

CAT SHADOW REPORT: THE SHACKLING OF INCARCERATED PREGNANT WOMEN

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I. ISSUE SUMMARY

1. Roughly 1.3 million women are under the authority of the United States' criminal justice systems, and approximately 4–5 percent of women are pregnant when they enter prison or jail.¹ Many incarcerated women are shackled or otherwise restrained throughout pregnancy and during labor, delivery, and post-partum recovery.² Shackling involves restricting a women's movement by securing shackles or handcuffs around her ankles or wrists—and sometimes heavy chains around her stomach.³ In some cases, shackling occurs despite the existence of policies or laws that prohibit the practice. In recent years, individual plaintiffs and class action groups have challenged the constitutionality of shackling in several U.S. states, including Arkansas, Illinois, Nevada, Tennessee, Washington, and the District of Columbia.⁴
2. The practice of shackling harms women's health by increasing the substantial medical risks and pain associated with pregnancy, labor, delivery, and post-partum recovery.⁵ First, during the second and third trimesters of pregnancy, restraints increase the risk of falling and injury to the woman and her fetus.⁶ Second, shackling women during labor and delivery interferes with their ability to move and with medical professionals' ability to care for them.⁷ Shackling may also result in permanent injury to the baby by causing delay in the event that emergency operation is necessary, such as an emergency cesarean surgery.⁸ Third, during postpartum recovery, restraints increase the risk of dangerous blood clots, undermine mother-child bonding, and inhibit women's safe care of their newborn babies.⁹
3. The Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ("CAT") requires the United States to "prevent in any territory under its jurisdiction [] acts of cruel, inhuman or degrading treatment or punishment" committed by public officials or other persons acting in an official capacity.¹⁰ The Eighth Amendment to the U.S. Constitution prohibits "cruel and unusual punishments," which some federal courts have interpreted to prohibit the shackling of pregnant women during labor, delivery, and post-partum recovery.¹¹ Shackling incarcerated pregnant women amounts to "cruel, inhuman or degrading treatment" under Article 16 of CAT and "cruel and unusual punishment" under the U.S. Constitution. The United States therefore has a duty to prevent the dangerous, painful, and humiliating practice of shackling incarcerated pregnant women.

II. CONCLUDING OBSERVATIONS (2006)

4. The U.N. Committee against Torture ("the Committee") has noted with disapproval the shackling of incarcerated pregnant women in the United States. In its 2006 Concluding Observations, the Committee expressed concern over "the treatment of detained women," including "incidents of shackling of women detainees during childbirth."¹² The Committee recommended that the United States "should adopt all appropriate measures to ensure that women in detention are treated in conformity with international standards."¹³

III. U.S. GOVERNMENT RESPONSE TO 2006 CONCLUDING OBSERVATIONS AND 2013 PERIODIC REPORT

5. In its response to the Conclusions and Recommendations of the Committee in 2006, the United States "provided the Committee with information about its efforts to ensure appropriate treatment of women in detention facilities, including action taken against gender-based violence and sexual abuse."¹⁴ But no specific information regarding its efforts to prevent shackling was included; the United States simply declared that "incidents of shackling of female detainees during childbirth are extremely rare and are not a standard procedure."¹⁵
6. In its list of issues for the present periodic report of the United States, the Committee asked the United States to elaborate on any measures adopted to ensure appropriate treatment of women

in detention facilities.¹⁶ The Committee also asked the United States to provide information on the effectiveness of such measures.¹⁷

7. In its 2013 Periodic Report to the Committee, the United States emphasized the role of policies, as opposed to explicit legislation, that regulate the shackling of pregnant women. It noted that “both the federal and some state governments have announced policy changes that improve the standards for treatment of women during labor and delivery.”¹⁸ It further noted the American Correctional Association’s policy regarding restraints on pregnant women.¹⁹ (This *nonbinding* policy, however, does not prohibit shackling; it merely lists factors for limiting its use.²⁰) The United States also named several federal agencies that have adopted policies prohibiting the use of restraints on pregnant women and women in postpartum recovery, including the Federal Bureau of Prisons, the Department of Homeland Security, the Department of Justice, and Immigration and Customs Enforcement.²¹ As for state government, the United States simply declared that “[s]ome states are also adopting similar rules.”²² The report does not mention any attempt to pass federal legislation.

