



Reproductive Rights on Lockdown

A State-by-State Prison Policy Analysis of Reproductive Rights, Transparency and Access

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Abstract

This study reports the normative need for transparency of correctional policy relating to pregnancy during incarceration. Today, anyone with a smartphone can access the Internet; it has become the most efficient source of obtaining information. As the number of women, particularly of child-rearing age, incarcerated yearly continues to rise, it is becoming more and more apparent through litigation that there are not policies written or accessible to incarcerated women imprisoned in the United States. The literature suggests that written policies are not only needed in correctional institutions, but that there is a documented need for access to reproductive rights and care for incarcerated women. Operating under the normative assumption that transparency and accessibility of governmental information is a democratic good, correctional websites were scanned for policy dictating reproductive rights. According to the policies that are and are not available on each state's corrections website, only a few have explicit policies on accessibility of pregnancy termination for incarcerated women. Upon investigation, the development of these policies appears to be partially due to litigation, instead of solely to the political leanings of state leaders. Transparency of policies enables knowledge of rights and creation of a checks-and-balances system. Though policies are not perfect, a requirement to post policies in detention centers housing women and on their Department of Corrections website appears to be the best way to ensure knowledge of the policy by inmates, guards, and the public, such as is seen in California.

Chapter One: Introduction

Sheriff Joe Arpaio of Maricopa County, Arizona has made a name for himself nationwide. Notorious for using humiliation tactics, such as forcing male prisoners to wear pink underwear and shirts, he has also been prosecuted for multiple human rights violations. In 2005, a 19-year-old Jane Doe was arrested on a DUI charge in Maricopa County.¹ Upon intake, she discovered she was early in her first trimester of pregnancy and sought termination.² An unwritten Maricopa County Jail policy, which jail staff informed Doe after expressing her desire to terminate, required a court order to obtain an abortion, creating a lengthy obstacle for women’s reproductive freedom. The American Civil Liberties Union litigated on her behalf, and an Arizona court found that the requirement for a court order was an undue burden on the incarcerated woman. Sheriff Arpaio was displeased with this ruling, so he changed tactics; instead of a court order, prisoners seeking termination must pay up front for transportation costs to-and-from the clinic—despite policy for other inmates to receive free transportation for other pregnancy and non-medical events, such as funerals.³ The ACLU intervened once again, and the Arizona State Supreme Court determined Sheriff Arpaio’s requirement for pre-payment for these services was unconstitutional. Despite efforts to bring the case to the United States Supreme Court, the justices refused to hear it.

At the Washington Correction Center for Women in 2007, a woman named Casandra Brawley was serving a 14-month sentence for second-degree theft when she went in to

¹ Bill Mears, “Supreme Court Allows Abortions for Inmates,” *CNN* (24 March 2008).

² “Termination” is used in place of ‘abortion’ in this paper, as the term ‘abortion’ is such a politically and emotionally charged word in present discourse. I attempted to take the politics of the word out of this research to the best of my abilities.

³ “Doe v. Arpaio,” *American Civil Liberties Union* (1 March 2010).

labor in her cell.⁴ Her water broke, and she repeatedly told the prison guards that she needed medical help. She was given minimal medical attention until her screams and pain became unbearable and was shackled and transported to a hospital, where she underwent a life-saving emergency cesarean section while shackled to her hospital bed. Despite the Washington State Department of Corrections' policy stating inmates' access to pregnancy medical care, Ms. Brawley was subject to a severe infection and potential loss of life.⁵ With assistance from a local legal group, Brawley sued the Washington State DOC and won the case. This ruling resulted in the Washington State Anti-Shackling Bill to pass in the state legislature, restricting the use of restraints on incarcerated pregnant women. Even after the settlement, the DOC still claims no liability in the case.⁶

Many rights are given up upon entering prison, but reproductive rights are not left at the prison gate. These two stories provide examples of what can happen in our correctional system when there is little or no transparency: either no written policy or loosely-defined, unknown written policy which is not always followed. This paper answers the question "how can we promote the reproductive rights of incarcerated women?" by analyzing transparency and access to prison policies regarding reproductive rights. After an introduction to the incarceration of women in the United States and a review of Supreme Court cases concerning reproductive rights, the statement of problem explains the need for the study due to a lack of information available to both the incarcerated and non-incarcerated. The literature review discusses previous studies on reproductive rights for incarcerated women and marries the topic to the need for transparency in correctional

⁴ *Brawley v. State of Washington*, 712 F.Supp.2d 1208 (2010).

⁵ Washington State Department of Corrections Offender Health Plan.

⁶ "Settlement Reached with Woman Restrained During Labor," *Legal Voice* (19 May 2010).

institutions. The literature review also informs the methodology of this research through the methodologies of prior studies, and their recommendations for future work. The findings and analysis sections tie in the literature review with observations from the research, arguing that transparency and accessibility of policies are necessary to promote the reproductive rights of incarcerated women. This argument forms the recommendations, suggesting further access, transparency, education and research is necessary to better promote women's reproductive rights in prison.

Chapter Two: Background

The cases of Jane Doe and Casandra Brawley are not isolated incidences in our penal system. In this chapter, the discussion of four aspects of women's concerns in prison will further the study and inform the scope of the research further. To answer the question "how can we promote the reproductive rights of incarcerated women?" this section will include a background, discussing the trends concerning the incarceration of women and the number of pregnant women in prison. As sexual abuse by correctional guards is one way by which women may become pregnant in prison, the Prison Rape Elimination Act will also be discussed, as well as relevant Supreme Court cases ruling on reproductive rights of women and of prisoners.

United States Women's Incarceration Rates

The United States has both the largest prison population and the largest female prisoner population in the world.⁷ At 11.2% annually, the number of women being incarcerated in the United States is rising at twice the rate of men.⁸ As of the end of 2011, there were approximately 111,387 women incarcerated at the state and federal levels.⁹ Black women are disproportionately incarcerated (133 per 100,000) compared to Latina (77 per 100,000) and white women (47 per 100,000).¹⁰ Of these women, 64% are under the age of 39. 42% have not graduated high school. 56% are incarcerated for drug or

⁷ Mary Bosworth, *Explaining US Imprisonment* (Los Angeles: Sage Publications, 2010), 1.

⁸ Jenny Vanyur, Donna Bender, and Katherine Bizans, "Reproductive Health Locked Up: An Examination of Pennsylvania Jail Policies," *American Civil Liberties Union of Pennsylvania* (2012).

⁹ Anne E. Carson and William Sabol, "Prisoners in 2011," *US Department of Justice Office of Justice Programs, Bureau of Justice Statistics* (December 2012).

¹⁰ "Prisoners in 2010," *U.S. Department of Justice Office of Justice Programs, Bureau of Justice Statistics* (December 2011).

property crimes, which are non-violent offenses. 62% have children under the age of eighteen.¹¹

Since a majority of the crimes women are convicted of are non-violent offenses, it is important to note trends in women's convicted offenses. According to the ACLU of Pennsylvania, there are two major trends seen in the crimes women are convicted for. First is substance addiction. The ACLU argues that violence, physical abuse, emotional abuse and sexual abuse are substantial factors leading to the use and abuse of illicit substances. The second trend seen in crimes women are convicted for is due to untreated mental illness, which can also lead to substance addictions as well as to acts of violence.¹² This is not to say that women do not commit violent crimes; 46% of women are incarcerated for a violent crime. The cause of these violent crimes, particularly murders, tends to lead back to an abusive past. A 1992 study found that 90% of women incarcerated at that time for murdering men had been battered by those men.¹³

Statistics on Pregnancies in Prison

With a background of incarceration rates of women in the United States, it is also necessary to understand the number of women who are or who become pregnant in prison. Prisons keep statistical information about age, ethnicity, education level, and offenses committed by incarcerated women. But what about pregnancies in prison? There is little concrete data, as 49 out of 50 state Departments of Corrections are not required to report

¹¹ "Prisoners in 2010," *U.S. Department of Justice Office of Justice Programs, Bureau of Justice Statistics* (December 2011).

¹² Jenny Vanyur, Donna Bender, and Katherine Bizans, "Reproductive Health Locked Up: An Examination of Pennsylvania Jail Policies," *American Civil Liberties Union of Pennsylvania* (2012).

¹³ Allison Bass, "Women far less likely to kill than men; no one sure why," *Boston Globe* (24 February 1992).

all pregnancies or their outcomes to the state.^{14,15} I found no information as to why these numbers are not reported, except that perhaps there is no agency requiring states to report these numbers. The only study found looking at that specifically was the Association of State Correctional Administrators in 2010. Between January and October 2010, there were 3,803 reported pregnant inmates within the federal and state prison system.¹⁶ I found no other reported statistics are publicly kept. Based on recorded pregnancies, an estimated 5-10%, or one in every 25 women are pregnant when they enter prison, and an estimated 2,000 children are born behind bars every year.^{17,18} This estimation does not include the number of women who become pregnant while in prison. Further, there are no publicly kept statistics on the number of pregnancy terminations sought and granted in prisons. Additionally, not all pregnancies begin outside the prison gate. There is a common misconception that all prisoners have access to conjugal visits, which have historically been used as a way to control prisoners and reduce “aggressive” and “homosexual” behavior by offering a reward for good conduct.¹⁹ However, today, conjugal visits are permitted in only six states and have been redeveloped as family-bonding opportunities instead of opportunities for intimate relations. Currently, becoming pregnant in prison is commonly attributed to either (allegedly consensual) sexual relations with prison guards or rape by

¹⁴ Malika Saada Saar and Jill Morrison, “Mothers Behind Bars: A state-by-state report card and analysis of federal policies on conditions of confinement for pregnant and parenting women and the effect on their children,” *National Women’s Law Center* (2010).

¹⁵ “DOC” is used to describe Department of Corrections. Though some states do not call their correctional department this, I used DOC throughout the paper for consistency.

¹⁶ “Pregnant Inmates: Corrections’ Concern for Their Health and Safety,” *Association of State Correction Administrators* (November 2010). Note: These statistics did not differentiate between pregnancy checkups, births, and pregnancy termination services.

¹⁷ Adam Liptak, “Prisons Often Shackle Pregnant Inmates in Labor,” *New York Times* (2 March 2006).

¹⁸ Rachel Roth, “Searching for the State: Who Governs Prisoners’ Reproductive Rights?” *Social Politics: International Studies in Gender, State and Society* 11, no. 3 (2004): 411-436.

¹⁹ Christopher Hensley, Sandra Rutland, and Phyllis Gray-Ray, “Conjugal Visitation Programs: The Logical Conclusion,” *Prison Sex: Practice and Policy* (Boulder: Lynne Rienner Publishers, 2002), 143-156.

prison guards.²⁰ To discuss abuse by prison guards, it is important to understand the Prison Rape Elimination Act (PREA).

