% (1)
General Maltreatment	1*	4	8.9% (5)
Education/ Training	1	3	7.1% (4)
Sentencing	4*	5	16.1% (9)
Delivery & Birthing Outcomes	2*	4	10.7% (6)
Total Frequency % by (P) or (D)	32.1% (18)	67.8% (38)	100% (56)

Research Constraints

While the intention of this initiative was to collect real-time data to present as representative of the current presentation of the sentencing and treatment of pregnant women in the N.C. Criminal Justice System, the researchers ran into many barriers along the way as the advocacy trail for the statistical importance and implications of the reality of pregnancies occurring during incarceration. While attempting to collect data we were met with a stark gap in information, apart from the few studies backed by Johns Hopkins(4), the Bureau of Justice Statistics(3), and the Prison Policy Initiative(8); all of which utilized survey data dating back to 2016-2017. There have been efforts and tracking of policy change, mostly accredited to ACLU(14), but the implementation of those policies on the state-level has not been tracked or reported on, and lawsuits continue to arise on the state level as the stories of maltreatment in the news is what prevails as the public's source of insight.

Initial Implications

- Responses mostly centered around detriments still occurring (N=38)
- The themes most focused on in both interviews, in order, were Medical Care, Restraints, and Sentencing. Each of which had higher rates of detriments.
- Most of the progress responses (N=15) had caveats of detriments.

Supportive Pregnancy Care

Addressing the current deficiencies

The stress and trauma of incarceration, compounded with the conditions and symptoms of pregnancy require initiatives that promote the health of both mother & child in a holistic and consistent manner. The table below illustrates categories of care as outlined in the available surveys of literature in which the needs of incarcerated pregnant women have been collected and analyzed. By considering the existing literature (1, 8, 11) and the qualitative data collected, the following categories and considerations for care were established:

Table 1.2: Current needs for considerations of care

Categories	Considerations for Care
Health	prenatal care, delivery & postpartum care, abortion access, medical treatment, nutrition, activity, rest, substance use treatment, HIV treatment & transmission prevention
Education	parental rights information, career & educational development opportunities, parenting classes, family planning & safe sex education, adoption access & rights
Supportive	Access to social workers, organization, labor & delivery support, services upon separation, release from prison/jail & reunification with child, advocacy, LGBTQIA+
Counseling	trauma, substance use, pregnancy, parenthood, mental health support, separation of mother/child, intimate partner violence

By implementing these considerations of care, prisons and jails would be significantly more successful in ensuring the health and safety of both mother and child. Proper implementation of programs that address each of these service needs, including supportive reentry services would greatly reduce the risks to mother & child and provide ample reduction in recidivism rates by empowering mothers and addressing the core issues that may have initially resulted in their incarceration.



Recommendations



Mandated & transparent reporting on the number, conditions, outcomes and provided services for incarcerated pregnant women.



Implementation of supportive programs and services such as on staff OBGYNs, counselors, social workers, advocates and educators.



Humanize our language, legislation & legal system. Words like "criminal", "offenders" and "inmates" should be eliminated when referring to justice-involved individuals. Decriminalize victimhood & substance use disorders. Ensure equitable compassion is being promoted in legal proceedings.



Establishment of facilities dedicated and designed to housing and supporting incarcerated pregnant women or alternative sentencing options for pregnant women



Training & education of law enforcement and legislatures. Ensure enforcement and compliance with protective policies. Accountability for our prison and legal systems

Discussion & Conclusion

Discussion: What do we have?



- "It depends", this inconsistencies surrounding sentencing and treatment of pregnant women.
 - The most predominant response to emerge from the interviews conducted in this study was "it depends". Within this study, the statement "it depends" was found in 100% (N=9) of the themes laid out by the researchers. This, combined with the data from existing literature and surveys stating inconsistencies throughout, creates an implication that while there may be emerging policies, the practices, training, and implementation surrounding these policies is not being monitored or mandated on an institutional basis.
- The results of the literature review of surveys, compiled with the qualitative responses we were able to obtain, there is the stark implication that the needs and the detriments still far outweigh the progress.
- There are some areas of focus, or themes, which researchers, advocates, and mother's themselves are more comfortable with going over than others. While medical care, the use of restraints, and sentencing practices were the themes that emerged most throughout the interviews and the content, there is no way to definitively quantify one as more important than the other as this is an issue embedded in intersectionality.

Conclusion: Where do we go from here?



- Medical care is the most predominantly recorded area of focus based on the interviews and content utilized in this study, which implies an explicit need for gender-responsive and medically-based practices to be implemented at the institutional level. This could include on-site OBGYNs, available counselors and social workers, and the inclusion of pre- and post-natal medications.
- Policy, based on evidence of first-hand experiences and available content, is not currently being implemented in practice. This finding creates an emerging need to discuss mandating training and reporting to accompany policies moving forward.
- Denigration and a feeling of general maltreatment, while not emerging themes in the interviews were extremely prevalent in the literature analyzed for the backing of our study*. These feelings can only be dissipated through including compassion and re-humanizing these experiences for ALL people ensnared in our criminal justice system.
- Education & training is needed for proper policy implementation and protection of human rights, as responses from our interviews indicated that the "it depends" of it all might be dissolved if standardized training was implemented.
- Steps are being taken both forward and backwards in relation to these issues, so we must make an effort to re-focus on the forward trajectory of movements surrounding incarcerated pregnant women.

Author's Notes



Telesa Jones

My earliest memories are of watching Law and Order on my Grandfather's lap and being awed inspired by the intelligence and creativity of the big time lawyers like Jack McCoy and Rafael Barba and wishing that some day I could be just like them. Growing up in a small town in the corn fields of Kentucky as a biracial woman, greatly impacted my experiences and perceptions of the world and how I understood our legal system. Witnessing the injustice, discrimination and prejudicial treatment of people who looked like me inspired me to pursue human rights law and advocacy. Conducting the research for this project, not only exposed many of the pitfalls of our American legal system, but shined a light on every day women and their often unacknowledged experiences. I'm not ready to put the word "justice" back into the justice system, but it is my hope that one day the systems built on oppression and inequity will recognize the need implement better systems based on breaking cycles of trauma & injustice and focus on the humanity, compassion and dignity that all people are entitled to.



Cooper Mertens

Since I can remember I have been asking the tough questions and wanting to know the "why" behind everything. As I was raised in a small, religiously-based town in NC, and as an individual who has been a part of the queer community from a young age, I always felt like I was pushed to the outside and was looking in. However, as I grew up, I realized I was not the only one who felt that way. Our society unfairly labels and herds us into binary categories, creating power-dynamics that renders one group as innately "good" and the other as "bad". "Bad" groups have been comprised of minority populations and those who are not given a true voice. This project has laid bare the egregious disparities that exist in a system orchestrated to "control the bad". My hope with this publication is to bring into view the gravity of the denigrated practices that are currently in place, and create a call to stay cognizant as the results of studies going forward will also have to include a discussion of the overturning of Roe v. Wade which devastated our nation earlier this year. We must reinstate morality, we must practice compassion, and we must give voices back to the voiceless.



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