IV. CONVENTION AGAINST TORTURE AND OTHER CRUEL AND INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

8. The practice of shackling incarcerated pregnant women violates Article 16 of CAT and also implicates Articles 10 and 11 of CAT.

Article 16: Cruel, Inhuman or Degrading Treatment or Punishment

9. Shackling incarcerated pregnant women violates Article 16 of CAT. Article 16 requires the United States to prevent “acts of cruel, inhuman or degrading treatment or punishment . . . when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.”²³ The United States ratified CAT with the following reservation:

The United States considers itself bound by the obligation under article 16 to prevent ‘cruel, inhuman or degrading punishment’, only insofar as the term . . . means the cruel, unusual and inhumane treatment or punishment prohibited by the Fifth, Eighth, and/or Fourteenth Amendments to the Constitution of the United States.²⁴

Consistent with this reservation, the shackling of incarcerated pregnant women *does* fall within the scope of cruel, unusual and inhumane treatment prohibited by the U.S. Constitution. In 2013, the Federal Court of Appeals for the Sixth Circuit in the United States held that the shackling of pregnant detainees while in labor violates the Eighth Amendment to the U.S. Constitution.²⁵ The Court held that shackling “offends contemporary standards of human decency such that the practice violates the Eighth Amendment’s prohibition against the ‘unnecessary and wanton infliction of pain’—i.e., it poses a substantial risk of serious harm.”²⁶

10. Shackling incarcerated pregnant women constitutes cruel, inhuman, and degrading treatment because it increases the risk of serious medical complications²⁷ and is unnecessary except under the most extreme circumstances, when a woman has been credibly and individually determined to pose a flight risk or danger to herself or others. The 2011 case of Ms. Valerie Nabors in the state of Nevada provides an example.²⁸ Ms. Nabors was in prison for a nonviolent offense and was not deemed a flight risk. Although Nevada had enacted an anti-shackling law,²⁹ Ms. Nabors was restrained by handcuffs and ankle shackles during labor by prison officials. The restraints were only removed during delivery at the insistence of a nurse, and they were applied again only minutes following childbirth. Ms. Nabors suffered several pulled muscles in her groin and a separation of her pubic bones. Her doctor concluded that these injuries were a direct result of the restraints.

11. The U.N. Special Rapporteur on torture and the U.N. Special Rapporteur on violence against women have both identified the practice of shackling as problematic.³⁰ The U.N. Special Rapporteur on violence against woman specifically recommended that the United States: “Adopt legislation banning the use of restraints on pregnant women, including during labor or delivery, unless there are overwhelming security concerns that cannot be handled by any other method.”³¹
12. Shackling of incarcerated pregnant women also raises concerns under the U.N. Standard Minimum Rules for the Treatment of Prisoners. The Rules only allow for the use of restraints as “a precaution against escape during a transfer” and on “medical grounds by direction of [a] medical officer,” in which case they are “not [to] be applied for any longer time than is strictly necessary.”³² Use of restraints as punishment is prohibited entirely, as is the use of chains or irons as restraints.³³ The recently adopted U.N. Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders—also known as the Bangkok Rules—explicitly state: “Instruments of restraint shall *never* be used on women during labour, during birth and immediately after birth.”³⁴
13. As part of the requirement to “prevent acts of cruel, inhuman or degrading treatment or punishment,” the United States must ensure that laws in every jurisdiction explicitly prohibit the shackling of pregnant women. These laws should, at a minimum, prohibit shackling during the second and third trimesters, during labor and delivery, and for six weeks postpartum, including any time spent in transport to medical facilities or court. The U.S. government, through the Federal Bureau of Prisons, adopted an anti-shackling policy in 2008.³⁵ However, the policy is inadequate, as it does not satisfy the Bangkok Rules’ outright prohibition on the use of restraints.³⁶ Moreover, the policy does not apply to state and local facilities, which account for more than 90 percent of all incarcerated women in the United States.³⁷ Finally, legislation is preferable to policy because it carries the force of law, is democratically enacted, and must be publicly available.
14. Anti-shackling laws at the state level are, in general, insufficient to satisfy the prohibition on cruel, inhuman or degrading treatment. For example, the recently passed anti-shackling law in the state of Minnesota does not prohibit altogether shackling during labor.³⁸ In another example, the state of Massachusetts has one of the most comprehensive anti-shackling laws, which prohibits use of any restraints during labor and delivery with no exceptions,³⁹ but it lacks an oversight component that would ensure compliance by all correctional facilities housing pregnant women.⁴⁰ Finally, six states have neither laws nor policies that regulate the use of restraints on incarcerated pregnant women.⁴¹