Prison Rape Elimination Act

Prisoners are one of the most vulnerable populations in the country; they have given up certain rights to be protected by the state, and are, in turn, often left unprotected. Though rape is illegal in the United States, sexual abuse in prisons runs rampant. In a 2008 Bureau of Justice Statistics report, an estimated 10% of former state prisoners reported having experienced sexual abuse while incarcerated.²¹ Interviews of over 18,000 formerly incarcerated people showed disturbing results with overlapping data: “49% of victims of staff sexual misconduct said they had been offered favors or special privileges; 34% had been persuaded or talked into it; 24% had been bribed or blackmailed.”²² Transparency of policies is necessary in these instances; as said by Rachel Roth, instances of “coercion reinforces the need for unbiased information.”²³

After decades of anecdotal evidence and litigation, Congress passed the Prison Rape Elimination Act in 2003. This act includes data collection and documentation of the number of rape incidents that take place in prisons. In 2005, the Bureau of Justice released a study, reporting widespread abuse by prison guards and detailing that only 37% of guards saw legal action for their crime. Additionally, 75% of these cases resulted in punishment no more severe than probation. After the study was released in 2006, the Bureau of Justice

²⁰ C.G. Camp, “The 2002 Corrections Yearbook: Adult Corrections,” *Criminal Justice Institute* (2003).

²¹ Allen Beck and Candace Johnson, “Sexual Victimization Reported by Former State Prisoners, 2008,” *Department of Justice Office of Justice Programs, Bureau of Justice Statistics* (2012).

²² *Ibid.*

²³ Rachel Roth, “Abortion Access for Imprisoned Women: Marginalized Medical Care for a Marginalized Group,” *Women’s Health Issues* 21, no. 3 (2011): s14-s15.

criminalized sexual conduct between guards and prisoners, with a sentence of five years in prison for violators.²⁴

Prior to these reports, the anecdotal evidence from former and current prisoners suggested that sexual abuse by prison guards was occurring on a regular basis and went largely undisciplined. In 1998, at the Federal Correctional Institution in Tallahassee, a male prison guard raped a female prisoner twice. After the second rape, she saved a sample of the guard's DNA on her clothing and sent the garment to her attorney to be tested as proof she had been raped. As a result, she was sent to solitary confinement. The guard was issued a misdemeanor charge and was given a slap on the wrist: two years' probation.²⁵ As of 2012 – after nine years of gathering data and research, PREA policies to prevent, detect, and respond to prison rape have finally reached and gone into effect in prisons.²⁶ PREA, sadly, will not permanently stop prison rape; merely having policies in place cannot prevent atrocities from occurring. Despite this reality, PREA is a step in the right direction to protect this vulnerable population via a clearer set of required policies and required transparency and access to prison abuse information, which provides an example for how prison policy reform can occur at the national level.

Supreme Court Rulings on Reproductive Rights

With a background in the number of women in prison and how prison pregnancies occur, final pieces of background are the Supreme Court rulings on relevant reproductive rights cases. As federal precedent can set the tone an issue and be referenced for lower courts rulings, *Skinner v. Oklahoma*, *Roe v. Wade*, and *Planned Parenthood v. Casey* are the

²⁴ Silja J.A. Talvi, *Women Behind Bars: The Crisis of Women in the U.S. Prison System* (Emeryville, CA: Seal Press, 2007), 58.

²⁵ *Ibid*, 55

²⁶ "Justice Department Releases Final Rule Prevent, Detect and Respond to Prison Rape," *Department of Justice* (17 May 2012).

three most relevant Supreme Court cases to the reproductive rights of incarcerated women. The United States Supreme Court confirmed reproductive rights for women with *Roe v. Wade* in 1973. Reproductive rights, for the purpose of this report, are the rights granted to women to choose their own reproductive future freely and accessibly without coercion. Thirty years before *Roe v. Wade*, the Supreme Court also confirmed the reproductive rights of incarcerated men. In 1935, Oklahoma passed legislation permitting compulsory sterilization for prisoners who had committed two or more felonies involving “moral turpitude,” arguing that those prisoners had crime-ridden genes.²⁷ In 1945, the Supreme Court ruled in *Skinner v. Oklahoma* that this law could not be upheld, as it omitted financial crimes from sterilizations; Justice Douglas argued sterilization laws should be held to strict scrutiny, as the prisoner “is forever deprived of a basic liberty.”²⁸ This case specifically concerned male sterilization, but Douglas’s argument was that reproductive rights are a fundamental right protected by the Fourteenth Amendment’s equal protection clause. In 1973, *Roe v. Wade* granted women the right to pregnancy termination in the first trimester, and granted states the ability to impose restrictions on terminations in later trimesters. The ruling in *Roe v. Wade* continued unscathed for almost 20 years, until 1992. In *Planned Parenthood of Pennsylvania v. Casey*, the constitutional right to a pregnancy termination was upheld, but states were granted the ability to impose burdens on women seeking termination, such as mandatory waiting periods and requiring doctors to inform women about potential reproductive ramifications from a pregnancy termination.

Despite litigation, there is no overarching federal law protecting the treatment of pregnant prisoners. There are dozens of cases involving the reproductive rights of women

²⁷ *Skinner v. Oklahoma*, 316 U.S. 535 (1942).

²⁸ *Ibid.*

who are incarcerated at the state or county level; however, these cases are not binding in the rest of the country. In fact, in states like Colorado, Department of Corrections policies are exempt from a legislative body. This means the DOC policies are exempt from the rule-making process, thus exempt from public input.²⁹ It is also important to remember that, for every successful case litigated, many cases have failed. Jane Doe of Maricopa County and Casandra Brawley of the Washington Corrections Center for Women were fortunate to have had legal support provided by the ACLU and Legal Voice; not all prisoners have or know about access to this support. However, both cases provide examples of the statement of problem incarcerated women face in the United States; a lack of written policy, or a lack of known policy.

²⁹ Rachel Roth, "Searching for the State: Who Governs Prisoners' Reproductive Rights?" *Social Politics: International Studies in Gender, State and Society* 11, no. 3 (2004): 411-436.

Chapter Three: Statement of Problem

As seen in Maricopa County and the Washington Correction's Center for Women, there are two clear issues involving incarcerated women's reproductive rights. One is transparency of policy: is there written policy? If there is a policy, can it be accessed? The second issue is that of the quality of policy: does the policy allow access to reproductive rights? This section states the problem of a lack of access and awareness of reproductive policies that incarcerated women face.

A lack of awareness of policies is caused by poor transparency of policies. With poor transparency of policies, rights are infringed upon with little oversight, at most resulting in litigation as a haphazard remedy to the greater issue of access. Rights violations go against normative democracy theory; we give up some freedoms to be protected through these rights.³⁰ Rights violations cause distrust in the system, and resulting litigation is costly – both financially and in trust. Ms. Brawley's judicial settlement cost the State of Washington \$125,000, and an intangible cost in losing the trust of legislators and residents alike.³¹ However, this litigation is preventable if corrections staff are aware of their obligation to enforce consistent, transparent and humane policy.

Though there are federal policies which apply to federal prisons, states individually determine their own prison policies. This lack of continuity between states leads to inconsistencies in substantive access to reproductive rights, making incarcerated women subject to different policies, depending on the state where they are incarcerated. Though it depends heavily on their location, non-incarcerated adult women can obtain pregnancy

³⁰ David Estlund, "Chapter 8: Democratic Theory," *The Oxford Handbook of Contemporary Philosophy*, ed. Frank Jackson and Michael Smith (Oxford: Oxford University Press, 2005), 208-230.

³¹ "Settlement Reached with Woman Restrained During Labor," *Legal Voice* (19 May 2010).

services relatively easily, when compared to incarcerated women. Non-incarcerated women have the option to obtain services through clinics and pharmacies, even if it requires driving across state lines. Elizabeth Bux in the *Notre Dame Law Review* argues that Supreme Court in *Roe v. Wade* ensured “procreative decisions would be within a protected ‘zone of privacy’ that must be respected under the Constitution” by ruling that “the right to privacy encompassed the right of a woman to obtain an abortion, with certain governmental restrictions.”³² Therefore, it is arguably a violation of privacy that a woman incarcerated in Alabama may not have the same access to reproductive health care as an incarcerated woman in California.

There are several groups of stakeholders who must be considered when discussing correctional policy. Inside the prison, the prisoners themselves are stakeholders, whose quality of life is dependent upon humane and accessible policies. Next is the correctional staff, consisting of guards, counselors, medical personnel, wardens, and administrators. In terms of responsibility after the correctional staff comes the state correctional agency and legislators, who must act upon oversights in the correctional system. Additionally, there are many groups of stakeholders outside prison; family members of prisoners, lawyers, advocates, nonprofit and other organizations with interest in changing the carceral state.

Maricopa County and Washington Correction Center for Women are just two examples of the lack of policy continuity problem. In addition, these are not the only correctional facilities that handle pregnant inmates. These are two examples that point to a larger problem of reproductive access and transparency. Access to pregnancy termination is just one part of the issue of reproductive rights in prison. An incarcerated woman does

³² Elizabeth M. Bux, “The Unwelcome Cohort: When the Sentencing Judge Invades Your Bedroom,” *Notre Dame Law Review* 85, no. 2 (2010): 745-770.

not have the same access to reproductive rights as a free woman does in most states; but even if she did, would she have the same access to prenatal care, or post-termination counseling services? There is a documented need for counseling services provided to women after terminating a pregnancy.³³

Even if a prisoner had access to her reproductive rights, how would she be informed of her rights in prison? Though American prisoners are not able to connect to the Internet – and some state prison policies forbid it, such as Washington – they can contact people outside of prison who are able to, or pay for a third-party Internet provider service.³⁴ The federal prison system, as well as over half of the state prison systems allows prisoners to pay for e-mail through an internet email client, such as J-Pay.³⁵ There is a need for transparency of policies not only for those who are incarcerated, but also for family members, prison staff, taxpayers, lawyers, and advocates.

When correctional institutions have unwritten policies, they effectively become invisible to the public. Unwritten policies lead to problems, with the example of Jane Doe's case in Maricopa County; Doe was subject to knowing only what the guards allowed her to know about policies, and then to Sheriff Arpaio changing the policy to a new, more burdensome unwritten policy. Transparency is the solution for unwritten policies, as not only will prisoners not be subject to ever-changing policies, they will have access to knowing exactly what their rights are. This argument was developed after I conducted a review of literature with discussions of constitutional rights, medical needs, and transparency and accessibility of correctional institutions and policies.

³³ Emily Bazelon, "Is There A Post-Abortion Syndrome?" *New York Times Magazine* 41 (2007).

³⁴ Washington State Department of Corrections Policy DOC 280.925.

³⁵ J-Pay.com: "Making it Easier."

Chapter Four: Literature Review

To develop this research, I investigated prior reports on similar topics to both create a foundation of background information and to inform my methodology. Additionally, I wanted to know through which lenses this topic has already been deliberated. Other scholars have previously looked at this issue from different viewpoints, including constitutionality, human rights, and the medical perspective. To investigate issues of policy transparency, I conducted a brief literature review on relevant articles regarding transparency of government agencies and policies. As the oldest article in this review is only two decades old, the issues surrounding the reproductive rights of incarcerated women only recently captured the attention of scholars and policy analysts.

Foundational Article

This research is modeled after a 2004 Rachel Roth article titled “Do Prisoners Have Abortion Rights?” In this article, Roth assesses 44 states’ policies regarding access to pregnancy termination, counseling, mandatory waiting periods, and payment options for termination. Roth, the most-cited author on the topic, requested information, contacted DOCs, and researched state resources to find policies. However, even though she sought information in many ways, she could not find all state’s policies. Roth also notes normative theory in order to discuss why “the way states exercise its coercive power over those whom it has deprived all liberty should be a broad concern to all citizens.”³⁶ Her methodology and the marriage of normative theory with reproductive rights policy in Roth’s article informed my concept of documenting only policies which are accessible online, and this research is therefore an extension of her earlier findings. Using what Roth

³⁶ Rachel Roth, “Do Prisoners Have Abortion Rights?” *Feminist Studies* 30, no. 2 (2004): 353-381.

found, I modeled my methodology to be about access and transparency, and not about the existence of policies.

