



Pregnant women sent to prisons and jails in 2016

2,700 172 55,000

STATE PRISON¹

FEDERAL PRISON²

LOCAL JAIL³

All estimates here are extrapolated from limited existing data

No federal government reports provide current data about incarcerated pregnant women⁷

Women of color are disproportionately incarcerated yet no national studies report on incarcerated pregnant women's race and ethnicity⁸

No data exist on incarcerated transgender and gender expansive people who are pregnant⁹

Percent of women who are pregnant at admission

4%

STATE PRISON⁴

3%

FEDERAL PRISON⁵

3%

LOCAL JAIL⁶

Incarcerated pregnant women are:



CHOICE

easily denied their legal right to abortion because of poor services and denials of care¹¹



CARE

often denied adequate food, support and health care¹²



PRIVACY

watched by officers during all medical appointments¹³



SUPPORT

refused family support during childbirth¹⁴

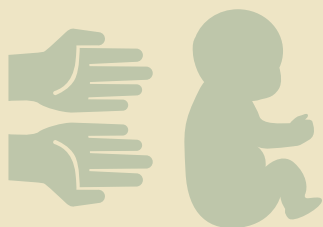


1,400 babies born to women in prison in 2016¹⁰

Incarcerated mothers are often prevented from **bonding and breastfeeding** in the hospital, sometimes illegally¹⁵



Most incarcerated mothers are



separated from their newborns within days and some face losing parental rights forever¹⁶





9 states have prison nursery programs and many mothers are unjustly refused entry¹⁷



Shackling pregnant women violates human rights and illuminates the criminal legal system’s culture of punishment. This happens because we do not value women of color and women from low-income communities. Formerly and currently incarcerated women continue to drive anti-shackling reforms with their expertise and brilliance. Valuing this leadership is what we need in our movement and our society.”

– **Miyhosi Benton**, policy expert and leader in NY’s successful 2015 anti-shackling campaign

Shackling pregnant women is:

-  **DANGEROUS** to women’s safety, physical health and emotional well-being
-  **HARMFUL** because it can interfere with medical care and cause falls and complications
-  **UNNECESSARY** because officers can supervise pregnant women without using shackles
-  **OPPOSED** by the nation’s leading health experts and human rights groups¹⁸