Article 10: Education of Law Enforcement Personnel Regarding the Prohibition against Cruel, Inhuman, or Degrading Treatment or Punishment

15. Under Article 10 of CAT, the United States must ensure that “education and information regarding the prohibition against torture are fully included in the training of . . . persons . . . involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment.”⁴² In addition, Article 16 states that “the obligations contained in articles 10, 11, 12 and 13 shall apply with the substitution for references to torture of references to other forms of cruel, inhuman or degrading treatment or punishment.”⁴³ The United States is therefore required to ensure that correctional personnel at the federal, state and local levels are informed that the shackling of incarcerated pregnant women violates the prohibition of cruel, inhuman or degrading treatment in Article 16 of CAT.
16. First, many states do not require training to inform correctional officers that shackling pregnant women violates the prohibition against cruel, inhuman, and degrading treatment or punishment. Second, although a number of states have laws or policies that prohibit the shackling of pregnant women during various stages of pregnancy, these laws and policies are often not adhered to

because of a lack of awareness or a misunderstanding of their content.⁴⁴ For example, although Illinois was the first U.S. state to pass anti-shackling legislation,⁴⁵ Illinois correctional officers have persisted in shackling pregnant women. For example, during testimony before the Illinois House of Representatives in 2011, a former detainee imprisoned for a nonviolent offense testified that “[b]eing shackled in transport to give birth was a demoralizing, uncomfortable and frightening experience . . . I was placed in handcuffs, had a heavy chain across my belly that my hands were attached to, [sic] along with leg irons on my ankles.”⁴⁶ In 2012, a federal court approved a \$4.1 million settlement for a group of women held in the Cook County Jail in Chicago, Illinois who alleged they were shackled during labor.⁴⁷ In addition, recent news stories have reported that women continue to be shackled in New York and Pennsylvania despite these states’ anti-shackling legislation. In addition, nongovernmental organizations in California and Texas have documented these states’ failures to implement anti-shackling legislation.⁴⁸

Article 11: Systematic Review of Treatment of Persons under Arrest

17. Under Article 11 of CAT, the United States must implement a systematic review of “arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture.”⁴⁹ The United States is therefore required to review laws and policies at the federal, state, and local levels to ensure they prohibit, in law and in fact, the shackling of incarcerated pregnant women in compliance with Article 16 of CAT.
18. The United States has failed in its duty to review laws and policies on the shackling of incarcerated pregnant women. Many states have laws or policies that do not explicitly prohibit the practice of shackling or do not prevent it in fact. For example, the policy in Kentucky provides: “An inmate in her last three months of pregnancy may be transported in only handcuffs. Leg shackles shall also be worn while in the vehicle.”⁵⁰ The lack of adherence to existing laws and policies is also a problem, as in the states of Illinois, New York, Pennsylvania, California, and Texas, as discussed above.

V. CAT COMMITTEE GENERAL COMMENTS

19. General Comment 2: Implementation of Article 2 by States Parties
20. General Comment 3: Implementation of Article 14 by States Parties

VI. OTHER U.N. BODY RECOMMENDATIONS

21. Human Rights Committee
 - a. U.N. Human Rights Comm., 86th sess., ¶ 21, U.N. Doc. CCPR/C/USA/Q/3 (Apr. 26, 2006)
 - b. U.N. Human Rights Comm., 107th sess., ¶ 16, U.N. Doc. CCPR/C/USA/Q/4 (Apr. 29, 2013)
22. Special Rapporteur on Torture
 - a. Report on Women, ¶ 41, U.N. Doc. A/HRC/7/3 (Jan. 2008)
23. Special Rapporteur on Violence against Women
 - a. 2011 Mission to the United States of America, ¶¶ 42–44, U.N. Doc. A/HRC/17/26/Add.5 (June 6, 2011)
 - b. 1999 Mission to the United States of America, ¶ 53, U.N. Doc. E/CN.4/1999/68/Add.2 (Jan. 4, 1999)

VII. RECOMMENDED QUESTIONS

24. We urge the Committee to ask the United States the following questions:
 - a. Does the United States intend to enact a federal law prohibiting shackling of incarcerated women during the second and third trimesters of pregnancy, during labor and delivery, and for six weeks postpartum, including any time in transport to medical facilities or court?
 - b. How does the United States intend to encourage those U.S. states that do not have anti-shackling laws in place to enact comprehensive anti-shackling legislation?
 - c. Does the United States intend to enact requirements at the federal level and to encourage states to enact requirements for the training of correctional and law enforcement officials and personnel on the prohibition of shackling pregnant women, and for reporting of incidents of use of restraints on women who are pregnant, in labor, or post-partum?
 - d. Does the United States intend to review existing state laws and policies regulating the use of restraints on pregnant women to ensure they are comprehensive, do not contain broad exceptions, and are fully implemented?

