

VIA ELECTRONIC SUBMISSION and U.S. POSTAL SERVICE

June 18, 2009

Manfred Nowak

United Nations

Special Rapporteur

On Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Ludwig Boltzmann Institute of Human Rights

Freyung 6, 1. Hof, Stiege 2, 1010 Vienna, Austria

manfred.nowak@univie.ac.at

Birgit Kainz, Assistant to the Special Rapporteur

On Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

BKainz@ohchr.org

Distinguished Special Rapporteur,

The Center for Reproductive Rights, the Rebecca Project for Human Rights, and Women on the Rise Telling HerStory (WORTH) write to draw your attention to the on-going use of shackles and other restraints on pregnant women who are incarcerated in U.S. prisons and jails or otherwise held in detention in the United States. The Center for Reproductive Rights is a non-governmental legal advocacy organization dedicated to advancing women's reproductive rights worldwide, the Rebecca Project for Human Rights is a national legal and policy organization that advocates for public policy reform, justice, and dignity for vulnerable women and families, and WORTH is an advocacy organization comprised of formerly and incarcerated women, who share their experiences to engage, navigate and challenge policies and perceptions concerning incarcerated women.

The use of shackles to restrain pregnant women during the birthing process is a barbaric practice that needlessly inflicts excruciating pain and humiliation. The practice has been recognized as a human rights violation by U.N. treaty monitoring bodies and is condemned by leading medical and public health associations. Yet it largely remains the standard of care for incarcerated pregnant women. In most U.S. prisons, jails and detention centers, pregnant women are routinely restrained by their ankles or their wrists when transported for prenatal medical appointments or to go to the hospital for delivery. Pregnant women often remain shackled during labor, delivery, and the post-delivery recovery period, for hours or even days, despite the fact that armed guards are with them at all times.

The use of restraints on pregnant women is degrading and dehumanizing, and poses serious, otherwise avoidable, health risks for the woman and the fetus. It violates the U.S.'s obligations

under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.¹

I. The Use of Restraints on Incarcerated Pregnant Women Remains Routine Practice in American Prisons, Jails, and Detention Centers

In 1999, Amnesty International released a report that presented the first public account of the widespread practice of shackling inmates during labor and delivery in the United States.² In the ten years since the report, there have been some significant changes in federal policies on this issue.³ Despite these advances, incarcerated women are still routinely shackled during transport, labor, delivery, and post-delivery. The vast majority of women in prison in the United States are in state rather than federal custody.⁴ Only four states have enacted legislation restricting the use of shackles during labor and delivery.⁵ The remaining forty-six states and the District of Columbia may lawfully shackle women during childbirth. Although correctional departments in an additional 19 states have Department of Corrections policies, either unwritten or written, prohibiting shackling in labor and delivery, the absence of a statutory prohibition leaves corrections departments free to change their policies.⁶ Further, the current patchwork system of laws, regulations, and written and unwritten policies has created an atmosphere of confusion and noncompliance among corrections officials.

Even in states where statutory prohibitions exist, there is evidence that women continue to be shackled during labor and delivery. For example, in Illinois, a case was filed in December 2008 on behalf of two women who were shackled by one hand and one foot during labor and delivery and for several days in the hospital post-delivery, even though Illinois passed the country's first anti-shackling statute in 2000.⁷ In addition, last year the *Los Angeles Times* reported that when

¹ Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, *adopted* Dec. 10, 1984, G.A. Res. 39-46, U.N. GAOR, 39th Sess., Supp. No. 51, at 197, U.N. Doc. A/39/51 (1984), 1465 U.N.T.S. 85 (*entered into force* Sept. 3, 1981) [hereinafter Convention against Torture].

² AMNESTY INT'L, NOT PART OF MY SENTENCE: VIOLATIONS OF THE HUMAN RIGHTS OF WOMEN IN CUSTODY (Mar. 1999), <http://www.amnesty.org/en/library/asset/AMR51/001/1999/en/dom-AMR510011999en.html>.

³ In October 2008, the Federal Bureau of Prisons issued a new policy, which mandates that inmates in labor, delivery, or post-delivery recuperation shall not be placed in restraints unless there are reasonable grounds to believe the inmate presents an immediate, serious threat of hurting herself or others, or there are reasonable grounds to believe the inmate presents an immediate and credible risk of escape. FED. BUREAU OF PRISONS, U.S. DEP'T. OF JUSTICE, NO. 5538.05, *available at* http://www.bop.gov/policy/progstat/5538_005.pdf. Similarly, in September 2008, the U.S. Marshals released new restraint policies rendering the shackling of pregnant women an exception and ensuring that, when considered necessary, the type of restraints to be used are those that are the least restrictive necessary to ensure safety and security. *See* Is Securing Humane Treatment a "Victory"?, <http://www.womenstake.org/2008/09/is-securing-hum.html> (last visited June 2, 2009).

⁴ Less than 10% of incarcerated women are held in federal prisons. As of April 2009, there were 13,525 women in federal prison. *See* Quick Facts About the Bureau of Prisons, <http://www.bop.gov/news/quick.jsp#1> (last visited June 2, 2009).

⁵ The four states that have passed legislation limiting restraints upon incarcerated pregnant women are California, Illinois, Vermont and New Mexico. *Mothers and Criminal Justice*, JUSTICE EREPORT (Prison Fellowship, Lansdowne, Va.), Apr. 2, 2009, *available at* <http://www.justicefellowship.org/article.asp?ID=11748>.

⁶ *See* Key Findings: Use of Restraints on Pregnant Women in Custody, <http://www.amnestyusa.org/violence-against-women/abuse-of-women-in-custody/key-findings-use-of-restraints-on-pregnant-women-in-custody/page.do?id=1108300> (last visited June 3, 2009).

⁷ *Zaborowski v. Sheriff of Cook County*, No. 08-CV-06946 (N.D. Ill. amended complaint filed Jan. 28, 2009).

inmates of the Los Angeles County jail system are hospitalized for labor and delivery “leg chains, which are heavy but long enough to allow the inmate to get to the bathroom, are often present,” despite a California law that prohibits the use of such restraints on women during labor.⁸

Lawyers, journalists, and human rights advocates continue to gather mounting evidence that the use of restraints on incarcerated pregnant women remains standard in the United States. In 2006, the *New York Times* reported that prisons routinely shackle pregnant women during labor and delivery, finding that, “[d]espite sporadic complaints and occasional lawsuits, the practice of shackling prisoners in labor continues to be relatively common” across the United States.⁹ The Rebecca Project for Human Rights and WORTH have recorded stories of formerly incarcerated mothers who were shackled while giving birth to their children.

