POSITION STATEMENT

Provision of Health Care for Women in the Criminal Justice System

There are more than 1 million women in the United States currently under the supervision of the criminal justice system. This includes more than 200,000 who are incarcerated either in jail or prison. Recognizing that justice-involved women need quality primary, gynecologic, prenatal, intrapartum, and postpartum care, the American College of Nurse-Midwives affirms that:

Certified nurse-midwives (CNMs) and certified midwives (CMs) should be aware of the issues related to access to adequate and appropriate health care that affect justice-involved women and adolescents. CNMs/CMs as primary health care providers for women are well prepared to provide quality, holistic care and should be directly involved in the care of justice-involved women and adolescents.

- All justice-involved women and adolescents should have accessible and routine care from a qualified health care provider and access to appropriate family planning services and resources.
- Consistent with our philosophy of care and our position on the promotion of safe, healthy, physiologic birth, ACNM advocates for incarcerated women to have access to evidence-based care that promotes optimal maternal and newborn outcomes.
- Restraint or shackling of an incarcerated pregnant woman carries significant health risks and negative consequences to her and her fetus or newborn.[1]
- The use of restraints should occur only as an exception and not by default during the prenatal, intrapartum, and postpartum periods, and only as needed to prevent harm to the mother, her infant, or medical providers.
- Public health policies must be instituted that guarantee quality health care and access to reproductive health care to all justice-involved women and adolescents.

Background

Historically in the United States, correctional facilities have grappled with how to provide adequate health care for incarcerated women, with most services focused on providing care to males. Legal cases have played a role in what correctional medical care looks like today.[2] This includes *Estelle v. Gamble,* which ruled in 1976 that prisons have an obligation to provide for serious medical needs of incarcerated men and women. However, there is a lack of standardization of health care services offered to incarcerated persons and the definition of "serious medical needs" is not well-defined. Services offered at prisons, which are intended for long-term incarceration, are different than those offered at jails, where individuals are incarcerated for shorter lengths of time. In addition, the quality and extent of care provided differs among correctional facilities.[3] In a

nationwide study of correctional facilities, only a small fraction of incarcerated men and women with chronic medical conditions received even one medical examination with the lowest rates of care occurring in federal prisons.[4] The National Commission on Correctional Health Care (NCCHC), a nonprofit organization aiming to improve the standard of care in correction facilities nationally, offers voluntary accreditation but has no regulatory power.[5] The American Public Health Association (APHA) has published standards for health care in correction facilities, but there is no governing body that enforces these standards.

The population of incarcerated women experience social, economic, and medical disparities similar to those in US society in general. While the lifetime likelihood of imprisonment for women is 1 out of 56, this rate varies greatly by race and ethnicity. Among African American women, there is a 1 in 19 rate of lifetime imprisonment; Hispanic women, 1 in 45; and Caucasian women, 1 in 118.[6] Incarcerated women often come from "economically, educationally, socially, and emotionally disadvantaged environments; a disproportionate number have acute and chronic illnesses, substance abuse problems, and undetected health issues."[7] According to the US Department of Justice, 57.2% of incarcerated females have a history of physical or sexual abuse. Additionally, mental health diagnoses have a prevalence rate of 61% in prisons and 75% in jails.[8, 9] A 2012 study exploring substance use disorders among women in jail or on pathways to offending found 82% of women in their sample met the criteria for drug or alcohol use.[10] A Department of Justice report on the topic found 69% of women admitted to jails met the criteria for substance dependence or use and more than 40% of females who were subsequently incarcerated were under the influence of drugs at the time of their offense.[8, 9]

Research on gynecologic care provided in correctional facilities consistently indicates that it is inadequate.[5] According to the NCCHC, gynecologic exams are not performed on admission nor on a routine basis, appropriate gynecologic screening questions are not asked, and facilities lack providers who are trained in obstetrics and gynecology, resulting in a system that provides inadequate and sometimes inappropriate care.[5] Women who have been incarcerated are at increased risk for developing undetected breast and cervical cancers due to lack of screening.[5] Additionally, incarcerated women have chlamydia and gonorrhea rates of 4.2% and 1.9% respectively, which far exceed the rates in the general population.[11] In 2008, 2% of women in state and federal prisons were

infected with HIV compared to a 0.01% rate of infection in women in the general population.[12, 13] A survey of women who were incarcerated in Rhode Island indicated inconsistent birth control and condom use and a high prevalence of unplanned pregnancies (83.6%) and sexually transmitted infections (49%).[14]

Although incarcerated women legally have the same rights to abortion services guaranteed through Roe v. Wade as the general population, women in correctional facilities face a variety of challenges when seeking an abortion. These challenges include the correctional institution's ad hoc responses to abortion requests, the logistics of scheduling and organizing transportation, and paying for the procedure.[15, 16] This is in part because in many correctional facilities, abortions are considered elective procedures. According to the law, an elective procedure is "one that, even if medically indicated, can be postponed—sometimes indefinitely—without risking irreversible or serious harm."[17] However, postponing an abortion can lead to serious and irreversible medical, physical, and emotional consequences.

The use of restraints, also called shackling, involves physical or mechanical devices to control the movement of incarcerated women during labor. This practice is demeaning, rarely necessary, and has been found to compromise the health care provided to women.[17] Risk of escape should be realistically appraised when this is a consideration. Impairment of movement should be avoided to prevent injury and to aid medical staff in providing care and facilitating position changes necessary for labor and birth. Humane treatment of women in labor consistent with the United Nation's guidance on this subject should be upheld for all women. Promoting rather than restricting the mother's contact with the newborn is critical in establishing attachment in what is often a limited period of hospitalization. This is a vitally important stage in maternal-infant bonding, which sets the stage for optimal newborn development.[1]

Many international and national bodies and organizations are in opposition of this practice. This includes individual states that have proposed legislation to ban or limit the use of shackles in pregnancy. Correctional agencies, including the NCCHC, and the American Correctional Health Services Association (ACHSA), recommend that restraints be used in the least restrictive manner possible, with consideration of adverse clinical consequences. The APHA and the American College of Obstetricians and Gynecologists (ACOG) have advocated for policies that eliminate or decrease use of restraints in pregnancy, and according to the United Nations, the use of shackles is prohibited by international law.[19-21]

Humane policies for individuals in the criminal justice system, such as providing

adequate health care while incarcerated and access to family planning services, allowing community sentencing programs as an alternative to incarceration, increasing availability of treatment for addiction, and repealing statutes that permanently revoke parental rights based on time served, could help disrupt intergenerational effects of incarceration. Consistent with ACNM's philosophy, midwives can serve as advocates for humane care and comprehensive services for women within the criminal justice system.[22] Women's health and women's rights are intrinsic facets of human rights. ACNM recognizes the burden of risk to women when these rights are violated.

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* Midwifery as used throughout this document refers to the education and practice of certified nurse-midwives (CNMs) and certified midwives (CMs) who have been certified by the American College of Nurse-Midwives (ACNM) or the American Midwifery Certification Board, Inc. (AMCB)

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