VIII. SUGGESTED RECOMMENDATIONS

25. We urge the Committee to recommend that the United States:
 - a. Enact federal legislation to prohibit the practice of shackling incarcerated women in the United States during the second and third trimesters of pregnancy, during labor and delivery, and for six weeks postpartum, including any time in transport to medical facilities or court.
 - b. Conduct a federal investigation into the practice of shackling incarcerated pregnant women at the federal, state, and local levels.
 - c. Create a federal oversight body to receive reports on and to investigate incidents of shackling pregnant women.

APPENDIX

I. Recommendations for a Comprehensive Anti-Shackling Law

The adoption of anti-shackling laws by 21 U.S. states represents considerable progress.⁵¹ However, not all of the current laws or policies restricting the use of restraints on pregnant women provide comprehensive protection against shackling. As a result, even in states where laws or policies restricting shackling are in place, the practice continues.

The following are provisions that a comprehensive anti-shackling law should include:

- i. Prohibition on the Use of Restraints: Women or girls known to be pregnant should not be shackled, at a minimum, during the second and third trimesters of pregnancy, during labor and delivery, and for six weeks postpartum, including any time in transport to medical facilities or court.⁵²
- ii. Exception in Extraordinary Circumstances: Exceptions to the prohibition on the use of restraints during pregnancy should only be allowed when there is a documented, individualized determination that a specific woman presents: (1) a serious flight risk that cannot be prevented by other means; and (2) an immediate and serious threat of harm to herself and others that cannot be prevented by other means.⁵³
- iii. Type of Restraint: If restraints are deemed necessary under extraordinary circumstances, only the least restrictive restraints necessary to prevent flight and ensure safety and security should be used.⁵⁴ They should be limited to soft hand restraints placed in front with sufficient length to allow the woman to break her fall if necessary. Waist and leg restraints should never be used⁵⁵ and restraints should never be used during labor or delivery.⁵⁶ A qualified health professional should have final authority to prevent the use of restraints when they would pose a health or safety risk to the women or her baby.
- iv. Notice: Female prisoners⁵⁷ and medical professionals in prisons, jails, and hospitals⁵⁸ should be notified of both the law regulating the use of restraints on pregnant women and any policies developed to give effect to the law.
- v. Training: Strong training requirements are necessary to ensure that all correctional personnel correctly implement the law and to avoid the improper use of restraints. Correctional officers and medical personnel who work in correctional facilities should be required to undergo classroom and hands-on training in the use of restraint equipment and physical restraint techniques. Officers should also be trained to seek medical assistance immediately when a woman reports that she is in labor and to understand precisely what constitutes an “extraordinary circumstance” permitting an exception to the ban on shackling.
- vi. Medical Staff Authority: Correctional personnel should immediately honor requests to remove restraints from attending doctors, nurses, or other medical professionals, including emergency medical personnel.⁵⁹
- vii. Reporting: Correctional officers should be required to submit written reports when restraints are used on pregnant women. The reports should include: (1) the reasons why the officer determined extraordinary circumstances existed requiring the use of restraints; (2) the kind of restraints used; (3) the reasons those restraints were considered the least restrictive and most reasonable under the circumstances; and (4) the duration of the use of restraints. The report should be submitted as soon as possible following the use of restraints and reviewed by a supervisory official.⁶⁰ Annual reports describing all instances of shackling should be

filed with an appropriate state official and also made available for public inspection, with pregnant women's identifying information redacted.