I was incarcerated while pregnant with my seventh child in 1993. I was transported from Rikers Island at 6 1/2 months shackled and handcuffed to be transported to Bedford Hills. I was hand cuffed around my waist and shackled during transport and feared that I might fall during the hour ride. On June 30th, 1994, I started experiencing labor pains and was transported to Valhalla hospital in hand cuffs and shackles afraid that I would fall in transit. I was in labor with pains about 5 minutes a part. When I arrived at the hospital and was about to give birth to my son the doctor who was to deliver my child requested that shackles be removed. The correctional officer released one of my legs. I remained tethered to the gurney during labor and child birth by one arm and one leg and when my son was to be held in my arms I only held him in one arm because that was all I was allowed by the officer who witnessed the birth of my son. I was not a flight risk! I felt dehumanized and unworthy to be treated in such a way. Two days later, I was transported back to the hospital, shackled and handcuffed. Two weeks later I went to the hospital to pick up my son in full restraints there and back from the hospital. Regardless of the reason why I was arrested I was not a flight risk! Women remember the births of their babies for the rest of their lives and children ask to understand the how and why they came to be in the world. This is the story I’ve told my son when he’s asked about his birth. For all mothers and fathers what story did you tell your children of their birth?¹⁰

— Tina, 1994

During her pregnancy Tessa was transported twice by the U.S. Marshals, in shackles. In April 2006, Tessa went into labor and was transported to the Tampa General Teaching Hospital. The guard placed metal ankle shackles on Tessa as soon as she arrived to the delivery room. Consequently, Tessa could not sit up or stretch in an effort to relieve herself of the physical discomfort of laboring with an

⁸ Richard Winton, *Jail Care For Women Is Criticized: Sheriff’s Department Monitor Says Some Prisoners Wait Months to Receive Requested Medical Care*, L.A. TIMES, July 12, 2008, at B3 [attached hereto in Appendix].

⁹ Adam Liptak, *Prisons Often Shackle Pregnant Inmates in Labor*, N.Y. TIMES, Mar. 2, 2006 at A16 [attached hereto in Appendix].

¹⁰ Letter from WORTH, Women On The Rise Telling HerStory to N.Y. State Legislature, in Support of Anti-Shackling Legislation (May 20, 2009) [attached hereto in Appendix]

eight-pound baby. Tessa labored for sixteen hours, in shackles. During the birthing of her son, as Chance's head started to crown, the physician demanded that the guard take off the shackles. The prison guard, while citing protocol, listened to the physician's demands and took the shackles off after Chance's head surfaced. The guard took off the shackles, however as soon as the baby fully emerged, he placed the shackles back on Tessa.¹¹

— Tessa, 2006

(See Appendix for additional stories).

Shackles are also used on pregnant women who are detained because of their immigration status. In 2008, the *New York Times* described the experience of Juana Villegas, an undocumented immigrant from Mexico, who had been held in a county jail in Tennessee while nine months pregnant after being pulled over for a routine traffic stop.¹² Juana gave birth in custody, with a sheriff's guard standing in her hospital room, where one of her feet was cuffed to the bed most of the time.¹³

Human Rights Watch recently documented the routine use of shackles on pregnant women held in immigration detention centers.¹⁴ Under Immigration and Customs Enforcement (ICE) policy, security staff may use restraints on pregnant women with the consultation of a medical provider.¹⁵ Women who were pregnant while in ICE custody told Human Rights Watch that the use of restraints was typical during transportation between detention facilities and to and from off-site medical providers.¹⁶ Women described how being shackled impacted them both physically and psychologically. Giselle M., who was shackled while en route from one detention center to another, questioned the necessity of putting her pregnancy at risk: "What if I had fallen? How fast is a pregnant girl going to run?"¹⁷ Recalling her experience with shackling, Katherine I. said, "When we went to the clinic in [city name], we were in a van without a way to hold on. There was a bench around and no way I could get myself so I couldn't fall; I was pregnant and she was driving too fast. And I told the security who took us and they said they couldn't do nothing about it."¹⁸

¹¹ Rebecca Project for Human Rights – Tessa,

http://www.rebeccaproject.org/index.php?option=com_content&task=view&id=82&Itemid=161 (last visited June 3, 2009) [attached hereto in Appendix].

¹² Julia Preston, *Immigrant, Pregnant, Is Jailed Under Pact*, N.Y. TIMES, July 20, 2008, at A13 [attached hereto in Appendix].

¹³ *Id.*

¹⁴ HUM. RTS. WATCH, DETAINED AND DISMISSED: WOMEN'S STRUGGLES TO OBTAIN HEALTH CARE IN UNITED STATES IMMIGRATION DETENTION (March 2009),

http://www.hrw.org/sites/default/files/reports/wrd0309webwcover_0.pdf.

¹⁵ IMMIGR. & NATURALIZATION SVC., U.S. DEP'T. OF JUSTICE, DETENTION STANDARD, USE OF FORCE 8–9 (Sept. 20, 2000), available at <http://www.ice.gov/doclib/pi/dro/opsmanual/useoffor.pdf>; IMMIGR. & CUSTOMS ENFORCEMENT, U.S. DEP'T OF HOMELAND SECURITY, ICE/DRO DETENTION STANDARD, USE OF FORCE AND RESTRAINTS 6 (Dec. 2, 2008), available at http://www.ice.gov/doclib/PBNDs/pdf/use_of_force_and_restraints.pdf

¹⁶ HUM. RTS. WATCH, *supra* note 14, at 35.

¹⁷ *Id.* at 36.

¹⁸ *Id.*

Women who were shackled in the course of requesting medical care, whether pregnant or seeking care for other concerns, reported that the restraints took a psychological toll and presented a disincentive to seek care. Itzya N. said, “They only use shackles in transportation, but that is a trauma that lasts for three days. It’s just that on top of being chained you are being treated like an animal. It is more about the way they treat you, how they yell at you, how it’s like being caged.”¹⁹

II. Shackling Incarcerated Pregnant Women Puts Women’s Health at Risk.

Shackling pregnant inmates, in addition to being needlessly punitive and traumatizing, can cause otherwise avoidable health risks for the woman and the fetus.²⁰ When a woman is shackled while being transported to the hospital, she is at an increased risk of falling and will not be able to protect herself by breaking her fall due to the restraints.²¹ During the birthing process, shackles hamper a woman’s ability to move to alleviate the pain of her contractions, which increases stress on the woman’s body and may decrease the flow of oxygen to her baby.²² The use of restraints may delay the doctors’ ability to perform an emergency caesarean section.²³ Finally, leg shackles inhibit a woman’s recovery, as many experts recommend walking to rehabilitate muscles after a delivery.²⁴

Two leading professional organizations in the United States have spoken out against the practice of shackling incarcerated women during labor and delivery. The American College of Obstetricians and Gynecologists has stated that

[t]he practice of shackling an incarcerated woman in labor may not only compromise her health care but is demeaning and unnecessary. . . . Women [who have been shackled during labor] describe the inability to move to allay the pains of labor, the bruising caused by chain belts across the abdomen, and the deeply felt loss of dignity.²⁵

The American Public Health Association, which promulgates standards for the provision of healthcare in prisons, warns that “[w]omen must never be shackled during labor and delivery.”²⁶

¹⁹ *Id.*

²⁰ Jenni Vainik, *The Reproductive and Parental Rights of Incarcerated Mothers*, 46 FAM. CT. REV. 670, 678 (2008).

