The Impact of Advocacy Efforts to Improve the Care and Treatment of Incarcerated Pregnant People in North Carolina

Velma V. Taormina, Megan Canady, A. Kerianne Crockett

Steadfast leadership from key advocacy groups and individuals working to eliminate disparities in the care and treatment of incarcerated pregnant people in North Carolina jails and prisons led to the passage of HB608, Dignity for Women Who are Incarcerated, in 2021.

Introduction

Incarceration is a health indicator. Studies have shown that incarcerated people of both genders are more likely to have acute and chronic diseases, lower educational levels, home insecurity, fewer employment opportunities, and are more likely to live in poverty as compared to the general population [1]. Incarceration falls under the Social and Community Context domain of the Social Determinants of Health in the United States Department of Health and Human Services Healthy People 2030 Report, and is one of 21 indicators in the "Healthy North Carolina 2030" report [1, 2].

Individuals from historically marginalized communities are overrepresented in carceral settings. This, coupled with the known health disparities that exist in the nonincarcerated segments of their communities, creates a subset of people that are especially vulnerable to having unmet health care needs.

Women[a] with a history of incarceration are at greater risk for several diseases, as they are more likely to have experienced adverse childhood events and mental and physical abuse when compared to their nonincarcerated peers and male counterparts [3]. The vast majority (86%) of women in jail have experienced sexual violence; 32% have a serious mental illness; 82% have a history of substance misuse or dependence; and 60% were unemployed prior to arrest [4]. Further, the majority of women in jails are mothers to children under the age of 18 [4]. This has important implications for their health care needs, families, and communities.

Recommendations from several national associations and the American College of Obstetricians and Gynecologists (ACOG) state that "health care for incarcerated people should be provided in accordance with the same guidelines and recommendations as for those who are not incarcerated, with attention to the increased risk of infectious diseases and mental health conditions common to incarcerated populations" [6].

Background

Since 1970, the total jail population in North Carolina has increased 615% [7]. From 1970 to 2015, the number of women in North Carolina's jails has increased more than 18-fold, and the number of women in North Carolina's prisons has increased more than 5-fold [7]. This sharp increase of incarcerated women in North Carolina in both settings is in line with the national trend. Between 1980 and 2019, the number of incarcerated women in the United States increased by more than 700% [5].

Nationally, the vast majority of women in jails are incarcerated for low-level, nonviolent charges, often the result of coping with challenges connected to motherhood, poverty, and trauma [4]. Many women and their children would benefit from greater access to diversion programs aimed at rehabilitation, including treatment for substance use, to deter them from the criminal legal system.

More than 20,000 incarcerated people return to their home communities after release from North Carolina state prisons each year [8]. This, coupled with the number of individuals admitted to and released from local jails, reinforces the need to have strategies in place to improve the health and well-being of this vulnerable population, as well as that

Electronically published January 3, 2022.

Address correspondence to Velma V. Taormina, PO Box 853, Hillsborough, NC 27278 (velma.taorminamd@gmail.com).

N C Med J. 2022;83(1):29-32.
0029-2559/2022/83111

[a] The term women is used in this paper, however, the authors recognize that this term is not entirely inclusive of all persons, including nonbinary and transgender people. The authors further recognize that not everyone in a women's carceral setting, or everyone who is pregnant or has the capacity to be pregnant, identifies as a woman.

of their communities. Examples of such initiatives include the provision of comprehensive health care services during incarceration and ensuring health care services are accessible post-release.

Health Care Services in North Carolina Carceral Settings

Nationally, those who are incarcerated in both jails and prisons have increased rates of acute and chronic conditions compared to the general population. These conditions can range from cardiovascular disease to mental health and substance use disorders, asthma, cancer, arthritis, and infectious diseases [1].

Jails and prisons are legally obligated to provide health care [9]. North Carolina is one of 17 states where department staff provide health care services within the state prison, as of 2015 [10]. The North Carolina Correctional Institution for Women (NCCIW) Health Care Facility is under the North Carolina Department of Public Safety (NCDPS).