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- ¹ U.S. DEPT. OF JUSTICE (DOJ), BEST PRACTICES IN THE USE OF RESTRAINTS WITH PREGNANT WOMEN AND GIRLS UNDER CORRECTIONAL CUSTODY 3 (2014), *available at* <http://www.asca.net/system/assets/attachments/6989/Best%20Practices%20Use%20of%20Restraints%20Pregnant%5B2%5D.pdf?1398115554>; Ginette Gosselin Ferszt, *Giving Birth in Shackles: It's Time to Stop Restraining Pregnant Inmates during Childbirth*, 110 AMERICAN J. NURSING 11 (2010). *See also* AMERICAN COLLEGE OF NURSE-MIDWIVES, POSITION STATEMENT: SHACKLING/RESTRAINT OF PREGNANT WOMEN WHO ARE INCARCERATED 1 (2012), *available at* <http://www.midwife.org/ACNM/files/ACNMLibraryData/UPLOADFILENAME/00000000276/Anti-Shackling%20Position%20Statement%20June%202012.pdf>.
- ² *See Brawley v. State of Washington*, 712 F. Supp. 2d 1208 (W.D. Wash. 2010); *Zaborowski v. Dart*, 2011 WL 6660999 (N.D. Ill. 2011).
- ³ *See* WOMEN'S PRISON ASSOCIATION, LAWS BANNING SHACKLING DURING BIRTH GAINING MOMENTUM NATIONWIDE 1 (2011), *available at* http://66.29.139.159/pdf/Shackling%20Brief_final.pdf.
- ⁴ *Nelson v. Corr Med. Servs.*, 583 F.3d 522, 533 (8th Cir. 2009); *Zaborowski*, 2011 WL 6660999; *Villegas v. Metro Gov't of Nashville*, 709 F.3d 563 (6th Cir. 2013); *Brawley*, 712 F. Supp. 2d 1208; *Women Prisoners of D.C. v. District of Columbia*, 93 F.3d 910 (D.C. Cir. 1996). *See also* ACLU of NV: *Lawsuit Win Ends Shackling of Pregnant Inmates*, PUBLIC NEWS SERVICE (Mar. 20, 2014), <http://www.publicnewsservice.org/2014-03-20/budget-policy-and-priorities/aclu-of-nv-lawsuit-win-ends-shackling-of-pregnant-inmates/a38250-1>.
- ⁵ *See* AMERICAN COLLEGE OF OBSTETRICIANS AND GYNECOLOGISTS, COMMITTEE OPINION: HEALTH CARE FOR PREGNANT AND POSTPARTUM INCARCERATED WOMEN AND ADOLESCENT FEMALES 3 (2011), *available at* <http://www.acog.org/~media/Committee%20Opinions/Committee%20on%20Health%20Care%20for%20Underserved%20Women/co511.pdf?dmc=1&ts=20130725T1738421657>.
- ⁶ *Id.*
- ⁷ *See* Jason Gardosi, Noreen Hutson, & Chris B-Lynch, *Randomised, Controlled Trial of Squatting in the Second Stage of Labour*, 334 *Lancet* 74, 74–77 (1989).
- ⁸ AMNESTY INTERNATIONAL USA, WOMEN IN CUSTODY 30, *available at* <http://www.amnestyusa.org/pdf/custodyissues.pdf>.
- ⁹ AMERICAN COLLEGE OF NURSE-MIDWIVES, *supra* note 1.
- ¹⁰ Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, art. 16, 1465 U.N.T.S. 85 (Dec. 10, 1984) [hereinafter CAT].
- ¹¹ U.S. CONST. amend. VIII.
- ¹² U.N. Comm. against Torture, *Conclusions and Recommendations, United States of America*, ¶ 33, U.N. Doc. CAT/C/USA/CO/2 (July 2006).
- ¹³ *Id.*
- ¹⁴ U.S. DEPT. OF STATE, UNITED STATES RESPONSE TO SPECIFIC RECOMMENDATIONS IDENTIFIED BY THE COMMITTEE AGAINST TORTURE 8–9 (2006).
- ¹⁵ *Id.*
- ¹⁶ U.N. Comm. against Torture, *List of Issues Prior to the Submission of the Fifth Periodic Report of United States of America*, ¶ 33, U.N. Doc. CAT/C/USA/Q/5 (Jan. 2010).
- ¹⁷ *Id.*
- ¹⁸ U.S. DEPT. OF STATE, UNITED STATES PERIODIC REPORT TO THE COMMITTEE AGAINST TORTURE ¶ 190 (2013).
- ¹⁹ *Id.* at ¶ 191.
- ²⁰ *See* American Correctional Association, Public Correctional Policy on Use of Restraints with Pregnant Offenders (Jan. 4, 2012).
- ²¹ U.S. DEPT. OF STATE, *supra* note 18, at ¶¶ 190–192.
- ²² *Id.* at ¶ 191. The Committee has repeatedly recommended that the United States withdraw its reservations to CAT. In 2000, the Committee expressed concern that the United States' reservation to article 16 was “in violation of the Convention, the effect of which is to limit the application of the Convention.” U.N. Comm. against Torture, *Conclusions and Recommendations of the Committee against Torture*, ¶ 179(b), U.N. Doc. A/55/44 (May 2000).
- ²³ CAT, *supra* note 12, at art. 16.
- ²⁴ *See* U.N., *Status: Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, UNITED NATIONS TREATY COLLECTION (Feb. 8, 2014), https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsq_no=IV-9&chapter=4&lang=en#EndDec
- ²⁵ *Villegas v. Metro Gov't of Nashville*, 709 F.3d 563 (6th Cir. 2013).
- ²⁶ *Id.* at 574.
- ²⁷ *See* AMERICAN COLLEGE OF OBSTETRICIANS AND GYNECOLOGISTS, *supra* note 5.
- ²⁸ Audrey Quinn, *In Labor, in Chains: The Outrageous Shackling of Pregnant Inmates*, N.Y. TIMES, July 26, 2014, *available at* http://www.nytimes.com/2014/07/27/opinion/sunday/the-outrageous-shackling-of-pregnant-inmates.html?_r=1.
- ²⁹ NEV. REV. STAT. § 209.376 (2011); Nev. Dept. of Corrections Admin. Reg. 455.
- ³⁰ *Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment: Promotion and Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Rights, Including the Right to Development* ¶ 41, U.N. Doc.