²¹ *Id.*

²² Kendra Weatherhead, *Cruel But Not Unusual Punishment: The Failure to Provide Adequate Medical Treatment to Female Prisoners in the United States*, 13 HEALTH MATRIX 429, 450 (2003).

²³ AMNESTY INT’L, *supra* note 2.

²⁴ *Id.*

²⁵ Letter from Ralph Hale, Executive Vice President, American College of Obstetricians and Gynecologists, to Malika Saada Saar, Executive Director, The Rebecca Project for Human Rights (June 12, 2007) (on file with author), available at <http://www.acog.org/departments/underserved/20070612saarLTR.pdf>.

²⁶ AM. PUB. HEALTH ASS’N, TASK FORCE ON CORRECTIONAL HEALTH CARE STANDARDS, STANDARDS FOR HEALTH SERVICES IN CORRECTIONAL INSTITUTIONS 108 (2003). Released on April 13, 2003, the third edition of this manual is a model for quality prison healthcare based on fundamental principles in public health and legal guidelines set forth in the U.S. Constitution, international treaties, and court rulings.

III. Incarcerated Women in the United States Represent a Particularly Vulnerable Population

The shackling of incarcerated pregnant women is endemic to the broader problems of the American criminal justice and prison system and its treatment of women. The United States has the largest population of incarcerated women in the world (203,100 as of June 2006).²⁷ Although women represent a minority in the American prison population, their numbers are growing at a rate that has outpaced that of men since the mid-1980s.²⁸ Between 1977 and 2007, the number of women in prison in the United States increased by 832%.²⁹ Eighty-five percent of incarcerated women are imprisoned for non-violent crimes—crimes that frequently arise out of drug addiction and poverty, such as shoplifting, prostitution, drug use, and welfare fraud.³⁰ Women of color are imprisoned at alarmingly disproportionate rates: two thirds of women held in local jails and state and federal prisons are Black, Hispanic, or members of other non-White ethnic groups.³¹ And the majority of incarcerated women are already mothers to, and the sole support and caregivers of, young children.³²

Nationally, at any point in time, it is estimated that between 6% and 10% of incarcerated women are pregnant in the United States.³³ Pregnancies among this population are usually unplanned, high risk, and have poor outcomes because of a lack of access to adequate prenatal care and other public health interventions and histories of drug and alcohol use.³⁴

Despite the growing number of women in prison, prison facilities have failed to adopt adequate policies to address the unique health needs of women. No national standards exist for the proper treatment of incarcerated pregnant women and therefore prison practices vary widely.³⁵ Deficiencies in the correctional response to the needs of pregnant inmates may include a lack of prenatal and postnatal care, including proper nutrition; inadequate education regarding childbirth and parenting; and inadequate preparation for the mother's separation from the infant following

²⁷ BUREAU OF JUSTICE STAT., U.S. DEP'T OF JUSTICE, PRISON AND JAIL INMATES AT MIDYEAR 2006 9 (June 2007), available at <http://www.ojp.usdoj.gov/bjs/pub/pdf/pjim06.pdf>. This figure includes women who are held in local jails, and state and federal prisons. This number is higher if girls in juvenile penal institutions are included. In 2003, there were 14,590 girls held in juvenile correctional facilities in the United States. OFFC. OF JUV. JUSTICE & DELINQ. PROTECTION, U.S. DEP'T OF JUSTICE, JUVENILE OFFENDERS AND VICTIMS: 2006 NATIONAL REPORT 206 (2006), <http://ojjdp.ncjrs.org/ojstatbb/nr2006/downloads/NR2006.pdf>.

²⁸ See BUREAU OF JUSTICE STAT., U.S. DEP'T OF JUSTICE, PREVALENCE OF IMPRISONMENT IN THE U.S. POPULATION, 1974-2001 (2003).

²⁹ BUREAU OF JUSTICE STAT., U.S. DEP'T OF JUSTICE, PRISONERS IN 2007 (2008), <http://www.ojp.usdoj.gov/bjs/pub/pdf/p07.pdf>.

³⁰ BUREAU OF JUSTICE STAT., U.S. DEP'T OF JUSTICE, WOMEN OFFENDERS (1999), <http://www.ojp.usdoj.gov/bjs/pub/pdf/wo.pdf>.

³¹ Beth E. Richie, *Challenges Incarcerated Women Face as They Return to Their Communities: Findings from Life History Interviews*, 47 CRIME & DELINQ. 368, 368-89 (2001).

³² *Id.*

³³ Jennifer G. Clarke et al., *Reproductive Health Care and Family Planning Needs Among Incarcerated Women*, 96 AM. J. OF PUB. HEALTH 834, 834 (2006).

³⁴ *Id.*

³⁵ WOMEN'S PRISON ASS'N INST. ON WOMEN & CRIM. JUSTICE, MOTHERS, INFANTS, AND IMPRISONMENT: A NATIONAL LOOK AT PRISON NURSERIES AND COMMUNITY-BASED ALTERNATIVES 15 (May 2009).

delivery.³⁶ A survey of U.S. prisons found that fewer than half provided prenatal care, only 15% provided special diets and nutritional programs for pregnant women, and only 11% provided post-natal counseling.³⁷

IV. The Pervasive Practice of Shackling Incarcerated Pregnant Women Violates the Convention Against Torture.

Through its on-going use of restraints on this vulnerable population, the United States continues to violate the prohibitions against torture and other cruel, inhuman or degrading treatment under Articles 2 and 16 of the Convention against Torture. The Committee against Torture has taken a strong stance in the past on the United States' treatment of incarcerated pregnant women. In its 2006 Concluding Observations, the Committee specifically expressed concern regarding the treatment of detained women in U.S. prisons and jails, including the practice of gender-based humiliation and incidents of shackling female detainees during childbirth.³⁸ The Committee issued a recommendation that the U.S. "should adopt all appropriate measures to ensure that women in detention are treated in conformity with international standards."³⁹ In addition, in 2006 the Human Rights Committee issued concluding observations to the United States expressing concern over jurisdictions that had not yet abolished the practice of shackling pregnant prisoners during the birthing process.⁴⁰ It recommended that the United States "prohibit the shackling of detained women during childbirth" in order to come into compliance with the treaty.⁴¹ And finally, in 1998, the Special Rapporteur on Violence Against Women, Radhika Coomaraswamy, visited the state and federal prison facilities in six states.⁴² In her report, the Special Rapporteur noted that pregnant inmates were shackled during transport to the hospital, during delivery, and after the baby is born, and concluded that the use of restraints in this manner violates international standards and "may be said to constitute cruel and unusual practices."⁴³

We urge you to include this issue in your upcoming report to the General Assembly. We further urge you to issue a press statement to draw attention to the practice, and to conduct site visits and investigations in U.S. correctional facilities and detention centers where pregnant women are held in custody. In addition, the Center for Reproductive Rights and the Rebecca Project for Human Rights can facilitate meetings with victims of shackling during a country visit. If you need further information, please do not hesitate to contact us.

³⁶ Leslie Acoca, *Defusing the Time Bomb: Understanding and Meeting the Growing Health Care Needs of Incarcerated Women in America*, 44 CRIME & DELINQ. 49, 49–69 (1998).