Methodology Articles

Three additional articles helped direct my research. In 2010, The Rebecca Project and the National Women’s Law Center published *Mothers Behind Bars*, a report which issued each state a “report card” on their correctional policies regarding prenatal care, shackling, and family-based treatment as an alternative to incarceration. By their standards, 21 states received a failing grade.³⁷ The goal of this report was to bring attention to current conditions women face in prison. This study informed my methodology by creating a table layout that would be used to organize the data collected. Similarly, in 2012, the ACLU of Pennsylvania published *Reproductive Health Locked Up: An Examination of Pennsylvania Jail Policies*, which revealed that none of the 57 counties in Pennsylvania have sufficient correctional policies in place to ensure access to reproductive rights to incarcerated women there.³⁸

The final foundational methodology piece came from the American Civil Liberties Union. In 2008, the ACLU created an interactive map of the United States with links to each state’s policies regarding the rights of incarcerated pregnant women. The ACLU found that 21 states have policies that mention health care for pregnant inmates planning to either keep or terminate their pregnancies; 12 states have policies that mention prenatal care but not access to abortion; and two have regulations about abortion access, but not about other

³⁷ Malika Saada Saar and Jill Morrison, “Mothers Behind Bars: A state-by-state report card and analysis of federal policies on conditions of confinement for pregnant and parenting women and the effect on their children,” *National Women’s Law Center* (2010).

³⁸ “Reproductive Health Locked Up,” *ACLU Pennsylvania* (2012).

pregnancy-related health care.³⁹ The ACLU built the map using policy and regulations detailed on each state's Department of Corrections website. The ACLU's research does not provide anything conclusive past the above statistics; my research continues the natural progression of the aforementioned study by comparing state differences, as well as including policies on counseling services. While reviewing this report, I noticed what appeared to be a politically-charged trend: states with little or no policy documented appeared to be states with predominantly Republican leadership, while states with more policy listed appeared to be states with predominantly Democratic leadership. This apparent trend was used to develop my hypothesis.

Constitutional Lens Articles

Currently, most literature looking at the reproductive rights of incarcerated women is looked at through a constitutionality lens. Because of this focus on the implications in the U.S. constitution, much of the existing scholarship is done at the federal level, but not at the individual state level- where most prisoners in the United States are held. There is also significant research on the health issues associated with pregnant inmates. While there are no scholarly articles arguing that incarcerated women should be restricted from their reproductive rights, the literature suggests that the resistance incarcerated women encounter from correctional facility staff or individual state policy effectively bars abortion access. Though no federal funds are appointed for abortion (except in the cases of rape, incest, or threat to the mother's life), some state policies - like California's - provide elective abortion access for incarcerated women. Other prisons have no written policy, and require

³⁹ "State Standards for Pregnancy-Related Health Care and Abortion for Women in Prison," *American Civil Liberties Union* (2008).

women to pay for their own elective abortion and transportation to and from an abortion clinic.

“Correctional Facilities” covers the background information needed for my research. This article provides arguments, statistics on women in prison, some prison policies, and some state policy information. Claire Wack and Roshni Patel argue from a constitutionality paradigm, and determine that federal intervention is necessary for successful policy. They find that prisons do not perform routine gynecological exams on inmates, they do not always provide gynecological examinations on admissions, and they generally do not have trained on-site gynecologists or obstetricians.⁴⁰ Interestingly, this article provided the only information I found about the Department of Justice Bureau of Prisons policy on abortion, which states that it is the inmate’s choice to decide to continue or terminate the pregnancy, and that the federal prison will provide the inmate with counseling services to assist in her decision. If she decides to terminate the pregnancy, she will sign a statement and the medical director will arrange for an abortion to take place.⁴¹ This information was not found on the Bureau of Prisons website.

Many other scholars have written articles on the constitutionality of access to reproductive rights while incarcerated. Specifically, Diane Kasdan’s piece “Abortion Access for Incarcerated Women” detailed the two Supreme Court decisions that are used in incarcerated women’s reproductive rights cases, *Turner v. Safely* and *Estelle v. Gamble*. In *Turner v. Safely*, the Court held that a prisoner’s constitutional right can only be restricted if that right is not reasonably related to prison interest; an example would be restricting

⁴⁰ Claire Wack and Roshni Patel, “Correctional Facilities,” *Georgetown Journal Of Gender & The Law* 13, no. 2 (2012): 183-202.

⁴¹ “28 Code of Federal Regulations 551.23: Abortion,” *United States of America Judicial Administration* (1994).

freedom of speech in the case where the prisoner is causing incitement.⁴² Lower courts have applied *Turner* to cases involving prisons that have outright prohibited abortion access; the Third Circuit court took this further and argued that the correctional agency holding the inmate must assume the cost of an elective abortion in cases where there is no available alternative funding.⁴³ However, policies that restrict non-emergency medical procedures have been more difficult to challenge; in 2008 the Fifth Circuit court ruled that requiring a court order for an off-site medical procedure is valid in the 2008 Maricopa County case.⁴⁴ This case is similar to the 1987 *Monmouth County Correctional Institution Inmates v. Lanzaro*, where the U.S. Court of Appeals held that the county's policy requiring pregnant inmates to attain court-ordered permission to receive an abortion was unconstitutional, and that the county's policy requiring inmates to pay for an abortion is unconstitutional if it infringed on the inmates' right to make a reproductive choice.⁴⁵ With *Estelle*, the Court established the obligation of the government to provide medical care for inmates and found that prison personnel's intentional disregard to an inmate's serious medical situation is considered cruel and unusual punishment under the Eighth Amendment.⁴⁶ Kasdan argues that the ability or inability to access care for is essential to ensure reproductive rights for incarcerated women, affirming my argument in favor of transparency and access.

Lorraine Kenny's article, "Women Don't Check Their Reproductive Rights at the Jailhouse Door" also provides a background in the constitutionality of reproductive access

⁴² *Turner v. Safely*, 482 U.S. 78.

⁴³ Claire Wack and Roshni Patel, "Correctional Facilities," *Georgetown Journal Of Gender & The Law* 13, no. 2 (2012): 183-202.

⁴⁴ *Victoria W. v. Larpenter*, 369 F. 3d 475.

⁴⁵ *Monmouth County Correctional Institution Inmates v. Lanzaro*, 834 F.2d 326.

⁴⁶ *Estelle v. Gamble*, 429 U.S. 97.

to incarcerated women, as well as the varied policies across each state.⁴⁷ Kenney's article argues that prisons that bar women from receiving an elective abortion or force an abortion violate women's Eighth and Fourteenth Amendment rights. Kenney suggests that educating incarcerated women regarding the rights they have in prison and encouraging them to document reproductive policy issues is necessary for women to be able to effectively exercise their rights. Kenney's suggestion of education and documentation supports my argument for greater transparency and access, thus promoting the reproductive rights of incarcerated women.

Rachel Roth has two additional pieces which look at the access and availability incarcerated pregnant women have to their reproductive rights. In "Abortion Access for Imprisoned Women" she argues "no woman should have to file a lawsuit to exercise a well-established constitutional right, especially when her life is directly in the hands of the state."⁴⁸ In "Obstructing Justice," she reveals that in Rhode Island, 84% of imprisoned women reported they had experienced an unplanned pregnancy, compared to approximately 50% of women in the general population. This statistic shows the need for access and programs for incarcerated women.⁴⁹ In "Searching for the State," she looks at how states use written versus unwritten rules to determine the fate of incarcerated pregnant women, and how a single member of the correctional staff can decide if a woman is allowed to get the procedure she requests based on the staff member's personal

⁴⁷ Lorraine Kenny, "Women Don't Check Their Reproductive Rights At the Jailhouse Door," *Women, Girls & Criminal Justice*, (February/March 2007): 21, 22, 28.

⁴⁸ Rachel Roth, "Abortion Access for Imprisoned Women: Marginalized Medical Care for a Marginalized Group," *Women's Health Issues* 21, no. 3 (2011): s14-s15.

⁴⁹ Rachel Roth, "Obstructing Justice: Prisons as Barriers to Medical Care for Pregnant Women," *UCLA Women's Law Journal* 18, no. 79 (2010): 79-105.

opinions. Roth also looks at the issue through the lens of education, and suggests that more scholarship on the topic will help determine better policies.⁵⁰

Medical Lens Articles

Another way authors have viewed this issue is from the perspective of medicine. Carolyn Sufrin, Mitchell Creinin and Judy Chang looked at the issue from a medical perspective and argued that incarceration does not preclude access to reproductive care, and that improvements to incarcerated women's medical care should include a reproductive care aspect. A study conducted in 2009 found that, of 286 health professionals who provided care in correctional facilities, almost three quarters of the respondents indicated that inmates at their facility can obtain an 'elective' abortion. Of this group, almost 90% indicated that their facility provides transportation to the procedural clinic; but only 54% of these health professionals actually help inmates arrange the procedure. 68% of these health care professionals indicated that inmates at their facility could obtain 'elective' abortions.⁵¹ This article also touches on the politicization of access to abortion; according to the responses, healthcare providers from Republican-controlled states or with a Medicaid policy that restricts coverage for abortion were "more likely to indicate a limited availability of abortion services as compared to those states with a Democrat-controlled legislature or Medicaid program that covered all or most medically necessary abortions."⁵² My research focused on written policy (or a lack thereof), as opposed to Sufrin, Creinin and Chang's approach, which was to use a direct contact survey. I am using written policy because individual healthcare providers can be

⁵⁰ Rachel Roth, "Searching for the State: Who Governs Prisoners' Reproductive Rights?" *Social Politics: International Studies in Gender, State and Society* 11, no. 3 (2004): 411-436.

⁵¹ Carolyn Sufrin, Mitchell Creinin, and Judy Chang, "Incarcerated Women and Abortion Provision: A Survey of Correctional Health Providers," *Perspectives on Sexual & Reproductive Health* 41, no. 1(2009): 6-11.

⁵² *Ibid.*

different, while correctional institutions allegedly follow state policy, thus theoretically ruling out the personal bias of guards and staff. Granted, correctional institutions can interpret laws and policies in different ways, but I am more interested in how state policies differ, and not whether the policies are being followed—although this aspect is crucial, it is not the topic of this study.

Emily Bazelon’s *New York Times* piece “Is There a Post-Abortion Syndrome?” highlights the need for some women who have had abortions to go through abortion recovery counseling. The article describes a counselor who provides services for incarcerated women who have had an abortion. The counselor argues that recovery counseling is crucial for some women to be able to accept their choice and move on—which is a service non-incarcerated women have access to, but many incarcerated women in some states, according to the article, do not. Bazelon’s piece gave me the initial idea to research counseling services as a part of the reproductive access topic, as these services appear not to be offered universally. This discrepancy is one more example of the inequalities of prisoners within the system, and what this type of inequality of access means. There is an existing Bureau of Prisons requirement for federal prisons to offer medical, religious, and social counseling to inmates seeking pregnancy continuation or termination.⁵³ However, there is no policy written on post-termination counseling.⁵⁴

The need for this type of counseling is documented. Though the physical act of having an abortion does not increase the risk of mental health issues, the American Psychological Association's Task Force on Mental Health and Abortion determined that there are several mental and emotional risks linked to terminating a pregnancy. These

⁵³ Emily Bazelon, “Is There A Post-Abortion Syndrome?” *New York Times Magazine* 41. (2007).