A/HRC/7/3 (Jan 15, 2008), available at <http://www.refworld.org/pdfid/47c2c5452.pdf>; *Report of the mission to the United States of America on the Issue of Violence against Women in State and Federal Prisons*, ¶¶ 53–54, U.N. Doc. E/CN.4/1999/68/Add.2 (Jan 4, 1999), available at <http://www.unhchr.ch/Huridocda/Huridoca.nsf/0/7560a6237c67bb118025674c004406e9>.

³¹ *Report of the Special Rapporteur on Violence against Women, Its Causes and Consequences: Ms. Rashida Manjoo, Mission to the United States of America*, ¶ C(h), U.N. Doc. A/HRC/17/26/Add.5 (June 6, 2011), available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/138/26/PDF/G1113826.pdf>.

³² *Standard Minimum Rules for the Treatment of Prisoners*, ¶ 33, U.N. Doc. A/CONF/611 (Aug 30, 1966), available at <http://www1.umn.edu/humanrts/instree/g1smr.htm>.

³³ *Id.*

³⁴ *United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules)*, G.A. res. 2010/16, Rule 24, U.N. Doc. A/C.3/65/L.5 (Oct 6, 2010) (emphasis added), available at <http://www.ihra.net/files/2010/11/04/english.pdf>.

³⁵ U.S. Marshals Service, Policy Directive § 9.18(E)(3)(e)–(h), available at http://www.usmarshals.gov/foia/directives/prisoner_operations.pdf.

³⁶ The Bangkok Rules, *supra* note 34.

³⁷ DOJ, *supra* note 1, at 3.

³⁸ MINN. STAT. § 241.88.

³⁹ See Rachel Roth, *Groundbreaking Law for Pregnant Women in Prison Goes to Massachusetts Governor*, MOMSRISING.ORG (May 12, 2014), <http://www.momsrising.org/blog/groundbreaking-bill-for-pregnant-women-in-prison-goes-to-massachusetts-governor>.

⁴⁰ *Id.*

⁴¹ Georgia, Kansas, Maine, Nebraska, South Carolina, Utah.

⁴² CAT, *supra* note 12, at art. 10.

⁴³ CAT, *supra* note 12, at art. 16.

⁴⁴ See Quinn, *supra* note 28; Amy Fettig, *\$4.1 Million Settlement Puts Jails on Notice: Shackling Pregnant Women Is Unlawful*, ACLU (MAY 24, 2012), <https://www.aclu.org/blog/content/41-million-settlement-puts-jails-notice-shackling-pregnant-women-unlawful>; ACLU, IMPLEMENTATION OF THE HEALTHY BIRTH FOR INCARCERATED WOMEN ACT: DETAILS OF DUVALL PROJECT'S DATA COLLECTION PROCESS (2013), http://www.aclupa.org/files/1314/0016/3605/2_-_Memo_with_Data_Collection_Details_-_with_logo.pdf.