³⁷ John D. Wooldredge & Kimberly Masters, *Confronting Problems Faced by Pregnant Inmates in State Prisons*, 39 CRIME & DELINQ. 195, 195–203 (1993).

³⁸ U.N. Human Rights Commission, *Conclusions and Recommendations of the Committee against Torture*, 36th Sess., para. 33, CAT/C/USA/CO/2 (July 25, 2006).

³⁹ *Id.*

⁴⁰ *Concluding Observations of the Human Rights Committee: United States of America*, 87th Sess., para. 33, U.N. Doc. CCPR/C/USA/CO/3/Rev.1 (Dec. 18, 2006).

⁴¹ *Id.*

⁴² *Report of the Mission to the United States of America on the Issue of Violence against Women in State and Federal Prisons*, 55th Sess., Item 12(a) of the Provisional Agenda, paras. 55–63, U.N. Doc. E/CN.4/1999/68/Add.2 (Jan. 4, 1999).

⁴³ *Id.* at paras. 53–54.

Center for Reproductive Rights
120 Wall Street, 14th Floor
New York, NY 10005
Tel: (917) 637-3600
Cynthia Soohoo, Director, U.S. Legal Program
csoohoo@reprorights.org

Rebecca Project for Human Rights
2029 P St. NW, Third Floor
Washington, DC 20009
Tel: (202) 265-3906
Malika Saada Saar, Executive Director
malika@rebeccaproject.org

Women on the Rise Telling HerStory (WORTH)
c/o The Osborne Association
809 Westchester Avenue
Bronx, NY 10455
Tel: (917) 626-8168
Tina Reynolds, Executive Director
treynolds@womenontherise-worth.org

Appendix



1 of 1 DOCUMENT

Copyright 2008 Los Angeles Times
All Rights Reserved
Los Angeles Times

July 12, 2008 Saturday
Home Edition

SECTION: CALIFORNIA; Metro Desk; Part B; Pg. 3

LENGTH: 771 words

HEADLINE: Jail care for women is criticized;
Sheriff's Department monitor says some prisoners wait months to receive requested medical care.

BYLINE: Richard Winton, Times Staff Writer

BODY:

Female inmates in the Los Angeles County jail system have waited weeks, even months, before receiving medical treatment that should have been provided within 24 hours of their requests for help, according to a monitor's report released Friday.

Additionally, Sheriff's Department officials have inadequate written policies on how to treat sick or pregnant women housed in their jail facilities, according to Merrick Bobb, a special counsel hired by the county Board of Supervisors to monitor the department.

For instance, Bobb noted that the department has no policy forbidding the shackling of a female inmate during childbirth even though state law prohibits it.

Although deputies told Bobb's staff that they generally don't shackle women giving birth, a county hospital delivery nurse said "leg chains, which are heavy but long enough to allow the inmate to get to the bathroom, are often present during childbirth," the report stated. Bobb recommended that the department adopt a policy that conforms with state law.

In his semiannual report to the Board of Supervisors, Bobb also recommended that "every woman who asks for medical attention or to see a nurse gets to do so within 24 hours of the request," in compliance with national standards for jails and prisons set by the National Corrections Commission on Correctional Health Care.

In response to the report, Sheriff's Department spokesman Steve Whitmore said department officials have decided to implement a new procedure ensuring that female inmates get to see a medical worker within 24 hours of their requests. He said the department plans to extend the number of hours that nurses are made available to inmates.

Whitmore, however, disputed suggestions that women were shackled during childbirth. He said restraints are only used on inmates who have mental health problems.

Each year, the Century Regional Detention Facility in Lynwood houses more than 30,000 women and averages about 2,000 women in custody daily. Many women are sick when they arrive, Bobb said. And, he noted, the jail treats as many as 1,400 pregnant women a year.

Though he praised the dedication of the jail's medical staff, Bobb said sheriff's officials needed to implement clearer policies for nurses, deputies and other staffers on how to provide women with proper care.

Jail care for women is criticized; Sheriff's Department monitor says some prisoners wait months to receive requested medical care. Los Angeles Times July 12, 2008 Saturday

He said there were not enough nurses and other medical staffers to accommodate the inmates' needs. And, he said, the county has also been slow to fill many of the vacant medical employee positions in the jails.

Bobb's conclusions were similar to findings in a Times investigation in December 2006, which determined that a lack of nurses, doctors and other medical workers resulted in long delays and breakdowns in medical care and left medical conditions for male and female inmates untreated

In Bobb's investigation, he found that some women with conditions such as passing blood clots, hives and yeast infections waited days, weeks and even months before receiving treatment. In some cases, the inmates were released from custody without getting help for their maladies.

"Delays in the provision of medical services are not even tracked, contrary to good practice as defined by the medical profession," Bobb wrote. Because of the poor record keeping, he said it was impossible to determine precisely how long some inmates waited to receive treatment.

According to Bobb, about 10 to 25 female inmates per housing area ask to see the nurse each day. But fewer than five women a day get to see a nurse. As a result, the number of inmates requesting medical attention mounts over time.

Another problem Bobb identified in the jails was the limited time mothers were given to visit with their children. Because visits are arranged on a first-come-first-served basis, children sometimes wait all day in visiting areas without seeing their mothers.

Whitmore said that Sheriff Lee Baca planned to adopt Bobb's recommendation to implement a system that would allow children to schedule their visits for a specific time.

Bobb also reviewed the last six years of litigation against the Sheriff's Department and found that there has been a reduction in lawsuits in recent years, particularly concerning use-of-force complaints. He credited the reduction to better risk-management practices.

Yet, while the cost of force-related litigation has declined, Bobb noted that costs of jail-related cases have increased. Of the 17 lawsuits settled for more \$100,000 in fiscal 2006-2007, six cases were custody-related lawsuits that accounted for payouts totaling more than \$5.6 million -- more than 50% of all legal payouts.

--

richard.winton@latimes.com

LOAD-DATE: July 12, 2008



1 of 1 DOCUMENT

Copyright 2006 The New York Times Company
The New York Times

March 2, 2006 Thursday
Late Edition - Final

SECTION: Section A; Column 1; National Desk; Pg. 16

LENGTH: 1250 words

HEADLINE: Prisons Often Shackle Pregnant Inmates in Labor

BYLINE: By ADAM LIPTAK

BODY:

Shawanna Nelson, a prisoner at the McPherson Unit in Newport, Ark., had been in labor for more than 12 hours when she arrived at Newport Hospital on Sept. 20, 2003. Ms. Nelson, whose legs were shackled together and who had been given nothing stronger than Tylenol all day, begged, according to court papers, to have the shackles removed.

Though her doctor and two nurses joined in the request, her lawsuit says, the guard in charge of her refused.

"She was shackled all through labor," said Ms. Nelson's lawyer, Cathleen V. Compton. "The doctor who was delivering the baby made them remove the shackles for the actual delivery at the very end."

Despite sporadic complaints and occasional lawsuits, the practice of shackling prisoners in labor continues to be relatively common, state legislators and a human rights group said. Only two states, California and Illinois, have laws forbidding the practice.

