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Prisons Often Shackle Pregnant Inmates in Labor

By [ADAM LIPTAK](#)

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.

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."