⁴⁵ 730 ILLCS 125/17.5 (2000).

⁴⁶ Testimony by LaDonna Hopkins before Illinois House of Representatives, March 2011.

⁴⁷ Amy Fettig, *\$4.1 Million Settlement Puts Jails on Notice: Shackling Pregnant Women Is Unlawful*, ACLU (MAY 24, 2012), <https://www.aclu.org/blog/content/41-million-settlement-puts-jails-notice-shackling-pregnant-women-unlawful>.

⁴⁸ Audrey Quinn, *Pregnant Pa. Inmates Continue to Be Shackled, despite State Law* (THE PULSE Aug. 28, 2014), http://www.newsworks.org/index.php/thepulse/item/71964-pregnant-pa-inmates-continue-to-be-shackled-during-labor-despite-state-law?linktype=hp_pulse.

⁴⁹ CAT, *supra* note 12, art. 11.

⁵⁰ Policy Regarding Use of Restraints during Labor and Delivery, KCIW 09-02-01(I)(E)(5) (effective January 4, 2008).

⁵¹ S.B. 1184, 50th Leg., 2nd Reg. Sess. (Ariz. 2012) (enacted); CAL PENAL CODE § 5007.7 (2008); CAL PENAL CODE § 3423 (2008); COLO. REV. STAT. § 17-1-113.7 (2010); S.B. 190, 146th Gen. Assem., (De. 2012) (enacted); S.B. 524, 2012 Reg. Sess. (Fla. 2012) (enacted); S.B. 219, 2011 Reg. Sess. (Haw. 2011) (enacted); H.B. 0163, 2011 Reg. Sess. (Idaho 2011) (enacted); 55 ILL. COMP. STAT. 5/3-15003.6 (2008); 730 ILL. COMP. STAT. 125/17.5 (2008); S.B. 256, 2012 Reg. Sess. (La. 2012) (enacted); CODE OF MD H.B. 27, CORR. SERV. § 11-206 (MD 2014); MA General Laws CH 127 § 118 (MA 2014); S.F. 2423, 88th Leg., Reg. Sess. (Minn. 2014) (enacted); N.M. STAT. § 33-1-4.2 (2009); A.B. 408, 76th Leg., Reg. Sess. (Nev. 2011) (enacted); N.Y. CORRECT LAW § 611 (McKinney 2009); 61 PA. CONST. STAT. § 1104 (2010); S.B. 0165A, 2011 Gen. Assem., Jan. Sess. (R.I. 2011) (enacted); TEX. GOV'T. CODE § 501.066 (Vernon 2009); TEX. HUM. RES. CODE § 61.07611 (Vernon 2009); TEX. LOC. GOV'T CODE § 361.082 (Vernon 2009); 28 V.S.A. § 801a (2008); WASH. REV. CODE § 72.09.651 (2010); W.VA. CODE § 25-1-16 (2010).

⁵² For a good example of a general provision, see 61 PA. STAT. § 5905(b)(1), available at <http://www.legis.state.pa.us/WU01/LI/LI/CT/HTM/61/00.059.005.000..HTM>.

⁵³ See, e.g., 55 ILL. COMP. STAT. 5/3-15003.6 (2008); NY CORRECT LAW § 611 (McKinney 2009).

⁵⁴ See, e.g., NEV. REV. STAT. § 209.376 (2011).

⁵⁵ See, e.g., 55 ILL. COMP. STAT. 5/3-15003.6 (“Leg irons, shackles or waist shackles shall not be used on any pregnant or postpartum prisoner regardless of security classification.”).

⁵⁶ See, e.g., HAW. REV. STAT. § 353-122(b) (2011).

⁵⁷ See, e.g., CAL PENAL CODE § 3407(e); FLA. STAT. § 944.241(5) (2012).

⁵⁸ 11 DEL. CODE. § 6604(c).

⁵⁹ See, e.g., IDAHO CODE § 20-902(2)(a); 55 ILL. COMP. STAT. 5/3-15003.6(b).

⁶⁰ Some laws specify a time limit for reporting. See, e.g., FLA. STAT. § 944.241(3)(b)(2) (calling for reports within ten days of the use of restraints).