⁵⁴ “28 Code of Federal Regulations 551.23: Abortion,” *United States of America Judicial Administration*. 1994.

include “feelings of guilt, anxiety, depression, and regret, including low self-esteem” as well as cultural and religious stigmas that can come with pregnancy termination.”⁵⁵ Edith Pacillo notes that after a pregnancy termination, “women’s emotional responses range from grief for the fetus to suicidal tendencies” paired with guilt.⁵⁶

A study done in New York of 527 women who had first-trimester abortions found that women who engaged in positive reframing for coping had better post-abortion adjustment, while women who avoided or denied help had poorer readjustment.⁵⁷ The study suggests there is a clear need for clinical interventions for women to use more beneficial forms of coping with abortion.⁵⁸ A 2010 article by Ushma Upadhyay et al. examines the emotional care component of abortion counseling. Upadhyay et al. identified counseling techniques used in emotional care for stigmatized issues, such as peer counseling, decision aids, self-awareness assessments, and support groups.⁵⁹ They argue that these practices in abortion counseling may be able to improve psychological adjustment after abortion.

The aforementioned 2009 piece by Diane Kasdan, “Abortion Access for Incarcerated Women,” also gives an example of how intervention through counseling during incarceration can positively affect the reproductive rights and choices made. Her piece looked at two Rhode Island studies, which showed that incarcerated women are

⁵⁵ Ushma Upadhyay, Kaete Cockrill and Lori Freedman, “Informing abortion counseling: An examination of evidence-based practices used in emotional care for other stigmatized and sensitive health issues,” *Patient Education & Counseling* 81, no. 3 (2010): 415-421.

⁵⁶ Edith Pacillo, “Expanding the Feminist Imagination: An Analysis of Reproductive Rights,” *American University Journal of Gender and the Law* 6, no. 1 (1997): 113-138.

⁵⁷ Brenda Major, Caroline Richards, Lynne M. Cooper, Catherine Cozzarelli and Josephine Zubeck, “Personal resilience, cognitive appraisals, and coping: an integrative model of adjustment to abortion,” *Journal of Personality and Social Psychology* 74, no. 3 (1998): 735-752.

⁵⁸ *Ibid.*

⁵⁹ Ushma Upadhyay, Kaete Cockrill and Lori Freedman, “Informing abortion counseling: An examination of evidence-based practices used in emotional care for other stigmatized and sensitive health issues,” *Patient Education & Counseling* 81, no. 3 (2010): 415-421.

considerably more likely to use contraceptives if they are provided with them during their incarceration than if they are referred to free contraceptive service clinics in their community after release.⁶⁰ This study led me to look at access to contraceptives as an indicator of reproductive rights. Kelly Parker's "Pregnant Women Inmates" confirms the need for the provision of counseling services in her discussion of addiction issues many incarcerated women face.⁶¹ Parker's article led me to search for policies around counseling services as an indicator of reproductive rights and health.

Transparency and Policy Articles

Thomas Jefferson proclaimed, "transparency is the currency of democracy."⁶²

Exercising normative theory, transparency is 'good' from the perspective of democracy and democratic accountability.⁶³ Using Rachel Roth's incorporation of normative theory into the need for public access and transparency, I utilized four articles to create a foundation for my analysis and recommendations.

Michele Deitch's "Special Populations and the Importance of Prison Oversight" argues that correctional oversight is not the goal itself, but oversight is used provide a way to achieve transparency and accountability in prisons to ensure safe and humane corrections.⁶⁴ Deitch argues that every public agency must have effective accountability systems to ensure the public that their tax money is being well-spent and utilized and necessary services. Deitch's argument highlights that agencies must be held accountable,

⁶⁰ Diane Kasdan, "Abortion Access for Incarcerated Women: Are Correctional Health Practices in Conflict with Constitutional Standards?" *Perspectives on Sexual and Reproductive Health* 41, no. 1 (2009): 59-62.

⁶¹ Kelly Parker, "Pregnant Women Inmates: Evaluating Their Rights and Identifying Opportunities for Improvement in Their Treatment," *Journal of Law and Health* 19, no. 2 (2005-2006): 259-295.

⁶² "Quotation: Information is the currency of democracy," *The Jefferson Encyclopedia*. 2009.

⁶³ Gijs Brandsma, Deirdre Curtin, and Albert Meijer, "How Transparent are EU 'Comitology' Committees in Practice?" *European Law Journal* 14, no. 6 (2008): 819-838.

⁶⁴ Michele Deitch, "Special Populations and the Importance of Prison Oversight," *American Journal of Criminal Law* 37, no. 3 (2010): 291-315.

and in order to have accountability, procedures must be developed, written and followed. In order to create this procedural accountability, written policies and procedures are a must in prisons. These policies must “establish a philosophy of operation..., identify the outcomes expected, and define what is required for staff and inmates.”⁶⁵

Sarah Geraghty and Melanie Velez are attorneys at the Southern Center for Human Rights and wrote the article “Bringing Transparency and Accountability to Criminal Justice Institutions in the South” to discuss their observations while working at the SCHR.⁶⁶ Their four major findings lead to the need for transparency and accountability in correctional institutions. They found that nothing positive can come from government officials performing their jobs without accountability, that a lack of accountability creates apathy in government officials to operate with public scrutiny, and, with this, resistance to public scrutiny can lead to hiding activities from the public.⁶⁷ The authors also found that public scrutiny is often necessary in order to change dangerous practices and policies. They argue that, due to mass incarceration in the United States and the privatization of correctional institutions, transparency is a public need, and that accountability is a requirement in this expanding system to ensure public interest. The authors conclude that not only does the public have the right to information about correctional institutions, but also that the media has a responsibility of involvement and to provide critical analysis of these institutions and their policies.⁶⁸ Geraghty and Velez also discuss a needed element in the transparency process: if these policies and practices are transparent, the public has a responsibility to get

⁶⁵ Peter Carlson and John Dilulio, “Organization and Management,” *Prison and Jail Administration: Practice and Theory* ed. Peter Carlson and Judith Simon Garrett (Gaithersburg, Maryland: Aspen Publishers, Inc., 1999) 193.

⁶⁶ Sarah Geraghty and Melanie Velez, “Bringing Transparency and Accountability to Criminal Justice Institutions in the South,” *Stanford Law & Policy Review* 22, no. 2 (2011).

⁶⁷ *Ibid.*

⁶⁸ *Ibid.*

involved in bettering the system. To do this, they argue, media must get involved, as atrocities become viral through media exposure and gain public momentum until leaders are forced to act. The author's views on public exposure and involvement confirmed my recommendations on transparency.

In 2011, the National Conference of State Legislatures in conjunction with the Pew Research Center produced a report with seven principles to guide state legislatures in creating correctional policy. "Principles of Effective State Sentencing and Corrections Policy" calls for state legislatures to not only have clear sentencing rationales, but also argues that correctional policies "should be logical, understandable, and transparent to stakeholders and the public."⁶⁹ In a 2010 review of the California Department of Corrections, attorney Geri Lynn Green concluded that much reform is required to solve the issue of mass incarceration, but "transparency and accountability are the first steps" necessary to make changes toward "responsible democratic governance."⁷⁰

Geraghty, Velez, Kasdan, and Kenney all confirm my argument that transparency and access are critically important in promoting access to incarcerated women's reproductive rights. This transparency argument is expanded by Roth, who suggests education of policies to prisoners. The constitutionality and medical lens articles provide the already-established arguments that incarcerated women are not only entitled to their reproductive rights, but that there is also medical evidence that women need for pregnancy services. The overarching findings in each of these articles create the argument that women

⁶⁹ Principles of Effective State Sentencing and Correctional Policy," *National Conference of State Legislatures* (2011).

⁷⁰ Geri Lynn Green, "The Quixotic Dilemma, California's Immutable Culture of Incarceration," *Pace Law Review* 30, no. 5 (2010): 1453-1475.

have reproductive rights in prison and that transparency of policy of necessary for scrutiny, public awareness, and the ever-evolving process of policymaking.

Chapter Five: Methodology

Hypothesis

Based on the observation of political dichotomies and potential policy impact seen in the literature review, the hypothesis for the research was that the dominant political party in the state would have an impact on whether or not that state had correctional pregnancy termination policy posted online, and that Republican-leaning states would have more restrictive or non-transparency policies than Democratic-leaning states.

Initial Data Collection

Centered on the literature review, this research methodology consisted of four phases: (1) a review of each state's Department of Corrections, the District of Columbia, and Bureau of Justice website and find statistical inmate data, facility data, and relevant policies related to women's reproductive access posted online,⁷¹ (2) the creation of a spreadsheet noting statistics on each website's availability of information, (3) analysis of which states had the most explicitly detailed policies and (4) further analysis and discussion of why those states have such explicitly detailed policies.

This methodology was influenced by the ACLU's 2008 research, ACLU Pennsylvania's 2012 research, The Rebecca Project's 2010 research, and Rachel Roth's 2004 research. The major difference between my research and prior reports is that I exclusively documented DOC policies as stated on their websites. Rachel Roth conducted her research by contacting Departments of Corrections, filing information requests, and obtaining policy manuals; the ACLU and Rebecca Project followed similar procedures. Because my goal was not to document each state policy but rather to document online accessibility to these policies, my

⁷¹ Time did not permit looking into US Immigration and Customs Enforcement or United States Military, or US Marshal Service policies. These policies are crucial, however, and further work should be done to find the reproductive policies for those detained individuals; particularly since according to the Bureau of Justice Statistics, at midyear 2010 95,977 noncitizens were held in custody in the United States.

research was informed by these previous studies but not dictated by them. By only researching what is available to the public online, my results will show policies available to all people with Internet access, not including policies only researchers can get with FOIA requests.

To aggregate data collection modeled by the ACLU's State-by-State format, a thorough review of each state's⁷² corrections website was conducted, as well as the websites of the District of Columbia and Bureau of Justice, obtaining and documenting health policies relating to women, access to care, pregnancy, abortion, and mental health. The ACLU's State-by-State report lists specific website links to where policies can be found - however, many of these links were broken or no longer in existence. Links to all policies found were kept in an alphabetical-by-state list, to be analyzed later.

To begin organizing and analyzing the policies, I created a spreadsheet listing each state, the District of Columbia, and the Bureau of Justice in rows. I then found adult⁷³ prison statistical data for each the state:

- State population (as of July 2012, for uniformity)
- The number of adult prisons⁷⁴ (public and private)
- The number of women's or co-ed prisons
- The number of adult prisoners in that state (dates vary)

⁷² State websites but not those of municipal and county jails were chosen because counties and cities generally have their own sets of policies, while state facilities have a single set of rules determined by the state DOC.

⁷³ Because there are very few state-operated youth correctional institutions (most are county), and these institutions abide by a different set of policies than the adult facilities, youth correctional institutions or offenders were not included as part of the total count in this study.

⁷⁴ I did not count prison work camps, community justice centers, or intake centers into the total prison count for the purpose of this research, as intake centers hold inmates for a short period of time, and I found no information explicitly stating that women served time at the work camp- and (idealistically) hoped that pregnant women would not be required to serve there.