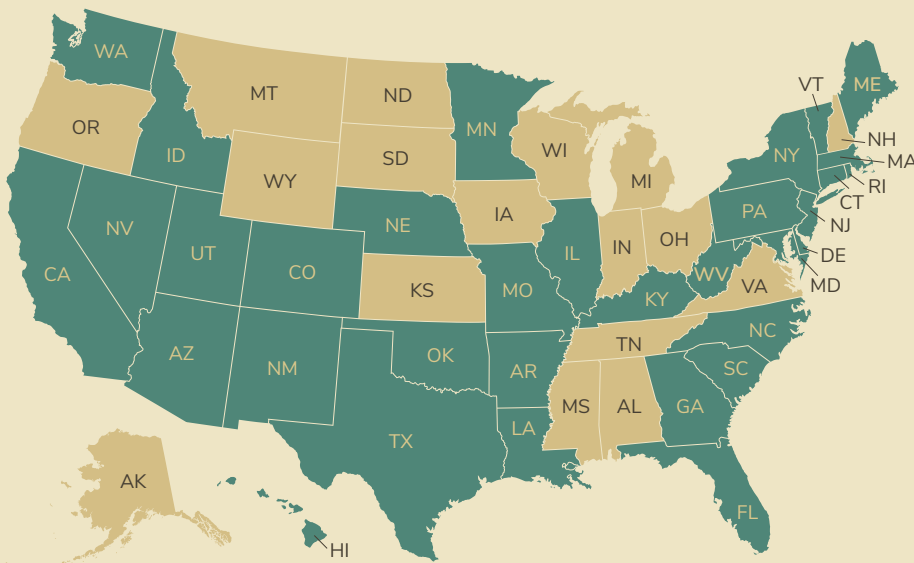
Anti-Shackling Laws

33 states

have laws that limit shackling of incarcerated women during childbirth¹⁹

17 states

do not have laws that limit shackling of incarcerated women during childbirth²⁰

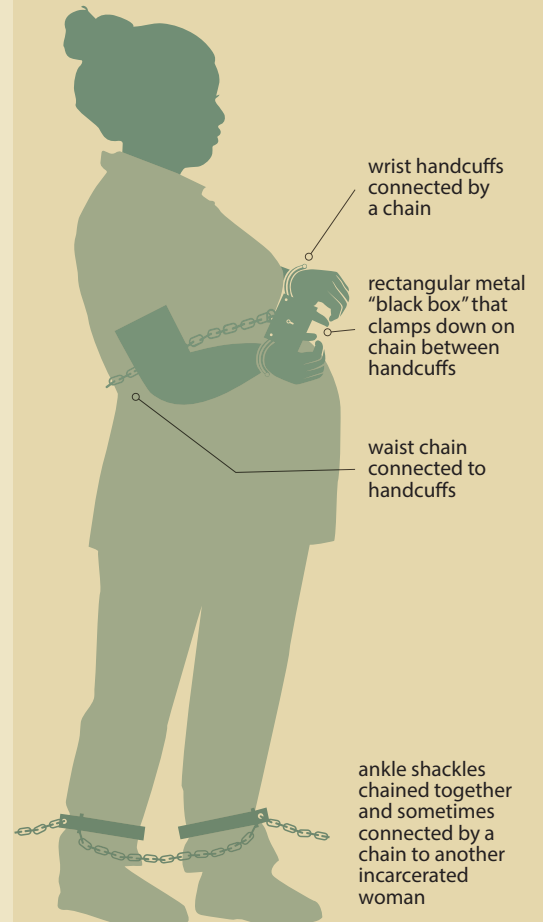


Many additional state and local corrections departments have policies that limit shackling during pregnancy and/or childbirth in some way²¹

Federal law largely prohibits federal prisons from shackling women during pregnancy and postpartum, but permits officers to use front handcuffs, including during labor and childbirth, if the woman is deemed a threat or flight risk²²

Anti-shackling laws and policies are routinely violated and many women continue to be subjected to this brutal practice²³

Shackling can take different forms all are harmful for pregnant women



Women can be shackled for many hours or even days at a time

Incarcerated Women: Pregnancy, Childbirth & Shackling

References

¹ Women & Justice Project (WJP) calculated this estimate by using data from Pregnancy in Prison Statistics (PIPS) and Association of State Correctional Administrators (ASCA). PIPS gathered data on the number of pregnant women admitted to 22 state prison systems over a 12-month period from 2016 to 2017. The ASCA survey, which is unpublished, collected data on the number of pregnant women admitted to 45 state prison systems over a 10-month period in 2010. No information is available regarding the ASCA survey's methodology. WJP relied on the PIPS data for the 22 states PIPS surveyed and relied on ASCA data for the remaining 28 states to calculate this overall estimate. Association of State Correctional Administrators (ASCA) Survey Data 2010, on file at WJP.

Carson, E.A. (2018). *Prisoners in 2016*. Washington, D.C.: Bureau of Justice Statistics. Retrieved from: <https://www.bjs.gov/content/pub/pdf/p16.pdf>
 Sufrin, C., Beal, L., Clarke, J., et al. (2019). Pregnancy Outcomes in US Prisons, 2016-2017. *American Journal of Public Health*, 109(5), 799-805. Retrieved from: <https://ajph.aphapublications.org/doi/pdf/10.2105/AJPH.2019.305006>

² Sufrin, C., Beal, L., Clarke, J., et al. (2019). Pregnancy Outcomes in US Prisons, 2016-2017. *American Journal of Public Health*, 109(5), 799-805. Retrieved from: <https://ajph.aphapublications.org/doi/pdf/10.2105/AJPH.2019.305006>

³ Sufrin, C., Jones, R. K., Mosher, W.D., Beal, L. (2020). Pregnancy Prevalence and Outcomes in U.S. Jails. *Obstetrics & Gynecology*, (135) 5, 1177-1183. Available from: https://journals.lww.com/greenjournal/Abstract/2020/05000/Pregnancy_Prevalence_and_Outcomes_in_U_S_Jails.24.aspx

Prior to the release of the PIPS study above, WJP calculated an estimate of 58,700 pregnant women admitted to U.S. jails in 2016. Because the Bureau of Justice Statistics (BJS) does not publish national jail admissions numbers by sex, WJP applied unique admissions figures for women at New York City's jail, Rikers Island, to BJS' national admissions numbers to estimate the number of women who were admitted to U.S. jails in 2016. WJP then applied the most recent BJS percentage from 2004 (5%) of women who reported they were pregnant at time of admission to jail to the estimated national women's jail admissions figure. Because Rikers Island admissions are not necessarily representative of jail admissions nationwide, this estimate is very tentative. Sources for WJP's estimate:

Maruschak, L.M. (2006). *Medical Problems of Jail Inmates*. Washington, D.C.: Bureau of Justice Statistics. Retrieved from:

<https://www.bjs.gov/content/pub/pdf/mpji.pdf>
 Rikers 2013 admissions data, on file at WJP.

