

INCARCERATED PREGNANT INDIVIDUALS' PERSPECTIVES ON ABORTION ACCESS AND DECISION-MAKING IN CUSTODY

Study Factsheet

Sufrin C, Williamston AD, Beal L, Hayes CM, and Kramer C. "I mean, I didn't really have a choice of anything." How incarceration influences abortion decision-making and precludes access in the United States. *Perspect Sex Reprod Health*. 2023;1-13. doi:10.1363/psrh.2235

A BRIEF DESCRIPTION

This factsheet presents findings from a study involving semi-structured qualitative interviews with **39 incarcerated pregnant women*** in US prisons and jails in an abortion-restrictive and abortion-supportive state. Researchers at the Johns Hopkins School of Medicine interviewed women between **May 2018 and November 2020**. This study sought to understand whether incarcerated pregnant people considered abortion for their pregnancy; attempted to obtain an abortion in custody; whether and how incarceration affected their thoughts about pregnancy, birth, parenting, and abortion; and options counseling and prenatal care experiences, or lack thereof, in custody.

*All participants identified as women

EMERGENT THEMES



MEDICAL PROVIDERS' OVERT OBSTRUCTION OF DESIRED ABORTIONS



PARTICIPANTS INCORRECTLY ASSUMED THAT INCARCERATED PEOPLE HAD NO RIGHT TO ABORTION



CARCERAL BUREAUCRACY CONSTRAINING ABORTION ACCESS



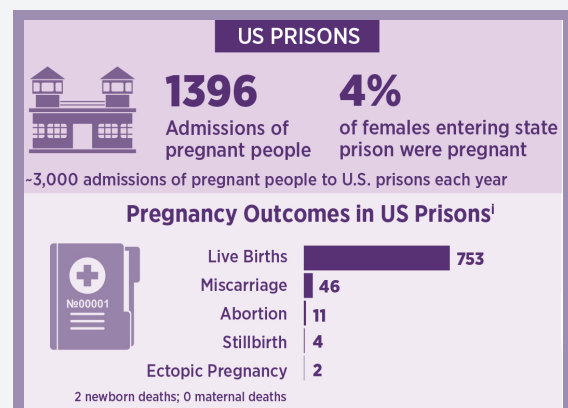
CARCERAL CONDITIONS MADE PEOPLE WISH THEY HAD ABORTED

WHAT WE KNOW ABOUT PREGNANCY BEHIND BARS

Even before the Supreme Court overturned *Roe v. Wade* in 2022, the status of abortion access for incarcerated individuals was variable and often limited. The courts consistently affirmed that incarcerated individuals retained their constitutional right to abortion. However, some prisons and jails did not allow abortion -- either by official policy, unwritten policy, or by other barriers such as self payment requirements.

- There are an estimated 58,000 admissions of pregnant women to prisons and jails each year
- 60% of incarcerated women are mothers and primary care-givers
- Black women are incarcerated at 2x and Native American women at 4x the rate of white women, reflecting upstream structural inequities
- Access to quality prenatal care is variable and most people who birth in custody are separated from their newborns soon after birth -- representing reproductive injustices.

Our prior 2016-2017 study, the *Pregnancy in Prisons Statistics (PIPS Study)*, on pregnancy incidence and outcomes in U.S. prisons and jails found that only 1% of prison pregnancies ended in abortion versus the national abortion ratio of 18%. The study also showed:



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MAIN FINDINGS

While most participants knew of their pregnancy prior to incarceration, eleven first learned of their pregnancy in custody. Further, the vast majority of pregnancies were unplanned. Ultimately, four themes emerged around abortion access and pregnancy decision-making in custody. Below, we include a representative quote for each theme. We identify the location of the participant according to whether they were in prison or jail in the abortion-supportive state (State S) or the abortion-restrictive state (State R).



MEDICAL PROVIDERS' OVERT OBSTRUCTION OF DESIRED ABORTIONS

Staff explicitly prevented pregnant people from accessing abortion by giving false information or imposing anti-abortion views on patients. Doctors at one study jail suggested they knew that the jail policy allowed abortion up to 14 weeks but claimed that any abortion referring efforts would be futile.