The New York Legislature is considering a similar bill. Ms. Nelson's suit, which seeks to ban the use of restraints on Arkansas prisoners during labor and delivery, is to be tried in Little Rock this spring.

The California law, which came into force in January, was prompted by widespread problems, said Sally J. Lieber, a Democratic assemblywoman from Mountain View.

"We found this was going on in some institutions in California and all over the United States," Ms. Lieber said. "It presents risks not only for the inmate giving birth, but also for the infant."

Corrections officials say they must strike a balance between security and the well-being of the pregnant woman and her child.

"Though these are pregnant women," said Dina Tyler, a spokeswoman for the Arkansas Department of Corrections, "they are still convicted felons, and sometimes violent in nature. There have been instances when we've had a female inmate try to hurt hospital staff during delivery."

Dee Ann Newell, who has taught classes in prenatal care and parenting for female prisoners in Arkansas for 15 years, said she found the practice of shackling women in labor appalling.

"If you have ever seen a woman have a baby," Ms. Newell said, "you know we squirm. We move around."

Twenty-three state corrections departments, along with the federal Bureau of Prisons, have policies that expressly allow restraints during labor, according to a report by Amnesty International U.S.A. on Wednesday.

Prisons Often Shackle Pregnant Inmates in Labor The New York Times March 2, 2006 Thursday

The corrections departments of five states, including Connecticut, and the District of Columbia, the report found, prohibit the practice. The remaining states do not have laws or formal policies, although some corrections departments told the group that they did not use restraints as a matter of informal practice.

Many states justify restraints because the prisoners remain escape risks, though there have apparently been no instances of escape attempts by women in labor.

"You can't convince me that it's ever really happened," Ms. Newell said. "You certainly wouldn't get far."

About 5 percent of female prisoners arrive pregnant, according to a 1999 report by the Justice Department. The Sentencing Project, a research and advocacy group, estimates that 40,000 women are admitted to the nation's prisons each year, suggesting that 2,000 babies are born to American prisoners annually.

Illinois enacted the first law forbidding some restraints during labor, in 2000. "Under no circumstances," it says, "may leg irons or shackles or waist shackles be used on any pregnant female prisoner who is in labor."

Before that, said Gail T. Smith, the executive director of Chicago Legal Advocacy for Incarcerated Mothers, the standard practice was to chain the prisoner to a hospital bed. "What was common," Ms. Smith said, "was one wrist and one ankle."

The California law prohibits shackling prisoners by the wrists or ankles during labor, delivery and recovery. Until recently, prisoners from the Valley State Prison in Chowchilla, Calif., were routinely shackled to their beds after giving birth at the nearby Madera Community Hospital.

"These women are mostly in for minor crimes and don't pose a flight risk," said Ms. Lieber, who met with 120 pregnant women at the prison in August. "Madera Community Hospital is in one of the most remote parts of California. It's hard to walk to a filling station, much less a bus stop."

Washington State has also forbidden the use of shackles during labor, though as a matter of corrections department policy rather than law. Pamela Simpson, a California nurse, described in an e-mail message to Ms. Lieber the practice in Washington before the policy was changed.

"Here this young woman was in active labor," Ms. Simpson wrote, "handcuffed to the armed guard, wearing shackles, in her orange outfit that was dripping wet with amniotic fluid. Her age: 15!"

Arkansas has resisted an outright ban on restraints, though Ms. Nelson's case may change that.

Ms. Nelson was serving time for identity fraud and writing bad checks when she gave birth at age 30. She weighed a little more than 100 pounds, and her baby, it turned out, weighed nine and a half pounds.

The experience of giving birth without anesthesia while largely immobilized has left her with lasting back pain and damage to her sciatic nerve, according to her lawsuit against prison officials and a private company, Correctional Medical Services.

Ms. Nelson, now known as Shawanna Lumsey, and lawyers for the defendants did not respond to requests for comment. In court papers, the defendants denied that they had caused any harm to Ms. Nelson.

Partly as a consequence of Ms. Nelson's suit, Arkansas has started using softer, more flexible nylon restraints for prisoners deemed to be security risks. They are removed, Ms. Tyler said, during the actual delivery.

Ms. Newell considers that slight progress for the approximately 50 women in Arkansas prisons and jails who give birth each year.

"Childbirth should be a sacred event," said Ms. Newell, a senior justice fellow at the Soros Foundation. "Just because they're prisoners doesn't mean they shouldn't get the usual care."

Dawn H., an Arkansas prisoner who delivered a baby in custody in 2002, said her guard wanted to shackle her to the bed.

"Fortunately," she said, "I had a very wonderful nurse who told the guard I was in her care. I was her patient. And no one was going to shackle me." (She asked that her full name not be used because her employer did not know about her imprisonment for passing bad checks.)

The Wisconsin Corrections Department has also recently changed its approach, after a state newspaper, The Post-Crescent of Appleton, reported on the issue in January. The department said it would end the use of restraints during labor, delivery and recovery.

Merica Erato, serving time for negligent homicide after a car accident, went through labor with chains around her ankles in Fond du Lac, Wis., in May, her husband, Steve, said in an interview.

"It is unbelievable that in this day and age a child is born to a woman in shackles," Mr. Erato said. "It sounds like something from slavery 200 years ago."

In most cases, people who have studied the issue said, women are shackled because prison rules are unthinkingly exported to a hospital setting.

"This is the perfect example of rule-following at the expense of common sense," said William F. Schulz, the executive director of Amnesty International U.S.A. "It's almost as stupid as shackling someone in a coma."

URL: <http://www.nytimes.com>

GRAPHIC: Photos: Laura Strange, a California inmate, shackled to her bed before the state enacted a law banning the practice during labor, delivery and recovery. (Photo by Mark Allen Johnson/ZUMA Press)

Shawanna Nelson in a 2004 photograph as an inmate in an Arkansas prison. Her legs were kept shackled together while she was in labor. (Photo by Benjamin Krain/Arkansas Democrat-Gazette)

LOAD-DATE: March 2, 2006



WORTH

Women on the Rise Telling HerStory

I was incarcerated while pregnant with my seventh child in 1993. I was transported from Rikers Island at 6 1/2 months shackled and handcuffed to be transported to Bedford Hills. I was hand cuffed around my waist and shackled during transport and feared that I might fall during the hour ride. On June 30th, 1994, I started experiencing labor pains and was transported to Valhalla hospital in hand cuffs and shackles afraid that I would fall in transit. I was in labor with pains about 5 minutes a part. When I arrived at the hospital and was about to give birth to my son the doctor who was to deliver my child requested that shackles be removed. The correctional officer released one of my legs. I remained tethered to the gurney during labor and child birth by one arm and one leg and when my son was to be held in my arms I only held him in one arm because that was all I was allowed by the officer who witnessed the birth of my son. I was not a flight risk! I felt dehumanized and unworthy to be treated in such a way. Two days later, I was transported back to the hospital, shackled and handcuffed. Two weeks later I went to the hospital to pick up my son in full restraints there and back from the hospital. Regardless of the reason why I was arrested I was not a flight risk! Women remember the births of their babies for the rest of their lives and children ask to understand the how and why they came to be in the world. This is the story I've told my son when he's asked about his birth. For all mothers and fathers what story did you tell your children of their birth?