The facility can house up to 1,751 women and offers a full range of medical services, including obstetrical and gynecological care, behavioral health, a substance use disorder treatment program, dental care, urgent care, and emergency services. It has primary care, infectious disease, and specialty clinics. The average annual census, prior to the COVID-19 public health emergency, was about 1,600 [11].

The true number of people who are pregnant at the point of entry or who deliver while in custody annually is unknown, as North Carolina has no system for prison health care quality monitoring, so it is not possible to closely follow the health metrics of these pregnant individuals. We do not have specific data for the local entities, but prior to the public health emergency, the daily census at the NCCIW averaged 43 pregnant persons, with 90% of them reporting a history of substance abuse and some form of mental illness [11]. The three most common diagnoses in the general population were hypertension, hyperlipidemia, and asthma.

Conditions in North Carolina jails vary by county. Some facilities may have arrangements to provide prenatal care locally. In other counties, incarcerated pregnant people may require transport to local providers or transfer to the NCCIW under the Safe Keeper program [11, 12].

Completing an intake screening for all incarcerated pregnant people allows the medical staff to review and/or update their medical and medication history [13]. The screening process at NCCIW allows the staff to develop a health profile that will meet the pregnant person's needs and determine whether they can participate in work or program activities; screening protocols for local entites are not well known.

The Synergy of Simultaneous Efforts

Providing care for incarcerated pregnant people in the hospital setting provides additional challenges, as patient and staff safety must be ensured. The effort to address risk factors impacting the disparities in maternal and infant morbidity and mortality in North Carolina brought attention to the disparities in the care and treatment of specific populations of pregnant and postpartum people, including those who are incarcerated.

In 2017, the UNC Collaborative for Maternal & Infant Health convened a gathering of people with a shared interest in perinatal health and incarceration, and from this initial meeting the North Carolina Perinatal Health and Incarceration Working Group was formed. This group aimed to connect organizations and leaders and identify short- and longer-term actions to improve health outcomes of pregnant and postpartum individuals and their infants during and after incarceration.

Initial work by some members of the group, spearheaded by SisterSong, resulted in NCDPS revising its policy in March 2018 to limit the use of restraints on incarcerated pregnant and postpartum people. Although an improvement, there was still a need for these mandates to become law and to include jails. Building on this work, the group convened the Perinatal Incarceration Learning Summit in May 2018, where people with lived experiences and other professionals shared expertise and best practices and discussed future work topics and advocacy goals. One of the topics identified was the need for a bail fund for pregnant persons in North Carolina in pretrial holding. Under the leadership of the ACLU of North Carolina and the North Carolina Community Bail Fund of Durham, this fund was created in December 2020.

Member organizations involved in the working group, namely the ACLU of North Carolina and Conservatives for Criminal Justice Reform, were unsuccessful in their initial efforts to introduce dignity/anti-shackling legislation in 2019. On a parallel course, a sentinel hospital event occurred during that same year, which brought the disparities of care and the treatment of incarcerated pregnant people further under the microscope.

HB608

In 2019, I (A.K.C.) took care of a patient from an area jail. She was transported to us in labor and restrained with ankle and wrist cuffs. Despite early requests to remove her shackles, they remained in place throughout her delivery and as she learned her infant had not survived. In fact, they remained in place for more than an hour after she came through our hospital doors. I can only imagine what she felt on that night, or how she has grappled with that experience in the time since. Being a part of her care impacted me profoundly and precipitated my involvement in advocacy for incarcerated pregnant people.

Forevermore, I will think about my life as an obstetrician-gynecologist "before" and "after" that night. As I dealt with my own grief over her loss, I had to understand whether my patient's experience could have been prevented by existing rules or policies, or whether it was doomed to be repeated the next time someone went into labor while incarcerated in our state.