- The number of women prisoners in that state (dates vary).

All information (aside from state population) was self-reported and accessed via each state's correctional website; therefore, not all prisoners are counted in the same way. For example, some states do not include prisoners incarcerated in private prisons into their state totals; some states count "work release" and "incarcerated" in the same statistic, while others differentiate the populations; some states do not list statistical information on their correctional websites; some states use percentages instead of numbers to count female and male offenders. Because of this, some cells are left empty on the spreadsheet.⁷⁵

Following the input of statistical data found on state's DOC websites, I added a set of 7 columns to the spreadsheet, using these headings to detail indicators of policy (and their abbreviations on the spreadsheet):

- Posted DOC Termination Policy Online (Online DOC Term Policy): a yes/no column that shows if the state includes any pregnancy termination policy on their DOC website.
- Termination Policy Exists (Term Policy Exists): Based on data collected by Roth in 2004, this column shows whether or not there was any type of documented policy on pregnancy termination as of 2004; shown as yes, no, or n/a as of 2004.
- Termination Policy Posted is Explicit (DOC Website- Explicit Policy): a yes/no column, with the definition that if the state has posted a policy on termination, it is a policy that clearly states whether or not terminations can be accessed by prisoners.

⁷⁵ See Appendix A for table.

- DOC Website Mentions Pregnancy Care (Online DOC: Preg Care): a yes/no column with the definition that the correctional website states policy on pregnancy other than anti-shackling policy. I am excluding anti-shackling policy from this research because it is not pertinent to this study of access to abortion or termination/pregnancy counseling.⁷⁶
- DOC Website Mentions Pregnancy Support (Online DOC: Preg Support): this is an open-ended column that notes whether there are any policies posted online about prenatal care, explicit health care, counseling or care for specific prison populations. There are also states that do not include a description of any type of pregnancy support. There are many states that have posted policies that claim there is access to health care for all prisoners with medical issues, but I did not count those as relevant policies as they do not explicitly say whether or not pregnancy falls under this policy. These policies are open to interpretation, however, so litigation could serve in favor of women in states with these policies.
- DOC Website Allows for Termination (Online DOC: Allows for Term): a yes/no/not stated column with the definition that there is a posted correctional policy on the website that explicitly states whether or not terminations are permitted for prisoners in that state.
- DOC Website Mentions Use of Public Funds/DOC Payment (Online DOC: DOC Term Coverage): a yes/no/not stated column that notes if public funds or the DOC will pay for an inmate's pregnancy termination.

⁷⁶ Many states have passed anti-shackling legislation, including Washington State; however, there is no federally mandated policy against the use of shackles on incarcerated pregnant women. See *Mothers Behind Bars* from The Rebecca Project for a 2010 analysis of shackling policies in each state.

- DOC Website Mentions Counseling for Pregnancy/Termination (Online DOC: Preg/Term Counseling): this column shows details on each posted DOC policy involving any pregnancy and/or termination counseling services.

These indicators are based off of all policies involving pregnancy, with specific detail about pregnancy termination and counseling. Prenatal care, prison nurseries, adoption services for children born in prison, and community supervised childcare services are well documented and researched; for example, the National Women’s Law Center and the Women’s Prison Association have released reports covering these areas.⁷⁷ There is relatively little data on access to termination and counseling services.

After completion of the spreadsheet, the analysis required a deeper look at states that had “yes” boxes across the table. Several states had each of the types of indicator policies posted online, as compared to the many states that did not. The obvious question is: why would some states have such detailed policies online, while other states have none at all? The second portion of research developed from this discrepancy.

Secondary Hypothesis

As the first collection of research did not support my first hypothesis, I developed a secondary hypothesis to test: the reason some states have such explicit policy posted online while others have either no posted policy or vague policy is due to litigation.

Secondary Data Collection

After completion of the spreadsheet, I noticed that my initial hypothesis was not supported. Since so few states have termination policy posted, there is not enough data to suggest that political leanings informed policy decisions. Step four was developed by my

⁷⁷ See The National Women’s Law Center and Rebecca Project’s 2010 “Mothers Behind Bars,” Women’s Prison Association 2009 “Mothers, Infants and Imprisonment,” and Solinger et. al.’s 2010 “Interrupted life: Experiences of incarcerated women in the United States.”

second hypothesis. After finding the states with the most explicit policy, in an attempt to discover why the policy there was clearly defined, I conducted case studies on each state with posted policy. To do this, I searched for litigation on LexisNexis, through several state legislatures' bill tracking websites, and for news articles that discussed the development of said policies. Finding policy development information for all 50 states was not possible, considering time constraints, so I focused my research on the twelve states with termination policies accessible online. Not every state had litigation or legislative intervention traceable; therefore I focused on only what I could reasonably find. Regardless, the analysis of the second half of the study led to the recommendations herein.

Limitations

The limitations to this study include that only adult public state Departments of Corrections websites were utilized to gather information. Therefore, the policies listed may not apply to incarcerated youth, or to prisoners held in privately-operated prisons. The policies found are not an exhaustive list of written all policies. Because one focus of this study was transparency and accessibility, only what was accessible on the DOC websites was gathered and evaluated. There are states with documented prisoner pregnancy policies, such as Oregon; but they were not posted on their website, so they were not counted.⁷⁸

This study is also limited due to a lack of accessible information about the development of policies as they occur. For national issues, such as marriage equality, media has covered the development of policy from the start; this is not the case with prisons' reproductive rights policy. To understand how policy was developed, media coverage is essential to understand the process, stakeholders, and problems the policymakers faced.

⁷⁸ Rachel Roth. "Do Prisoners Have Abortion Rights?" *Feminist Studies* 30, no. 2 (2004): 353-381.

Finding step-by-step information about the creation of these policies was not possible for this study, so a narrative was unavailable as a guide to how these policies were created. Despite these limitations, this methodology and its necessary adjustments led to two sets of findings: state-by-state access to termination and services, and background and statistical information observed while testing the two hypotheses.

Chapter Six: Findings

After completing the state-by-state spreadsheet, literature review, and individual state case studies, I had two sets of findings. The first, the State-by-State Findings, show through four United States maps the states that have documented policies on reproductive access. The second set, the Statistical and Background Findings, help to frame the analysis of the findings and further the study of reproductive rights and access in United States prisons.

State-by-State findings

There are four maps in the Appendix which detail the major findings of this study and indicate which states have correctional pregnancy policy available online. This section will discuss the four policy indicators mapped: pregnancy termination policy, prenatal policy, pregnancy termination coverage, and access to pregnancy counseling.

Appendix B shows the thirteen states with Department of Corrections (DOC) pregnancy termination policy accessible online: California, Colorado, Idaho, Illinois, New Jersey, Massachusetts, Minnesota, New Hampshire, New Jersey, Oklahoma, Pennsylvania, Texas and Washington.⁷⁹ The District of Columbia also has termination policy accessible online. Hawaii's Department of Public Safety policy mentions "arrangements... for therapeutic procedures" and "counseling of the expectant mother's options," but it is not explicit enough to determine if the policy is in relation to pregnancy termination.⁸⁰ It is not the case that each of these states necessarily permits pregnancy termination to its prisoners; these states are simply the ones that have any policy at all about the process

⁷⁹ Washington's DOC policy is not posted in the policy section of the website, but in a health care manual stating services can be accessed. I happened to stumble across this information and did not search for health manuals on other DOC websites due to time constraints.

⁸⁰ "COR.10.1G.9: Pregnancy Counseling," *Hawaiian Department of Public Safety* (2008).

posted online. States where elective abortion is permitted but not covered by the DOC require a woman to fund the phone call, the trip to the clinic (including guard services), and the procedure herself. In 2010, Rachel Roth estimated the cost of a termination at 10-weeks gestation to be \$451, and calculated it would take six and a half months, working forty hours a week, at a federal corrections center to pay for an elective pregnancy termination.^{81,82}

States with any type of pregnancy-related policy accessible online can be found in Appendix C. Primarily, these policies surround prenatal care, such as dispensing of vitamins and regular medical checkups. As stated in the methodology section, this map does not include states that have anti-shackling policy. Sixteen states do not mention anything in online policies about pregnancy care: Iowa, Kentucky, Louisiana, Mississippi, Missouri, Montana, Nebraska, North Dakota, Ohio, Oregon, Rhode Island, South Carolina, South Dakota, West Virginia, Wisconsin, and Wyoming.

Appendix D lists the six states where the DOC permits pregnancy termination coverage if the pregnancy termination is considered therapeutic: California, Idaho, Massachusetts, Minnesota, Texas, and Washington. In these cases, “therapeutic” means “medically necessary” (as opposed to “elective” meaning that the termination is a reproductive choice).⁸³ No state has posted policy stating that the DOC will pay for an elective termination. States with posted policy will only fund the procedure if it is a therapeutic abortion (California, Massachusetts) or will not pay for an elective abortion in

⁸¹ Rachel Roth, “Searching for the State: Who Governs Prisoners’ Reproductive Rights?” *Social Politics: International Studies in Gender, State and Society* 11, no. 3 (2004): 411-436.

⁸² Rachel Roth, “Do Prisoners Have Abortion Rights?” *Feminist Studies* 30, no. 2 (2004): 353-381.

⁸³ Usage of the term “therapeutic” instead of “medically necessary” appears to me to be a way to push the moral responsibility on the pregnant woman instead of the needs of her physical health.

any case (Texas). The Bureau of Prisons' policy allows for a paid "elective" pregnancy termination if the mother's life is at risk - which is not, in reality, an "elective" termination.⁸⁴ States with documented policy stating the correctional institution will not cover the cost of an elective termination is consistent with the Hyde Amendment, a 1976 piece of legislation which bars federal tax funds from being used to pay for pregnancy termination except in the case of rape or incest.⁸⁵

The fourteen states with DOC policy that offers pregnancy and/or pregnancy termination counseling to prisoners are shown in Appendix E. Each state does not necessarily offer both types of counseling, and most states are ambiguous as to what the counseling entails. Two examples of counseling services offered come from Connecticut and Oklahoma: Connecticut's DOC only permits counseling for pregnant prisoners by religious groups; Oklahoma's DOC requires the decision to terminate a pregnancy to be solely up to the pregnant prisoner herself, suggesting that at one time in history women may have been forced into the decision.

As previously mentioned, these policy findings differ from those found by the ACLU in 2008 and Rachel Roth's 2004 article.⁸⁶ Roth's article explains that additional states have (or had in 2004) documented policies, but that they are not accessible online. Accessibility of information and navigation of these websites dramatically varies state-to-state. On some websites, such as California's, policy and information are clear and the site is easily navigable. Other websites - for example, that of the state of Missouri, has no posted policies and is additionally much more difficult to navigate.

⁸⁴ "Program Statement, 6070.05," *US Department of Justice Federal Bureau of Prisons* (1996).

⁸⁵ "Public Funding for Abortion," *American Civil Liberties Union* (2004).

⁸⁶ The results are different from both the ACLU 2008 map and Roth's 2004 findings because only what was available on the DOC websites was used for my research.

Statistical and Background Findings

Though not the primary purpose of this study, these statistical and background information findings were used for framing and to further understand the correctional climate in each state.