Tina

I went into labor on March 31 and gave birth on April 1st. I was incarcerated from November 2006-to December 2008. I was transported from the county jail five months pregnant and high risk. I spent my entire pregnancy in the hospital at Bedford Hills. I was in labor for 22 hours before being transported via ambulance to Westchester Medical center in handcuffs and ankle shackles. Contractions two minutes apart, the prison staff waited so long I was unable to receive pain management. My daughter was born shortly there after and I was sent to the prison ward. The hospital staff was so careless and underestimated my daughters weight (because had a very small stomach) they refused to give me an episiotomy as a result I was torn during the delivery of my daughter after labor they had to place a catheter because they were afraid that if I went to the bathroom on my own I would tear even more. I could not sit (literally on my bottom for months I had to sit sideways). I had decided to breastfeed and when it was time for the hospital staff to bring my baby to me. The offices placed ankle shackles on me while I breast fed. On my way back to Bedford Correctional Facility I was in complete restraints, with a newborn in a car seat. **Samantha**

I was arrested on October 25, 1988. I was 7 months pregnant and I was shackled. On

December 23, 1988 I went into labor and was shackled and taken to East Elmhurst hospital to give birth. My daughter was born that day. I was released 2 days later (Christmas). It was a Sunday, I'll never forget it! Of course they shackled me to transport me to Rikers Island, and each time I went back to court and even when I went to Elmhurst Hospital in Queens to see the obstetrician or have a sonogram. And yes, when I went into labor and had to be brought to the hospital in an ambulance, I was shackled. While in labor, as the pains got greater, I was given a spinal tap and had no feeling in my lower body. This caused me to float in and out of consciousness, but each time I woke up, I'd remember I was a prisoner due to the fact that I remained shackled throughout the birth of my child, although I certainly was not a flight risk. **Carole**

* WORTH is an association of formerly and incarcerated women who have been empowered by our own experiences. Through mentoring and mutual support, leadership and telling our stories, WORTH transforms the lives of women affected by incarceration and changes public perception and policy.


[Home](#) | [Donate](#) | [Contact](#)

THE REBECCA PROJECT FOR HUMAN RIGHTS

Health, Safety and Dignity for Vulnerable Families


[Who We Are](#)
[Our Work](#)
[Resources](#)
[Our Families](#)
[News & Events](#)
[Act Now](#)

IN THIS SECTION

[Introduction](#)
[Sacred Authority
Successes](#)
[Family Based Treatment
Testimonies](#)
[Mothers Shackled
During Labor and Birth](#)
[Crossing the River
Poetry](#)
[Pleas for Treatment](#)

Our Families

[DONATE](#)

Gwen

In 1989, Gwen was arrested and held at the Rice Street Jail in Atlanta, Georgia for two weeks. Gwen remembers that the conditions at the jail were overcrowded. The women stayed in a large holding cell during the day. They were supposed to be moved to cells for the night, but the jail was so full that women like Gwen spent the nights sleeping on the floor of the holding cell.

During one of these nights of sleeping on the floor, Gwen began to feel pain in her stomach. She realized that she was bleeding heavily. Gwen did not know what was wrong, but she sensed that she was hemorrhaging and that she needed to get to a hospital.

Another inmate placed a call to the guards using a callbox located in the holding cell. Once the guards responded and saw her bleeding, they took Gwen to the infirmary where she waited for at least an hour to be transported to the hospital.

Gwen, tired, scared and bleeding, was transported to the hospital in shackles. She remembers that she was "running hot and cold with chills," but despite her obvious physical and mental distress, her ankles and wrists remained shackled. The guards kept her shackled as she was admitted to the hospital and as she was moved to the labor and delivery area.

Once Gwen was in a hospital bed, guards removed the shackles from her arms, but left her leg shackled to the bed. Gwen recalls that she lay in the bed for a long time, waiting for a doctor. When the doctor arrived, he told Gwen that she was having a miscarriage. He then asked the guards to remove shackles from Gwen's leg while he performed a procedure to remove the remains of her pregnancy.

Once the procedure was over, the guards replaced Gwen's shackles and she was moved into a recovery room. No one at the hospital gave Gwen any information about the cause of the miscarriage, but Gwen believes that it may have been triggered by the circumstances of her arrest, when guards pinned her, face down, to the ground. The pressure on her body may have been too much.

Gwen remembers that she felt numb after the miscarriage. She told herself at the time that it may have been for the best. She thought, perhaps, that baby was never meant to live.

Today, she wonders about the baby she lost. She prays about it, saying "I know my baby is in heaven."

Gwen describes the treatment she received at the Rice Street Jail as "inhumane." She says, "No matter what anyone does to end up in jail, they don't deserve to be treated like that. No one deserves that. There should be a law so that no women have to go through what I did."

[Next >](#)

[\[Back \]](#)

2029 P St. NW, Third Floor • Washington, DC 20009 • tel. 202 265-3906 / 202 265-3907 • fax. 202 265-3909

© 2007 The Rebecca Project for Human Rights. All rights reserved.

[Site Requirements](#)



[Home](#) | [Donate](#) | [Contact](#)

THE REBECCA PROJECT FOR HUMAN RIGHTS

Health, Safety and Dignity for Vulnerable Families



[Who We Are](#) [Our Work](#) [Resources](#) [Our Families](#) [News & Events](#) [Act Now](#)

IN THIS SECTION

[Introduction](#)

[Sacred Authority
Successes](#)

[Family Based Treatment
Testimonies](#)

[Mothers Shackled
During Labor and Birth](#)

[Crossing the River
Poetry](#)

[Pleas for Treatment](#)

Our Families

[DONATE](#)

Michelle

In September 2006, the state of Ohio sentenced Michelle to forty-two months at the Ohio Reformatory for Women for a probation violation linked to her nonviolent felony offense of larceny. Shortly after arriving in prison, Michelle learned that she was pregnant.

The reality of being pregnant scared Michelle because she "did not want the state taking the child" and she "did not know what the other options, outside of an abortion, were."

The only information given to Michelle by staff, including medical, was the single option of having an abortion. The staff presented no other options to Michelle. Thus, Michelle completed the necessary paperwork needed for an abortion. Her repeated requests to the staff concerning the date of her abortion were ignored. Six months later, Michelle was awoken in the middle of the night, handcuffed and shackled, and put into a van that shuttled her to a local abortion clinic. At the clinic, still shackled and handcuffed, she was given twenty-four hours to decide whether or not she wanted to still have the abortion. She remained shackled for the entire twenty-four hour waiting period.