During my quest, I spoke to medical, legal, legislative, and law enforcement leaders in my community and beyond. I pored

over papers, interviews, and statements from leading health and law enforcement organizations, formerly pregnant incarcerated people, and physician researchers. I requested restraint policies from all the jails in my hospital's catchment area. Ultimately, I learned that the policies regarding pregnancy in the carceral setting varied widely across North Carolina. State-run facilities were governed by policies of the Department of Public Safety, whereas local and county jails each had their own policies. It became evident that we needed a single set of rules for all incarcerated pregnant patients, and that those rules needed to be consistent with evidence-based recommendations from national organizations.

With the help of our legislative liaison, the North Carolina Obstetrical & Gynecological Society formally joined other advocacy groups working on this issue. In early 2021, I met with legislators to ask for support of the bill. I also met with the North Carolina Sheriff's Association and contacted all 100 North Carolina sheriffs to share our concerns and to hear theirs. With collaboration from all parties, the draft bill was reintroduced to the General Assembly on April 20, 2021.

When HB608, Dignity for Women Who are Incarcerated, was reintroduced, advocacy organizations involved in the working group, including the ACLU of North Carolina, Conservatives for Criminal Justice Reform, and the North Carolina Obstetrical & Gynecological Society, were instrumental in the passage of this law. While many people were involved in this work, Dr. Kerianne Crockett and Kristie Puckett-Williams with the ACLU of North Carolina worked tirelessly to ensure that all voices were heard. In addition, local advocacy groups solicited feedback from North Carolina health care providers and formerly incarcerated pregnant persons to share personal stories about the need for this bill, including instances of being shackled during hospital deliveries. The bill received broad bipartisan support shortly after its introduction. HB608 went on to pass both chambers of the legislature unanimously and was signed into law on September 10, 2021. With this signing, North Carolina joined 34 other states in establishing anti-shackling legislation.

HB608 affords incarcerated pregnant people with improved protections at both the state and local level [14]. It significantly limits the use of restraints from the second trimester until six weeks postpartum, limits body cavity searches, standardizes nutritional content and access to food and dietary supplements, provides access to menstrual products, and limits housing restrictions and bed assignments. The bill also implements the policy that prenatal care and menstrual products are to be provided at no cost to the pregnant person.

The bill allows a bonding period while in the hospital, directs NCDPS to place new parents within 250 miles of the child where feasible, and expands existing visitation guidelines. It expands the educational topics in the carceral settings to now include topics related to prenatal care, pregnancy-specific hygiene, parenting skills, the impact of alcohol and drugs on the fetus, and the general health of children. Completion of these educational programs has the potential to assist in the reentry process.

The bill also outlines training for carceral facility employees to cover the topics outlined in this bill. The new training materials and curricula are intended to bring consistency to this process.

Conclusion

The passage of HB608 is one of many strategies designed to strengthen the health and well-being of pregnant people that enter North Carolina carceral settings. Disallowing the general use of restraints during pregnancy and postpregnancy is an important step in improving the health and well-being of the mother and fetus. The enhanced training opportunities for the staff who interact with incarcerated people are aimed at improving an environment where respectful and inclusive care can be delivered while maintaining safety.

Collaboration amongst all parties involved in the housing and care of incarcerated people should continue to support efforts to improve the health care of all incarcerated people, but especially those who are pregnant or in the postpartum period. Improving the treatment and health of incarcerated pregnant persons does not mean that prison or jail will ever be an ideal place to receive care. Continued efforts should be focused on connecting this population to diversion programs, including substance use treatment, whenever possible. Listening to the voices of those who are pregnant or who deliver in the carceral settings will give us the knowledge we need to ensure that these new guidelines are being followed and learn how to build on them. This continued collaboration between all parties will improve care for incarcerated people while strengthening public health and protecting communities. NCMJ

Velma V. Taormina, MD, MSE women's health consultant and president, North Carolina Obstetrical & Gynecological Society, Hillsborough, North Carolina.
Megan Canady, MSW, MSPH research associate, UNC Chapel Hill Collaborative for Maternal and Infant Health, Chapel Hill, North Carolina.
A. Kerianne Crockett, MD, FACOG obstetrician gynecologist and clinical assistant professor, ECU Brody School of Medicine and Vidant Medical Center, Greenville, North Carolina.