- States with most prisons (state-operated and private): Florida (67); North Carolina (67); New York (60); Texas (56)
- States with most women’s prisons: Florida (6); North Carolina (6); Texas (6)
- States with fewest prisons: DC (1); North Dakota (4); New Hampshire (3); Utah (2); Wyoming (4)

When comparing state prison populations, each DOC counts their population differently. For some states, a “prisoner” is someone in prison; in other states, “prisoners” are also people in work camps or on probation. Some states count prisoners into their DOC statistics; other states omit these inmates, such as Arizona. States also determine what a “prison” facility is differently; some states include all correctional facilities (prisons, work camps, community detention centers, pre-release centers, DOC hospitals, reception centers) while other states count only the actual prison facilities. Another difference between states is how they post their prison statistics: some states break prison populations down into detail (such as Oregon and Washington), while other states give one total sum of all people in the prison system (i.e., California).

After the completion of the spreadsheet, other findings emerged. Interestingly, no correctional entity studied mentioned emergency contraception whatsoever. Few states’ DOCs have explicit policies requiring access to contraception, such as Colorado and Idaho.⁸⁷

⁸⁷ “Program Statement 6070.05,” US Department of Justice Federal Bureau of Prisons; “401.06.03.058 Pregnancy Counseling,” *Idaho Department of Correction*; “Administrative Regulation 700-12: Birth Control

Additionally, the Bureau of Prisons also has policies that require access to contraception.⁸⁸ However, the 1996 Bureau of Prisons policy does not state a requirement for actual accessibility to methods.

States policies and websites varied so drastically, there were several outliers that stood out when compiling the data for the spreadsheet. For example, the Illinois DOC is the only correctional agency that has a separate website for women's correctional facilities. Maryland's Department of Public Safety & Correctional Services had previously posted policies on their website, which are no longer visible except in search results. Alabama has no policies regarding pregnancy posted on their DOC website, but mentions there is one designated facility, the Tutwiler Prison for Women, that houses pregnant prisoners.⁸⁹ Some states, such as Georgia, post their prisoner orientation handbook online. However, it includes nothing about pregnancy services.

The final finding highlights problems around the accessibility of policies. Delaware, for example, only provides DOC policies to Delaware residents.⁹⁰ The ACLU 2008 map lists Oregon's DOC with two policies detailing care for pregnant prisoners, but these policies are not posted on the Oregon DOC website.⁹¹ Rachel Roth found that Georgia's DOC has policy on pregnancy support and termination, but none of these policies are posted on the website.⁹² This Georgia policy is a prime example of an accessibility issue; there is policy on the care for pregnant prisoners, but without the policies being accessible to the general public through the Internet, there is a lack of transparency and access. Without

Pregnancy, Child Placement, and Abortion," *Colorado Department of Corrections* (2008).

⁸⁸ *Ibid.*

⁸⁹ "Tutwiler Prison for Women," *Alabama Department of Corrections*. Website page. Accessed on 17 May 2013.

⁹⁰ Rachel Roth, "Do Prisoners Have Abortion Rights?" *Feminist Studies* 30, no. 2 (2004): 353-381.

⁹¹ Health Services Section Policy and Procedure #P-G-07: *Care of the Pregnant Inmate* and Procedure #P-G-10: *Pregnancy Counseling*, as found by the ACLU, 2008; these documents are not currently accessible online.

⁹² Rachel Roth, "Do Prisoners Have Abortion Rights?" *Feminist Studies* 30, no. 2 (2004): 353-381.

transparency and access, there cannot be accountability to ensure these policies are known by prisoners or followed by correctional staff.

Chapter Seven: Analysis

Since 34 states have at least some form of pregnancy policy posted online, and there have been prior reports on this, I chose to look into pregnancy termination policy specifically.⁹³ In finding that eleven states have pregnancy termination policies posted online, the question arises: why do so few have policies on the DOC site? As my initial hypothesis that these policies were politically driven was not supported, I developed a secondary hypothesis that perhaps policies were developed due to litigation brought by incarcerated women. To conduct this research, I researched litigation in each state with termination policies. Of the eleven states with policy, only Massachusetts, Minnesota, New Jersey, and Pennsylvania have relevant litigation that could shed light on DOC policy. With this finding, the second hypothesis to explain policies was not supported; California, Hawaii, Illinois, New Hampshire, Oregon, and Texas had no available paper trail to shed light on how their termination policies were developed. As it turns out, more states have litigation without resulting policies; or, litigation did not result in pro-choice policies. For example, Ohio's Department of Corrections has been ruled against twice, with the United States District Court of Southern Ohio stating their mandate of a court order obtain a pregnancy termination is an undue burden. In *Doe v. Barron*, the court cited *Roe v. Wade* in their ruling that it is in the public's interest for the Department of Corrections to provide access to women's reproductive rights.⁹⁴ *Roe v. Leis* one year later, in 2000, the court ruled the requirement to obtain a court order to receive pregnancy termination is an undue

⁹³ See "State Standards for Pregnancy-Related Health Care and Abortion for Women in Prison" and "Mothers Behind Bars: A state-by-state report card and analysis of federal policies on conditions of confinement for pregnant and parenting women and the effect on their children."

⁹⁴ *Doe v. Barron*. 92 F.Supp.2d 694 (1999).

burden on a prisoner's right to choose.⁹⁵ Despite these two rulings, Ohio has no documented termination policy posted on their DOC website, and as of 2004, the only written policy regarding pregnancy was in reference to counseling services.⁹⁶ Alternatively, Louisiana DOC's documented (but not posted online) policy requiring a court order to obtain an elective pregnancy termination was confirmed by the United States Appeals Court in 2004, arguing that this policy was related to legitimate penological interests.⁹⁷ It is clear that not even the courts can agree on termination policies, as seen in these two similar cases with dramatically different outcomes.

As confirmed by Rachel Roth in 2004, tracking policy development is difficult. A major improvement since 2004 is that Pennsylvania now not only has a documented policy on pregnancy termination, but it is also posted online and very explicit. As of 2010, policies detail prenatal care, postpartum care, and procedures on the delivery process. Pennsylvania permits access to elective pregnancy termination, but the prisoner must pay for the procedure.⁹⁸ Another improvement from what Rachel Roth found in 2004 is that Idaho's DOC now has the full text of its termination policy posted online, which Roth cited as not posted.⁹⁹

The only direct correlation found between litigation and policy is in Massachusetts and Minnesota. In 1979, a pregnant prisoner's request for pregnancy termination was denied because of a state policy to not fund terminations.¹⁰⁰ As a result, Massachusetts

⁹⁵ *Roe v. Leis*, 001 WL 1842459 (S.D. Ohio 2001).

⁹⁶ Rachel Roth, "Do Prisoners Have Abortion Rights?" *Feminist Studies* 30, no. 2 (2004): 353-381.

⁹⁷ *Victoria W. v. Larpenter*, 369 F.3d 475 (5th Cir. 2004).

⁹⁸ "13.02.01 Access to Health Care," Pennsylvania Department of Corrections (2004).

⁹⁹ Rachel Roth, "Searching for the State: Who Governs Prisoners' Reproductive Rights?" *Social Politics: International Studies in Gender, State and Society* 11, no. 3 (2004): 411-436.

¹⁰⁰ *Prisoner at M. C. I. Framingham v. King*, No. 79-1498-N.

developed formalized policy to not fund terminations unless medically necessary.¹⁰¹ This policy is unchanged to this day. The Minnesota DOC pregnancy termination policy cites both *Roe v. Wade*¹⁰² and *Doe v. Gomez*, a 1995 Minnesota Supreme Court Case ruling which prohibited use of public funds for therapeutic terminations “impermissibly infringed on a woman’s fundamental right of privacy under the Minnesota Constitution.”¹⁰³ The 2006 Minnesota termination policy provides therapeutic terminations at no cost to the prisoner, but states a prisoner must pay for all aspects of an elective termination.¹⁰⁴ Neither of these policies, however, highlight why they are posted online.

We must also acknowledge that not all policy is ‘good’ policy, in the sense that it may “be unclear, contravene women’s rights, or bear little resemblance to practice.”¹⁰⁵ The Missouri DOC provides insight on this, and into the only direct correlation found between political leadership and termination policy. In 2005 the Missouri DOC, under pressure from pro-life state legislators, implemented new policy forbidding state funds to go toward any type of termination services for prisoners.¹⁰⁶ This is consistent with their still-used 1986 legislation declaring that no state resources may be used “for the purpose of encouraging or counseling a woman to have an abortion not necessary to save her life.”¹⁰⁷ In October 2005, a woman sought an elective termination, and the prison blocked her from access.

¹⁰¹ Annie T. Vitale, “Inmate Abortions—The Right to Government Funding Behind Prison Gates,” *Fordham Law Review* 49, no. 4 (1981): 550-567.

¹⁰² In *Roe v. Wade*, the United States Supreme Court held that a Texas law making pregnancy termination a crime was unconstitutional under the Due Process clause of the Fourteenth Amendment. The Court also held that states cannot restrict access to termination during the first trimester, but can regulate termination access in later trimesters.

¹⁰³ *Doe v. Gomez*, 542 N.W.2d 17 (1995).

¹⁰⁴ “Adult Offender Abortion; 500.108. 2006,” *Minnesota Department of Corrections Policy* (2006).

¹⁰⁵ Rachel Roth, “Searching for the State: Who Governs Prisoners’ Reproductive Rights?” *Social Politics: International Studies in Gender, State and Society* 11, no. 3 (2004): 411-436; “401.06.03.055: Pregnant Offender: Care of the,” *Idaho Department of Correction* (2011).

¹⁰⁶ Charles Lane, “High Court Allows Inmate’s Abortion,” *Washington Post* (18 October 2005).

¹⁰⁷ *Ibid.*

She litigated, and *Roe v. Crawford* went all the way to the Supreme Court. The court ruled in favor of the prisoner, but provided no opinion or dissent, suggesting the court was not interested in engaging in a pregnancy termination debate.

Roth uses New Jersey as an example of a state with clear and accessible human rights-framed policy. My findings concur; New Jersey posts their policies in an accessible location on the DOC website. Though I found no documented correlation, it can be assumed that a commonly cited case is a reason New Jersey is Rachel Roth's poster child for good policy. In 1986, *Monmouth County Correctional Institution Inmates v. Lanzaro* highlighted many problems with the New Jersey correctional system; overpopulation and a lack of medical treatment being the largest two issues. Low-level prisoners seeking termination were permitted to terminate their pregnancy after receiving a court order, while higher-level prisoners were required to carry their pregnancies to term.¹⁰⁸ The court decision required a massive overhaul of prison policies; for this reason, I speculate this case led to the policy changes still in use today.

In terms of DOC guidelines, Roth discussed a nonprofit organization that set standards and accredits medical programs in correctional institutions. The National Commission on Correctional Health Care required institutions to meet 100% of "essential" requirements and 85% of "important" standards to be accredited.¹⁰⁹ Though providing prenatal care is considered essential, providing pregnancy termination access and counseling are not considered essential. Roth's version of this information is from 2004; a new edition of the guidelines was published in 2008. However, copies of the standards are costly and not available online, so I could not see an updated version. Interestingly, the

¹⁰⁸ *Monmouth County Correctional Institution Inmates v. Lanzaro*, 717 F.Supp. 268 (D.N.J. 1989).

¹⁰⁹ Rachel Roth, "Do Prisoners Have Abortion Rights?" *Feminist Studies* 30, no. 2 (2004): 353-381.