Michelle remained in shackles during the abortion. During the entire procedure, Michelle's right leg had a metal shackle on it, which was chained to her bed. In her own words, Michelle states:

"No one ever told me I was going to be shackled. I felt like I was an animal. I kept on thinking, 'where do they think I am going to run to?' Being shackled like that made me feel like I was a caged animal. I felt like a caged animal in a very emotional moment, and no one even cared. And when I was in the position for the abortion, I could not move my right leg and I was scared that I would not be able to lessen the pain of the procedure because my leg was shackled to the bed."

Not a single member of either the prison or hospital staff questioned why Michelle was

shackled during the abortion.

Today at the age of forty, Michelle, is reunited with her children and in recovery from substance abuse. Michelle was fortunate to enter into Amethyst, a long-term family-based substance abuse treatment program in Columbus, Ohio that provides effective intervention services to the whole family—both the substance abusing parent and her children through services, including but not limited to mental health counseling, vocational preparation and job training, parenting classes, relapse prevention, supportive housing, therapeutic childcare, family therapy, and child-focused academic tutoring and assistance.

Michelle is a proud mother of four healthy and thriving children, and she is currently employed as a customer service associate at the Columbus Metro Library. Despite her accomplishments and progress, Michelle still remembers the humiliation of being shackled, during one of the most emotional moments of her life.

[< Prev](#) [Next >](#)

[\[Back \]](#)

2029 P St. NW, Third Floor • Washington, DC 20009 • tel. 202 265-3906 / 202 265-3907 • fax. 202 265-3909

© 2007 The Rebecca Project for Human Rights. All rights reserved.

[Site Requirements](#)



[Home](#) | [Donate](#) | [Contact](#)

THE REBECCA PROJECT FOR HUMAN RIGHTS

Health, Safety and Dignity for Vulnerable Families



[Who We Are](#) [Our Work](#) [Resources](#) [Our Families](#) [News & Events](#) [Act Now](#)

IN THIS SECTION

[Introduction](#)

[Sacred Authority
Successes](#)

[Family Based Treatment
Testimonies](#)

[Mothers Shackled
During Labor and Birth](#)

[Crossing the River
Poetry](#)

[Pleas for Treatment](#)

Our Families

[DONATE](#)

Arnita

In September 2000, the state of Ohio sentenced Arnita to sixty months at the Franklin County Correctional Center in Columbus, Ohio for conspiracy to distribute a nonviolent drug offense. During her incarceration, Arnita gave birth to her son, Waki. Waki was born in shackles. Due to conversations she had with other inmates, Arnita was aware that she would most likely be shackled during childbirth. However, no staff member, including medical, informed Arnita that she would be shackled during childbirth. US Marshals placed shackles on Arnita when she left her cell to travel to the hospital, and these shackles were not removed until she returned to the correctional facility two days later.

During Arnita's C-section, her leg was in metal shackles, chained to the bed. Arnita remembers the attending physician asking the marshal, "Do you really have to keep these shackles on?" The marshal's response, "Yes, it's procedure." In addition, Arnita stated "during her two-day stay at the hospital, the handcuffs were always on, even when I went to the bathroom."

Arnita states that the "same stuff is still going on, this same thing happened to my niece," but, up until this interview, Arnita had not shared this experience with anyone, because in her own words, "I didn't think anyone cared."

Arnita is now in a long-term family-based substance abuse treatment program in Columbus, Ohio that provides effective intervention services to the whole family. Arnita is reunited with her son, Waki, and she is raising him as a clean and sober mother.

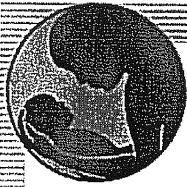
[< Prev](#) [Next >](#)

[\[Back \]](#)

2029 P St. NW, Third Floor • Washington, DC 20009 • tel. 202 265-3906 / 202 265-3907 • fax. 202 265-3909

© 2007 The Rebecca Project for Human Rights. All rights reserved.

Site Requirements


[Home](#) | [Donate](#) | [Contact](#)

THE REBECCA PROJECT FOR HUMAN RIGHTS

Health, Safety and Dignity for Vulnerable Families


[Who We Are](#)
[Our Work](#)
[Resources](#)
[Our Families](#)
[News & Events](#)
[Act Now](#)

IN THIS SECTION

Our Families

[DONATE](#)
[Introduction](#)
[Sacred Authority
Successes](#)
[Family Based Treatment
Testimonies](#)
[Mothers Shackled
During Labor and Birth](#)
[Crossing the River
Poetry](#)
[Pleas for Treatment](#)

Tessa

Tessa was twenty-five years old when she gave birth to her son, Chance, in April 2006. Tessa gave birth to Chance in shackles.

In Tessa's own words, "I felt as if they were treating me like a murderer. I understand I made poor choices in my life, but some experiences are sacred. I was robbed of the sacred experience of giving birth. The scars are so deep."

Serving four years for a federal violation of probation, due to her drug addiction, Tessa was in the custody of the state of Florida in 2002 and incarcerated at the Hillsboro County jail during the last two months of her pregnancy. While Tessa acknowledges the poor choices she has made in the past, she is adamant about the state not punishing her son for her mistakes. In Tessa's words, "It wasn't my son's fault that I was in prison."

During her pregnancy Tessa was transported twice by the US marshals, in shackles. In April 2006, Tessa went into labor and was transported to the Tampa General Teaching Hospital. The guard placed metal ankle shackles on Tessa as soon as she arrived to the delivery room. Consequently, Tessa could not sit up or stretch in an effort to relieve herself of the physical discomfort of laboring with an eight-pound baby.

Tessa labored for sixteen hours, in shackles. During the birthing of her son, as Chance's head started to crown, the physician demanded that the guard take off the shackles. The prison guard, while citing protocol, listened to the physician's demands and took the shackles off after Chance's head surfaced. The guard took off the shackles, however as soon as the baby fully emerged, he placed the shackles back on Tessa.

After giving birth to Chance, Tessa developed a uterus infection, possibly as a result of being shackled.

Tessa now celebrates sixteen months clean and sober from her addiction. Tessa is the

proud mother of Chance, whom she regained custody of after her incarceration. While Chance is in child daycare, Tessa is gainfully employed at "Doggy Day Care," and continues to work on her sobriety and raising her son in a safe, stable and healthy home. Tessa shares her story in the hopes that "no one else will have to go through what I have had to go through."

[< Prev](#) [Next >](#)

[\[Back \]](#)

2029 P St. NW, Third Floor • Washington, DC 20009 • tel. 202 265-3906 / 202 265-3907 • fax. 202 265-3909

© 2007 The Rebecca Project for Human Rights. All rights reserved.

[Site Requirements](#)


[Home](#) | [Donate](#) | [Contact](#)

THE REBECCA PROJECT FOR HUMAN RIGHTS

Health, Safety and Dignity for Vulnerable Families


[Who We Are](#)
[Our Work](#)
[Resources](#)
[Our Families](#)
[News & Events](#)
[Act Now](#)

IN THIS SECTION

[Introduction](#)
[Sacred Authority
Successes](#)
[Family Based Treatment
Testimonies](#)
[Mothers Shackled
During Labor and Birth](#)
[Crossing the River
Poetry](#)
[Pleas for Treatment](#)

Our Families

[DONATE](#)

Stephanie

Stephanie, who is legally blind, gave birth to her son, Diamond in shackles during her incarceration in 1993.