Acknowledgments

In addition to the advocates and groups noted in this article, the authors wish to thank Representatives Dr. Kristen Baker, Ashton Clemmons, Donna White, and Kyle Hall, and Senator Amy Galey for championing this work. We acknowledge the hard work of Rob Lamme and all the lobbyists associated with all of the advocacy groups whose expertise and collaboration allowed for such a productive outcome.

Finally, we acknowledge the individuals who have faced the unthinkable reality of enduring labor and delivery while in shackles. We honor their stories, as they are what gave purpose and meaning to this bill and we know that their grief and trauma cannot be erased with its enactment.

The content is solely the responsibility of the authors and does not necessarily represent the official views of their employers.

References

1. United States Department of Health and Human Services Office of

Disease Prevention and Health Promotion. Healthy People 2030. Incarceration. Accessed December 1, 2021. https://health.gov/healthypeople/objectives-and-data/social-determinants-health/literature-summaries/incarceration
2. North Carolina Institute of Medicine and North Carolina Department of Health and Human Services. Healthy North Carolina 2030: A Path Toward Health. North Carolina Institute of Medicine; 2020. Accessed December 1, 2021. https://nciom.org/wp-content/uploads/2020/01/HNC-REPORT-FINAL-Spread2.pdf
3. Dumont DM, Brockmann B, Dickman S, Alexander N, Rich JD. Public health and the epidemic of incarceration. Annu Rev Public Health. 2012;33:325–329. doi: 10.1146/annurev-publhealth-031811-124614
4. Swavola E, Riley K, Subramanian R. Overlooked: Women and Jails in an Era of Reform. Vera Institute of Justice; 2016. Accessed December 1, 2021. https://www.vera.org/downloads/publications/overlooked-women-and-jails-report-updated.pdf
5. Incarcerated Women and Girls. The Sentencing Project; 2020. Accessed December 1, 2021. https://www.sentencingproject.org/publications/incarcerated-women-and-girls/
6. American College of Obstetricians and Gynecologists' Committee on Health Care for Underserved Women. Reproductive health care for incarcerated pregnant, postpartum, and nonpregnant individuals: ACOG committee opinion, Number 830. Obstet Gynecol. 2021;138(1):e24–e34. doi: 10.1097/AOG.0000000000004429
7. Vera Institute of Justice. Incarceration Trends in North Carolina. Vera Institute of Justice; 2019. Accessed December 1, 2021. https://www.vera.org/downloads/pdfdownloads/state-incarceration-trends-north-carolina.pdf
8. North Carolina Department of Public Safety. Reentry Programs and Services. Accessed December 1, 2021. https://www.ncdps.gov/our-organization/adult-correction/reentry-programs-and-services
9. Estelle v. Gamble, 429 US 9 (1976).
10. Huh K, Boucher A, McGaffey F, McKillop M, Schiff M. Prison Health Care: Costs and Quality. The Pew Charitable Trusts; 2017. Accessed December 1, 2021. https://www.pewtrusts.org/~/media/assets/2017/10/sfh_prison_health_care_costs_and_quality_final.pdf
11. Alexander J. Correctional Healthcare at NCCIW. Presented at: North Carolina Correctional Institution for Women; October 26, 2021.
12. Moore JD. Public Health behind Bars: Health Care for Jail Inmates. Popular Government; 2005. Accessed December 1, 2021. https://www.sog.unc.edu/sites/www.sog.unc.edu/files/articles/article2_19.pdf
13. North Carolina Department of Public Safety. Health Services Policy & Procedure Manual. Assessment of Patient. NCDPS; 2014. Accessed December 1, 2021. https://files.nc.gov/ncdps/documents/files/a1.pdf
14. 2021 NC Sess Laws, HB 608 (2021).