



July 9<sup>th</sup>, 2014  
DC Council- Judiciary Committee

Anti-shackling Of Incarcerated Pregnant Women Act Of 2013  
Testimony of Rebecca Turner, Legal Fellow,  
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Urban Affairs

Good morning members of the Committee. I write on behalf of the DC Prisoners' Project of the Washington Lawyers' Committee for Civil Rights and Urban Affairs. The Committee strongly supports the passage of the Anti-Shackling of Incarcerated Pregnant Women Act of 2013.

This bill presents DC with an excellent opportunity to ban the barbaric and inhumane practice of shackling incarcerated women and girls in our law enforcement and corrections agencies. Despite an existing DOC policy restricting the use of shackling in the third trimester and during labor, legislation is necessary to ensure the end of this practice for the entirety of a pregnancy, and to guarantee that it is enforced across agencies district-wide. In addition to shielding the district from liability, legislation will allow for more transparency and accountability. Furthermore, legislation banning this practice will allow for fuller implementation and enforcement.

Ensuring that anti-shackling policies are enforced is critical. We have seen cases in jurisdictions with existing policies or legislation where failures of enforcement have produced horrific consequences. Such was the case in Illinois, where despite laws banning the practice, a group of 80 women settled with the state for over \$4 million over the use of restraints, in some cases against the requests of medical personnel, during labor. This is unacceptable, and something we hope can be prevented here with strong enforcement provisions in the bill.

Using restraints during pregnancy, labor, and recovery is extremely hazardous for both mother and fetus. In addition to degrading the human dignity of the woman shackled, the practice poses serious inherent medical risks, and in many cases, unnecessary extreme mental and physical anguish.

During pregnancy, shackles interfere with a woman's balance, something that is already weakened by pregnancy, and make it harder for her to break her fall. This can lead to serious injury to the mother, fetus, or both.

During labor, shackles prevent health care providers from responding quickly to potential emergencies and interfere with their ability to provide



routine care. Being shackled during labor can cause permanent injury as well as undue pain and suffering. The ability to ambulate is extremely important to pain management and successful delivery; shackles prevent a woman from adjusting her position as necessary to manage this pain and prevent necessary leg movement during delivery.

During recovery, the practice obstructs crucial bonding with the infant and may also increase the risk of serious medical complications.

In examining the tragic results of shackling, various courts have found clear constitutional violations. One opinion, involving a shackled woman who suffered permanent hip injury and deformity, torn stomach muscles, and chronic pain that led to medical advice that she not have any more children, called the method “antithetical to human dignity” and “inherently cruel” as well as “hazardous and contrary to medical needs”.<sup>1</sup>

Furthermore, the practice of shackling pregnant women serves no legitimate safety purpose. The vast majority of incarcerated women are imprisoned for nonviolent crimes, and pregnant women, women in labor, and women in post-partum recovery pose very low flight or safety risks. If necessary, there are other, safer, means available to ensure the safety of the public, the prisoner, and the health care and corrections workers. In fact, none of the jurisdictions that currently prohibit the practice have reported any escape attempts or threats to medical or correctional staff since the adoption of the policy or statute restricting the use of shackles.

This element of low risk is further bolstered by the fact that national healthcare and correctional associations, arguably those with the most potential involvement with this issue, overwhelmingly oppose the use of shackles on pregnant women. These associations include the American College of Obstetricians and Gynecologists<sup>2</sup>, the American Medical Association<sup>3</sup>, the American Public Health Association<sup>4</sup>, and the American Correctional Association.<sup>5</sup>

For the reasons listed above, we strongly support this bill and think it is essential for the health and safety of the women affected.

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<sup>1</sup> See *Nelson v. Corr. Med. Servs.*, 583 F.3d 522 (8<sup>th</sup> Cir. 2009).

<sup>2</sup> *Health Care for Pregnant and Postpartum Incarcerated Women and Adolescent Females*, Comm. Op. No. 511, at 3 (Am. Coll. Obstetricians & Gynecologists 2011), available at



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<http://www.acog.org/~media/Committee%20Opinions/Committee%20on%20Health%20Care%20for%20Underserved%20Women/co511.pdf?dmc=1&ts=20120705T1030058298>.

<sup>3</sup> Res. 203: Shackling of Pregnant Women in Labor (Am. Med. Ass'n 2010) *available at* <http://www.ama-assn.org/assets/meeting/2010a/a10-ref-comm-b.pdf>

<sup>4</sup> Standards For Health Services In Correctional Institutions 108 (Am. Public Health Ass'n 2003).

<sup>5</sup> Adult Correctional Institutions (ACI) Standards, 4-4190-1 (Am. Corr. Ass'n 4th ed.) (supplemented 2010).