Zeng, Z. (2018). *Jail Inmates in 2016*. Washington, D.C.: Bureau of Justice Statistics. Retrieved from: <https://www.bjs.gov/content/pub/pdf/ji16.pdf>

⁴ The PIPS study of pregnancy outcomes among women in prison found that 4% of women admitted to state prison were pregnant. This figure is consistent with BJS' most recent report on the percentage of women who are pregnant at admission, published in 2008.

Sufrin, C., Beal, L., Clarke, J., et al. (2019). Pregnancy Outcomes in US Prisons, 2016-2017. *American Journal of Public Health*, 109(5), 799-805. Retrieved from: <https://ajph.aphapublications.org/doi/pdf/10.2105/AJPH.2019.305006>

⁵ This figure reflects BJS' most recent estimate of the percentage of pregnant women admitted to federal prison, published in 2008. The PIPS project does not provide a more updated estimate.

Maruschak, L.M. (2008). *Medical Problems of Prisoners*. Washington, D.C.: Bureau of Justice Statistics. Retrieved from: <https://www.bjs.gov/content/pub/pdf/mpp.pdf>

Sufrin, C., Beal, L., Clarke, J., et al. (2019). Pregnancy Outcomes in US Prisons, 2016-2017. *American Journal of Public Health*, 109(5), 799-805. Retrieved from: <https://ajph.aphapublications.org/doi/pdf/10.2105/AJPH.2019.305006>

⁶ Sufrin, C., Jones, R. K., Mosher, W.D., Beal, L. (2020). Pregnancy Prevalence and Outcomes in U.S. Jails. *Obstetrics & Gynecology*, (135) 5, 1177-1183. Available from:

https://journals.lww.com/greenjournal/Abstract/2020/05000/Pregnancy_Prevalence_and_Outcomes_in_U_S_Jails.24.aspx

The most recent BJS report, published in 2006, estimated that 5% of women admitted to jails were pregnant. Maruschak, L.M. (2006). *Medical Problems of Jail Inmates*. Washington, D.C.: Bureau of Justice Statistics. Retrieved from: <https://www.bjs.gov/content/pub/pdf/mpji.pdf>

Thank you to Ebony Lawson, Judy Clark, and Dr. Carolyn Sufrin for providing valuable feedback on this document. More information on Dr. Sufrin's Pregnancy in Prison Statistics (PIPS) project can be found at www.arrwip.org/the-project.

⁷ There are no federal government reports that provide data about the number of incarcerated women who give birth or have miscarriages, stillbirths, or abortions. Two Bureau of Justice Statistics studies conducted 15 years ago (in 2002 and 2004) provide the percentage of incarcerated women who reported they were pregnant when they were admitted:

Maruschak, L.M. (2008). *Medical Problems of Prisoners*. Washington, D.C.: Bureau of Justice Statistics. Retrieved from: <https://www.bjs.gov/content/pub/pdf/mpp.pdf>

Maruschak, L.M. (2006). *Medical Problems of Jail Inmates*. Washington, D.C.: Bureau of Justice Statistics. Retrieved from: <https://www.bjs.gov/content/pub/pdf/mpji.pdf>

⁸ Women of color make up 54% of the women's prison population in the U.S., even though women and girls of color represent only 38% of the general U.S. female population. The most recent government data showing racial and ethnic disparities in the U.S. women's jail population are 20 years old. The most recent BJS studies that published the percentage of incarcerated women who reported being pregnant at the time of admission were conducted in 2002 and 2004, and did not include any information about race or ethnicity. The PIPS study on pregnancies and pregnancy outcomes also did not include information about women's race or ethnicity: "As a result of the nature of aggregate data collection from each prison system, we were not able to gather information on individual women's specific demographic characteristics (e.g., race and age)." (see p. 801, Sufrin et al., 2019).