"None of the medical professionals here believe in abortion. So, when I brought it up, I was instantly shot down. 'Oh, why would you want to abort your baby?' 'Well, I don't want to have it here.' Two different doctors... They both were like, 'Well, I've had three kids,' or, 'I've had this many kids and I would never get an abortion. Children are blessings. You shouldn't get an abortion.' I'm like, 'Well, this is what I want. I don't want to be here pregnant' . . . So, they just immediately shot me down. They wouldn't even discuss it with me." - Jail, State S



PARTICIPANTS INCORRECTLY ASSUMED THAT INCARCERATED PEOPLE HAD NO RIGHT TO ABORTION

This assumption was cultivated through two primary means: first, because they assumed that, since they were incarcerated, they did not have many rights in the first place; and second because no health care staff ever mentioned abortion, let alone provided options counseling or asked if they were considering abortion.

"From my understanding, I was told that if you wanted an abortion when you're here at DOC, you can't because you were the state's property." - Prison, State S

"They did not, they didn't question, like, you know, 'Do you want to keep your baby? This is what we can do to help you, either way.' They didn't give me any options; it was just, kind of, 'you're pregnant, so deal with it now.' So if I did want any abortion, I don't think I would have gotten the chance to get one, just for the fact of I was incarcerated and basically you have no rights while you're sitting in county jail." - Prison, State R (about a non-study jail)



CARCERAL BUREAUCRACY CONSTRAINING ABORTION ACCESS

The bureaucracy of carceral systems influenced abortion access; court dates, sentence length, transitions from jail to prison, and wait times to see facility health care staff overlapped with the temporal progression of pregnancy. Because incarcerated pregnant people had no control over such temporalities, delays in medical care created profound fear and anxiety as participants' pregnancies progressed.

"Basically, I was made to have this baby." - Prison, State S, about a non-study jail after multiple pregnancy tests requests and a 3-month delay of her pregnancy diagnosis which she learned of at 22 weeks



CARCERAL CONDITIONS MADE PEOPLE WISH THEY HAD ABORTED

Degrading and traumatic conditions of incarceration, poor health care, and impending post-birth separation from infants made people wish they had aborted. The environment of uncertainty and control, in addition to the little information women received about their pregnancies, took a psychological toll on women and made it difficult for them to make informed pregnancy and parenting decisions. Some women's protective desire to avoid traumatizing a baby placed into state systems was powerful enough to potentially overcome opposition to abortion.

"I also remember multiple times thinking to myself, 'This would all be so much easier had I just aborted or...' I don't know. Just thoughts like that. Almost regretting, not because of the child but it's just an emotional toll going through being incarcerated." - Prison, State R

"Being here is stressful. It makes you resent being pregnant because you don't eat properly; you're hungry. You're alone. So, I don't necessarily want the baby, now. Before, I did. So, definitely changed my mind on it.... Then, you don't know what they're going to do with your baby after you have it. Are they going to let you hold your baby?" - Jail, State S

SUMMARY

Being incarcerated limited people's abilities to access abortion regardless of being in a supportive or restrictive state, through misinformation, lack of options counseling, and anti-abortion sentiment from staff. Further, incarcerated people internalized the sense that they had no reproductive rights, including the right to abortion and the right to parent. Their experiences reflected violations of their established rights to health care and of the core tenets of reproductive justice.

Coerced to birth, with variable access to pre-natal care, and with explicit foreclosure of parenting, incarcerated people were already living in a post-Roe reality. The *Dobbs* decision will only worsen abortion access and pregnancy care for incarcerated individuals, especially in abortion-restrictive states.

RECOMMENDATIONS

- Carceral health providers should counsel pregnant people on their options for terminating and continuing pregnancies.
- If a patient needing an abortion is in a state where it's not available, facilitate release or use other means so they can travel out of state.
- Carceral facilities in states where abortion is legal should revisit their policies to ensure full abortion access consistent with state law.
- Invest in alternatives to incarceration for pregnant and parenting people