In Stephanie's own words, "I felt really confused, and kept asking the sheriff, 'Why are you shackling me? Where do you think I am going?' I was angry."

Serving time for possession and direct sale of an illegal substance, due to her drug addiction, Stephanie was in the custody of the state of California in 1992, and incarcerated at the Los Angeles County jail during her pregnancy. She received prenatal care only once every three months.

After going into labor, the police transported Stephanie to the local hospital. Stephanie was placed in shackles from the time she left the jail to deliver Diamond until her return to the jail forty-eight hours later. Specifically, the local sheriff placed both metal belly-waist and ankle shackles on Stephanie during her transport to the jail. During the delivery itself, the doctor and nurse asked the police to remove the ankle and belly-waist shackles. The sheriff removed only belly-waist shackles, "to prevent a possible escape." Stephanie, as a result, gave birth to Diamond, with her ankles shackled to the bed.

Stephanie now celebrates four years clean and sober from her addiction. She is the proud mother of four children, ranging from twenty-five to eight-years old. She is also attending school part-time to become a peer counselor.

[< Prev](#)
[\[Back \]](#)

2029 P St. NW, Third Floor • Washington, DC 20009 • tel. 202 265-3906 / 202 265-3907 • fax. 202 265-3909



1 of 1 DOCUMENT

Copyright 2008 The New York Times Company
The New York Times

July 20, 2008 Sunday
Late Edition - Final

SECTION: Section A; Column 0; National Desk; Pg. 13

LENGTH: 1027 words

HEADLINE: Immigrant, Pregnant, Is Jailed Under Pact

BYLINE: By JULIA PRESTON

BODY:

It started when Juana Villegas, an illegal immigrant from Mexico who was nine months pregnant, was pulled over by a police officer in a Nashville suburb for a routine traffic violation.

By the time Mrs. Villegas was released from the county jail six days later, she had gone through labor with a sheriff's officer standing guard in her hospital room, where one of her feet was cuffed to the bed most of the time. County officers barred her from seeing or speaking with her husband.

After she was discharged from the hospital, Mrs. Villegas was separated from her nursing infant for two days and barred from taking a breast pump into the jail, her lawyer and a doctor familiar with the case said. Her breasts became infected, and the newborn boy developed jaundice, they said.

Mrs. Villegas's arrest has focused new attention on a cooperation agreement signed in April 2007 between federal immigration authorities and Davidson County, which shares a consolidated government with Nashville, that gave immigration enforcement powers to county officers. It is one of 57 agreements, known formally as 287G, that the federal Immigration and Customs Enforcement agency has signed in the last two years with county and local police departments across the country under a rapidly expanding program.

Nashville officials have praised the agreement as a successful partnership between local and federal government.

"We are able to identify and report individuals who are here illegally and have been charged with a criminal offense, while at the same time remaining a friendly and open city to our new legal residents," Karl Dean, the mayor of Nashville, said in a statement on Friday.

Lawyers and immigrant advocates say Mrs. Villegas's case shows how local police can exceed their authority when they seek to act on immigration laws they are not fully trained to enforce.

"Had it not been for the 287G program, she would not have been taken down to jail," said A. Gregory Ramos, a lawyer who is a former president of the Nashville Bar Association. "It was sold as something to make the community safer by taking dangerous criminals off the streets. But it has been operated so broadly that we are getting pregnant women arrested for simple driving offenses, and we're not getting rid of the robbers and gang members."

Mrs. Villegas, who is 33, has lived in the United States since 1996, and has three other children besides the newborn who are American citizens because they were born here.

She was stopped on July 3 in her husband's pickup truck by a police officer from Berry Hill, a Nashville suburb, initially for "careless driving." After Mrs. Villegas told the officer she did not have a license, he did not issue a ticket but

Immigrant, Pregnant, Is Jailed Under Pact The New York Times July 20, 2008 Sunday

arrested her instead. Elliott Ozment, Mrs. Villegas's lawyer, said driving without a license is a misdemeanor in Tennessee that police officers generally handle with a citation, not an arrest.

After Mrs. Villegas was taken to the Davidson County jail, a federal immigration agent working there as part of the cooperation agreement conducted a background check. It showed that Mrs. Villegas was an illegal immigrant who had been deported once from the United States in March 1996, Karla Weikal, a spokeswoman for the county sheriff, said. She had no other criminal record.

As a result, immigration agents issued an order to take charge of Mrs. Villegas once she was released by the local authorities. Based on that order, county officers designated her a medium-security inmate in the jail, Ms. Weikal said.

So when Mrs. Villegas went into labor on the night of July 5, she was handcuffed and accompanied by a deputy as she was taken by ambulance to Nashville General Hospital at Meharry. Cuffs chaining her foot to the hospital bed were opened when she reached the final stages of labor, Mrs. Villegas said.

"I felt like they were treating me like a criminal person," Mrs. Villegas said, speaking in Spanish in a telephone interview. The phone in her room was turned off, and she was not permitted to speak with her husband when he came to retrieve their newborn son from the hospital on July 7 as she returned to jail, she said.

As Mrs. Villegas left the hospital, a nurse offered her a breast pump but a sheriff's deputy said she could not take it into the jail, Mrs. Villegas said.

Mr. Ozment, the lawyer, said Mrs. Villegas would never have been detained without the 287G cooperation agreement.

"Whether this lady was documented or undocumented should not affect how she was treated in her late pregnant condition and as she was going through labor and bonding with her new baby," Mr. Ozment said.

On July 8, Mrs. Villegas was taken to court, where she pleaded guilty to driving without a license and was sentenced to time served. Immigration agents immediately released her while a deportation case proceeds, following a policy adopted last year by the Immigration and Customs Enforcement to avoid separating babies from nursing mothers.

Ms. Weikal said Mrs. Villegas's jail stay was prolonged by the Independence Day holiday weekend, when the courts were closed.

"There is a perception that she was treated different from other inmates, and it just is not true," Ms. Weikal said. "Unfortunately the business of corrections is that families are separated. It's not pretty, it's not understandable to a lot of people."

She said that it was standard procedure to bar medical equipment like a breast pump from the jail.

More than 60,000 illegal immigrants have been identified for deportation since 2006 through 287G cooperation programs, said Richard Rocha, a spokesman for the federal immigration agency. Most of the agreements are aimed at increasing the screening of immigrant convicts serving sentences in local jails, in order to speed their deportation. Some, like Nashville's, provide for immigration screening right after any foreign-born person is arrested.

Arrests of immigrants have increased rapidly in Tennessee since early 2006, when the state stopped allowing illegal immigrants to obtain driver's licenses, after five years when they had been able to drive legally.

URL: <http://www.nytimes.com>

GRAPHIC: PHOTO: Juana Villegas and 2-week-old son in her lawyer's office Thursday in Nashville. Mother and son had been separated for two days. (PHOTOGRAPH BY JOSH ANDERSON FOR THE NEW YORK TIMES) (pg.A17)

LOAD-DATE: July 20, 2008