NCCHC website does not feature list of accredited facilities; certain DOCs mention this accreditation in their policies, such as Idaho.¹¹⁰

In states with no trace of posted termination policy, Roth argues that it is unlikely there is no policy in the system. In an interview with Roth, a commission official said, “she would be surprised if any state prison system lacked an official abortion policy ‘in this day and age.’”¹¹¹ In states like Oregon that have documented termination policy and do not have them posted, unanswered questions are raised as to why they are not available online.¹¹²

It is important to keep in mind that with the both the best and worst policy, there is a documented disconnect between policy and practice. As seen in the introduction, a written policy does not assure correctional staff will follow the documented procedures. For example, in Jean Harris’ *They Always Call Us Ladies*, she writes of the problems with inconsistent or unwritten policies. During her time incarcerated at Bedford Hills Correctional Center in New York, she describes the daily confusion prisoners faced due to the different shifts of prison guards. Harris tells of one guard demanding the women stand in one line away from the commissary; the next day, a different guard would be on duty wanting the line to be ordered differently, and punishing women who lined up improperly.¹¹³ Harris describes this daily change of procedures depending on the guard as maddening and potentially dangerous, with missteps leading to punishment and disciplinary write-ups. Looking back at Ms. Brawley’s case, the Washington State DOC had

¹¹⁰ “401.06.03.055: Pregnant Offender: Care of the,” *Idaho Department of Correction* (2011).

¹¹¹ Rachel Roth, “Do Prisoners Have Abortion Rights?” *Feminist Studies* 30, no. 2 (2004): 353-381.

¹¹² *Ibid.*

¹¹³ Jean Harris, *They Always Call Us Ladies* (New York, Charles Scribner's Sons, 1988) 197-201.

written and posted policy online documenting medical procedures to handle pregnant prisoners; the guards and medical staff simply did not follow these procedures, leading to infection, agonizing pain, and an emergency cesarean section. The 2012 ACLU of Pennsylvania report argues that even broad guidelines can lead to broad interpretation at the discretion of correctional officers, leading to a violation of rights.¹¹⁴ Despite this, written policy is always better than unwritten policy, because it is documented and can be referenced by both prisoners and the public in seeking a change.

California's Department of Corrections has a 1979 policy that procedures involving pregnant prisoners must be posted visibly in medical areas of correctional buildings. No other state was found to have this requirement. Though I could not determine how this policy came to be, it led to the development of my recommendation. Though Rachel Roth would disagree, as her long-time employee contact at the California DOC said they never saw signs posted, this policy (if followed) would provide both transparency and access for incarcerated women.¹¹⁵ Access to policies through posting requirements, allows for two major things: both inmates and guards know the policy, and with knowledge of that policy, inmates and guards can develop awareness of whether or not the policy is being followed. This requirement follows the sought-after transparency normative theory, to a certain extent. Where this policy fails is it does not state anything about the text on the signs. Using what we know about education levels, ethnicity, and socioeconomic levels in California prisons, signs posted only in English, and often using policy jargon, still bar women from access; the policy does not address how to incorporate prisoners who may

¹¹⁴ Jenny Vanyur, Donna Bender, and Katherine Bizans, "Reproductive Health Locked Up: An Examination of Pennsylvania Jail Policies," *American Civil Liberties Union of Pennsylvania* (2012).

¹¹⁵ Rachel Roth, "Do Prisoners Have Abortion Rights?" *Feminist Studies* 30, no. 2 (2004): 353-381.

not speak English as a first language, or inmates who may be functionally illiterate. Despite this, California's posted sign requirement led to the development of my recommendations on transparency and accessibility, which is discussed in the next section.

Chapter Eight: Recommendations and Future Work

The Need for Greater Transparency and Accessibility of Policy

Based on research results, state Departments of Corrections must increase transparency by providing greater access to correctional policies. Some states provide handbooks to new prisoners, but not every policy is listed in these manuals. My recommendation is that each prisoner receives an all-inclusive handbook with policies, and updated manuals as policies change. For stakeholders who are not incarcerated, posting policies online allows for transparency of government and the use of taxpayer resources. Concerning reproductive rights specifically, posted signs in relevant languages is another recommendation. California's requirement for posted signs in medical evaluation rooms could provide information to prisoners and could promote accountability through knowledge—if this policy is actually being implemented, which Roth did not find, means oversight and implementation are also necessary to the policy process.

Even documented and clear correctional policies could be improved upon in order to ensure a better understanding by all stakeholders. One problem is that there were no DOC policies posted online in any language other than English. For example, Georgia's DOC website has a FAQ page available in Spanish, but no other section of the website is in any other language but English. Particularly where people are being detained for undocumented immigration, policies written only in English are problematic for those who did not learn English as a first language, those with literacy comprehension issues, or for those who cannot read at all – in English or otherwise. Despite the crime a person is charged with or convicted of, correctional policies should be available in languages for all communities affected, and in audio format, to make them accessible for the vision-impaired

and illiterate. Considering that 42% of women incarcerated at the state and federal level have not graduated high school, basic functional literacy can be a barrier to understanding policies.

Women incarcerated in states that have unclear or ambiguous policy are comparatively in a better position than those in states that have no policy at all. Documented policy brings accountability to correctional institutions, and accountability can provide a venue to expand public trust. According to a 2007 study, public trust increases when governmental members establish “integrity, honesty, and moral leadership” and “when ethics are institutionalized in government through the process of participation.”¹¹⁶ With documented policy comes the ability to join the democratic cyclical policy process: development, implementation, acknowledgement of errors in policy, and back to development.

The Harvard Kennedy School of Government suggests ten principles for designing effective transparency policies, from providing easy-to-access information to strengthening enforcement of policies.¹¹⁷ An example of this is the development of Megan’s Law. After seven-year-old Megan Kanka was raped and murdered by a released sex offender in New Jersey, a federal law was enacted that requires all states to release “necessary and relevant information” to the public about sex offenders or kidnappers in the communities where they reside.¹¹⁸ As a result of Megan’s Law, the county notifies community members when a

¹¹⁶ XioHu Wang and Montgomery Wan Wart, “When Public Participation Leads to Trust: An Empirical Assessment of Manger’s Perceptions,” *Public Administration Review* 67, no. 2 (2007): 265-278.

¹¹⁷ “The Transparency Project- Frequently Asked Questions.” *Harvard Kennedy School of Government, Ash Center for Democratic Governance and Innovation.*

¹¹⁸ “Disclosing Sex Offenders’ Residences to Improve Public Safety.” *Harvard Kennedy School of Government, Ash Center for Democratic Governance and Innovation.*

registered sex offender moves in. Failure to register with the county sheriff's office can result in a felony.

A further recommendation, though more costly, would be to have workshops available for pregnant prisoners. These workshops could have curriculum designed that would explain in detail all of her options and counseling. They could cover what her options around keeping her child may include: prenatal care, medical appointments, and options for adoption, prison nurseries, or family care. They could additionally cover her termination options, if policies allow them in that state. This type of education may be better created by nonprofit organizations that come into the prison, as some states, such as Colorado, have policy stating staff members who do not want to be involved in the pregnancy termination are not required to.¹¹⁹ Many nonprofit and religious organizations hold programs in Washington State prisons, such as the Girl Scouts of America and Alcoholics Anonymous.¹²⁰

These recommendations do not stop at the state and federal level. County and municipal correctional systems must also become more accountable and transparent, as much of the litigation thus far has been based in these local facilities.

Greater transparency is not the sole answer to the mass incarceration and corrections crisis in the United States, but it is a small and simple solution to one part of the larger problem. Policies must not only be made, but also followed, and constantly reworked to ensure best practices for both corrections officers and prisoners. Policy

¹¹⁹ "Administrative Regulation 700-12: Birth Control Pregnancy, Child Placement, and Abortio,," *Colorado Department of Corrections* (2008).

¹²⁰ "Prison Data Sheet- Washington Corrections Center for Women," *Washington State Department of Corrections* (2012).

development with public discourse and stakeholder involvement is the only course to ensure a transparent, accountable, and trustworthy system.

Future work

As this area of study is relatively underdeveloped, much more research must be performed to gain policy change momentum and support with facts and data.

Recommendations for future work include looking into whether or not accessible policies statistically reduce infringements of prisoner rights. This could be both a qualitative study, looking at complaints numbers, and qualitative, conducting interviews with current and former prisoners. Another area to research would be a comparative international study of how other countries address convicted pregnant women, to illuminate possibilities for future policy development. The most ideal study, however, would be a complete nationwide list of policies by state, and then by county, detailing policies and procedures for incarcerated pregnant women. In the form of an updated online database, lawyers and activists searching for this information could use the research to help incarcerated women throughout our carceral system. Future research could also examine the legislative debates within each state that led to particular policy formations, to better understand the arguments for and against policies and the reproductive rights policy formation process. This could be used by advocates as a way to map out the successes and failures of prior work. As always, further study on the topic of transparency and access to policy for prisoners, particularly about reproductive access, must be conducted to help bring awareness to the issue.

Chapter Nine: Conclusion

Policies are fallible, as they are subject to human error and oversight. However, local and state politics should not bar women from reproductive choice, whether the women are free or incarcerated. With the incarceration rate of women in the United States growing at unprecedented speed, policies involving reproductive rights must be more accessible.

As this paper is being written, the Pennsylvania branch of the ACLU is requesting counties ensure that incarcerated pregnant women in their correctional facilities have access to their reproductive rights. Westmoreland County, Pennsylvania currently has no policy regarding pregnancy termination for prisoners, and the County Controller publicly does not want to fund terminations for prisoners who cannot afford them.¹²¹ Without a policy in place, prisoners in Westmoreland County do not have full access to their reproductive rights; with a policy in place, practices could be challenged, deliberated, and women could be made aware of their choices.

Transparency and accessibility of policy and correctional agencies are the first step in improving the accountability of the system as a whole. Maricopa County and the Washington Corrections Center for Women illustrated two policy problems prisoners face in the United States carceral systems: with poor transparency of policies, rights are infringed upon with little oversight. Though these two cases were used as a narrative and examples for this report, there are many cases at all jurisdictions of incarceration where reproductive rights have been infringed. Reproductive rights policies specifically are especially important to be documented in the current state of American politics, as access

¹²¹ Rich Cholodofsk, "ACLU request for inmate abortion policy riles Westmoreland controller," *TribLive News* (9 April 2013).

to these rights for all women, free and incarcerated, are being debated in Congress and state legislatures alike, and promises to limit or eliminate reproductive rights are even being used as part of campaign platforms. In a time of recognizing the essentialization of reproductive rights struggles around the non-incarcerated women's experience, we must also support those vulnerable voices which are not heard behind bars.