Carson, E.A. (2018). *Prisoners in 2016*. Washington, D.C.: Bureau of Justice Statistics. Retrieved from: <https://www.bjs.gov/content/pub/pdf/p16.pdf>

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Maruschak, L.M. (2006). *Medical Problems of Jail Inmates*. Washington, D.C.: Bureau of Justice Statistics. Retrieved from: <https://www.bjs.gov/content/pub/pdf/mpji.pdf>

Sufrin, C., Beal, L., Clarke, J., et al. (2019). Pregnancy Outcomes in US Prisons, 2016-2017. *American Journal of Public Health*, 109(5), 799-805. Retrieved from: <https://ajph.aphapublications.org/doi/pdf/10.2105/AJPH.2019.305006>

Swavola, E., Riley, K., & Subramania, R. (2016). *Overlooked: Women and Jails in an Era of Reform*. New York, NY: Vera Institute of Justice. Retrieved from: <https://www.vera.org/publications/overlooked-women-and-jails-report>
 U.S. Census Bureau. (2018). *American FactFinder. ACS Demographic and Housing Estimates, 2012-2016 American Community Survey 5-Year Estimates*. Washington, D.C.: Author.

⁹ Examples of organizations doing critical work on issues facing transgender and gender nonconforming people include Sylvia Rivera Law Project, NYC Anti-Violence Project, and the Transgender Law Center.

¹⁰ WJP calculated this estimate from PIPS data and ASCA data. PIPS gathered data on the number of live births to women in 22 state prison systems and all federal prisons over a 12-month period from 2016 to 2017. The ASCA survey, which is unpublished, provides birth and pregnancy data for 45 state prison systems over a 10-month period in 2010. No information is available regarding the ASCA survey's methodology. WJP added the PIPS data on 22 states to ASCA data for the remaining 28 states for this tentative overall estimate. Association of State Correctional Administrators (ASCA) Survey Data 2010, on file at WJP.

Carson, E.A. (2018). *Prisoners in 2016*. Washington, D.C.: Bureau of Justice Statistics. Retrieved from: <https://www.bjs.gov/content/pub/pdf/p16.pdf>

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Incarcerated Women: Pregnancy, Childbirth & Shackling

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- ¹⁶ The Adoption and Safe Families Act (ASFA) states that, in most cases, foster care agencies must file a termination of parental rights petition when a child has been in foster care for 15 out of the last 22 months. See: Adoption and Safe Families Act of 1997, Pub. L. No. 105-89, § 103(a)(3)(E), 111 Stat 2115 (1997). Correctional Association of New York. (2006). *When "Free" Means Losing Your Mother: The Collision of Child Welfare and the Incarceration of Women in New York State*. New York, NY. Retrieved from: <https://repositories.lib.utexas.edu/handle/2152/15159>
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References

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- ²⁰ Alabama, Alaska, Indiana, Iowa, Kansas, Michigan, Mississippi, Montana, New Hampshire, North Dakota, Ohio, Oregon, South Dakota, Tennessee, Virginia, Wisconsin, and Wyoming.
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- ²² 18 USC § 4322. The First Step Act of 2018 mandates that women in custody of the U.S. Bureau of Prisons and the U.S. Marshals Service not be placed in restraints from the time they are confirmed to be pregnant through 12 weeks post-partum or longer, if a healthcare professional requests, unless: (1) a corrections official determines that the woman "is an immediate and credible flight risk" or "poses an immediate and serious threat of harm to herself or others" that "cannot reasonably be prevented by other means," or (2) a healthcare professional determines that restraints are "appropriate" for the woman's "medical safety." If an exception is used, restraints must be the "least restrictive" possible and are limited to handcuffs in front of the woman's body. The Act also allows a healthcare professional to prevent the use of restraints and to instruct officers to remove restraints if they have already been placed on the woman. Additionally, the Act orders the BOP and U.S. Marshals Service to implement training on anti-shackling requirements and to create a "process" for incarcerated women to report shackling violations, and requires reporting on the use of restraints to the BOP and U.S. Marshals Service directors and to the Judiciary Committees of the U.S. Senate and House of Representatives. Finally, the Act requires incarcerated pregnant women in federal custody to be notified of the law's shackling restrictions.
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