Appendix

Appendix A.1: Statistical Data Alabama-Montana

| State | Population (7/1/12) | # of Adult Prisons | # of Female Prisons | # of Prisoners | # of Female Prisoners | Date of Population |
|---------------|---------------------|----------------------------|----------------------|----------------|-----------------------|--------------------|
| Alabama | 4,822,023 | 18 | 2? | 30,952 | 2,523 | 3/6/13 |
| Alaska | 731,449 | 12 | 1 dedicated, 8 mixed | 4,734 | 501 | 12/1/11 |
| Arizona | 6,553,255 | 10 (+5 private) | 1- Perryville | 39,932 | 4,294 | 3/6/13 |
| Arkansas | 2,949,131 | 17 | 1 dedicated, 2 mixed | 93% | 7% | FY 2012 |
| California | 38,041,430 | 35 | 4 | 132,357 | 11,250 | 3/6/13 |
| Colorado | 5,187,582 | 21 (+3 private) | 1 | 20,126 | 1,712 | 12/31/12 |
| Connecticut | 3,590,347 | 17 | n/a | 16,347 | 1,030 | 1/1/13 |
| Delaware | 917,092 | 4 | 1 | n/a | n/a | n/a |
| DC | 632,323 | 1 | n/a | 1,706 | n/a | n/a |
| Florida | 19,317,568 | 60 (7 private) | 6 | 100,272 | n/a | 6/1/12 |
| Georgia | 9,919,945 | 32 (2 private) | 3 (+ 1 mixed) | 56,951 | 3,893 | 1/1/13 |
| Hawaii | 1,392,313 | 3 (+2 private on mainland) | 1 | 3,243 | 364 | 6/30/11 |
| Idaho | 1,595,728 | 8 | 2 | 6,469 | 684 | 12/1/12 |
| Illinois | 12,875,255 | 29 | 3 | 48,281 | 2,749 | 11/1/12 |
| Indiana | 6,537,334 | 19 | 4 | 25,699 | 2,459 | 12/1/12 |
| Iowa | 3,074,186 | 10 | 1 | 8,123 | 713 | 3/6/13 |
| Kansas | 2,885,905 | 8 | 1? | 9,457 | 725 | 3/5/13 |
| Kentucky | 4,380,415 | 15 | 2 | 12,925 | 1,338 | 3/6/13 |
| Louisiana | 4,601,893 | 12 | 1 | 94.8% | 5.20% | 6/1/12 |
| Maine | 1,329,192 | 5 | 1 mixed | n/a | n/a | n/a |
| Maryland | 5,884,563 | 13 | 1 | 20,424 | 840 | 1/7/13 |
| Massachusetts | 6,646,144 | 23 | 3 | 11,063 | 745 | 3/4/13 |
| Michigan | 9,883,360 | 19 | 1 | 42,244 | 1,869 | 12/1/10 |
| Minnesota | 5,379,139 | 8 | 1 | 8,770 | 682 | 1/1/13 |
| Mississippi | 2,984,926 | 3 (+5 private) | 1 | 22,281 | 2,367 | 3/1/13 |
| Missouri | 6,021,988 | 19 | 1 | n/a | n/a | n/a |
| Montana | 1,005,141 | 2 (+1 private) | 1 | 1,490 | 194 | 3/6/13 |

Appendix A.2: Statistical Data Montana-Wyoming + Bureau of Justice

| State | Population (7/1/12) | # of Adult Prisons | # of Female Prisons | # of Prisoners | # of Female Prisoners | Date of Population |
|----------------|---------------------|--------------------|---------------------|----------------|-----------------------|--------------------|
| Nebraska | 1,855,525 | 5 | 1 | n/a | n/a | n/a |
| Nevada | 2,758,931 | 7 | 1 | 11,857 | 1,044 | 2/14/13 |
| New Hampshire | 1,320,718 | 3 | 1 | 2,204 | 140 | 6/30/12 |
| New Jersey | 8,864,590 | 8 | 1 (+1 mixed) | 16,867 | 774 | 6/30/12 |
| New Mexico | 2,085,538 | 6 (+4 private) | ? (+1 private) | n/a on 3/7 | n/a on 3/7 | n/a |
| New York | 19,570,261 | 60 | 5 (+1 mixed) | n/a | n/a | n/a |
| North Carolina | 9,752,073 | 67 | 6 | 37,567 | 2,533 | 3/7/13 |
| North Dakota | 699,628 | 4 | 1 | n/a | n/a | n/a |
| Ohio | 11,544,225 | 28 | 3 | 49,710 | 3,817 | 2/1/13 |
| Oklahoma | 3,814,820 | 17 | 3 | 15,540 | 1,911 | 3/4/13 |
| Oregon | 3,899,353 | 13 | 2 mixed | 14,308 | 1,209 | 3/1/13 |
| Pennsylvania | 12,763,536 | 26 | 2 | 48,847 | 2791 | 7/3/05 |
| Rhode Island | 1,050,292 | 7 | 2 | 3,050 | 185 | 2012-2013 |
| South Carolina | 4,723,723 | 19 (+prerelease) | 5 | n/a | 1,071 | 3/7/13 |
| South Dakota | 833,354 | 6 | 1 | 3,331 | 353 | 1/31/13 |
| Tennessee | 6,456,243 | 14 | 2 | 29,550 | 2,625 | 1/1/13 |
| Texas | 26,059,203 | 49 (+7 private) | 5 (+1 private) | 137,095 | 8,521 | 8/31/12 |
| Utah | 2,855,287 | 2 | 1 mixed | ~6,000 | ? | 3/11/13 |
| Vermont | 626,011 | 7 | 3 | ? | ? | x |
| Virginia | 8,185,867 | 35 | 2? | 25,429 | 1,831 | 12/1/12 |
| Washington | 6,897,012 | 12 | 2 | 16,319 | 1,184 | 2/1/13 |
| West Virginia | 1,855,413 | 13 | 1 (+3 mixed) | n/a | n/a | n/a |
| Wisconsin | 5,726,398 | 35 | 3 | 21,649 | 1,205 | 2/22/13 |
| Wyoming | 576,412 | 4 | 1 | n/a | n/a | n/a |
| BOJ | n/a | over 116 | 7 | n/a | n/a | n/a |

Appendix A.3: Policy Findings- Alabama-Idaho

| State | Online DOC Term Policy | Term Policy Exists | DOC Website-Explicit Policy | Online DOC: Preg Care | Online DOC: Preg Support | Online DOC: Allows for Term | Online DOC: DOC Term Coverage | Online DOC: Preg/Term Counseling |
|-------------|------------------------|--------------------------------------|-----------------------------|-----------------------------------|--------------------------|---|-----------------------------------|-----------------------------------|
| Alabama | no | no as of 2004 | no | yes | not stated | not stated | not stated | not stated |
| Alaska | no | no as of 2004 | no | yes | yes | not stated | not stated | for "pregnancy planning" |
| Arizona | no | n/a as of 2004 | no | in terms of payment for procedure | not stated | not stated | not stated | not stated |
| Arkansas | no | Funding to save life only as of 2004 | no | only counseling | only counseling | not stated | not stated | yes |
| California | yes | yes | yes | yes | yes | yes | if therapeutic; "emergency funds" | not stated |
| Colorado | yes | yes | yes | yes | yes, but not explicit | yes | not stated | outside agencies can be contacted |
| Connecticut | no | yes | no | yes | mentions | not stated | not stated | yes, through religious groups |
| Delaware | no | Funding to save life only as of 2004 | n/a | yes | yes | n/a | not stated | for pregnancy |
| DC | yes | therapeutic only as of 2004 | yes | yes | yes | yes | not stated | not stated |
| Florida | no | Funding to save life only | no | yes | yes | not stated | not stated | not stated |
| Georgia | no | yes | no | No | No | Not stated | Not stated | Not stated |
| Hawaii | no | yes | no | yes | yes | yes | not stated | yes |
| Idaho | yes | counseling policy only as of 2004 | not explicit | yes | yes | requests accepted; deputy attorney general gives formal legal opinion | if therapeutic | "pregnancy options" class offered |

Appendix A.4: Policy Findings- Illinois-Missouri

| State | Online DOC Term Policy | Term Policy Exists | DOC Website-Explicit Policy | Online DOC: Preg Care | Online DOC: Preg Support | Online DOC: Allows for Term | Online DOC: DOC Term Coverage | Online DOC: Preg/Term Counseling |
|---------------|-------------------------|--|---|-------------------------------|--|-----------------------------|-------------------------------|----------------------------------|
| Illinois | yes | yes | yes | yes | not stated | yes | not stated | yes- pre-abortion counseling |
| Indiana | no | no as of 2004 | no | yes | Prenatal& postnatal "acceptable medical standards" | not stated | not stated | not stated |
| Iowa | no | Funding to save life only as of 2004 | no | no | not stated | not stated | not stated | not stated |
| Kansas | mentioned, not detailed | n/a as of 2004 | not detailed | yes | yes | yes | not stated | yes |
| Kentucky | no | no as of 2004 | no | no | no | no | no | no |
| Louisiana | no | n/a as of 2004 | no | no | no | no | no | no |
| Maine | no | n/a as of 2004 | no | only about medication payment | no | no | no | no |
| Maryland | no | n/a as of 2004 | no | n/a | n/a | n/a | n/a | n/a |
| Massachusetts | yes | therapeutic only | not detailed- woman is referred to counseling | yes | yes | yes | only if medically necessary | yes |
| Michigan | no | no as of 2004 | no | yes | yes | not stated | not stated | not stated |
| Minnesota | yes | yes | yes | yes | yes | yes | therapeutic, not elective | yes |
| Mississippi | no | no as of 2004; funding to save life only | no | no | no | not stated | not stated | not stated |
| Missouri | no | no as of 2004; funding to save life only | no | no | no | not stated | not stated | not stated |

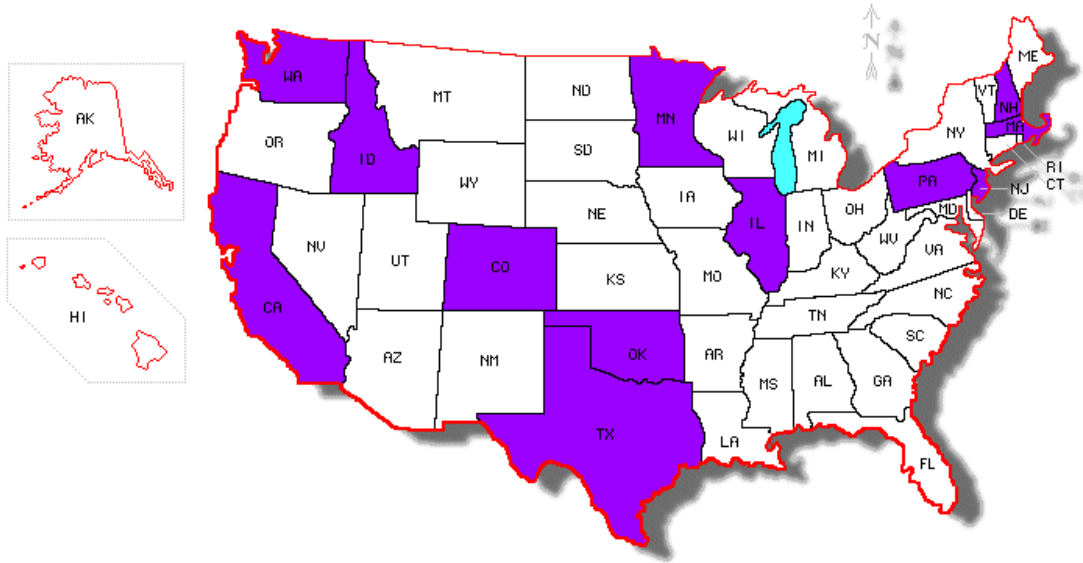
Appendix A.5: Policy Findings- Montana-South Carolina

| State | Online DOC Term Policy | Term Policy Exists | DOC Website-Explicit Policy | Online DOC: Preg Care | Online DOC: Preg Support | Online DOC: Allows for Term | Online DOC: DOC Term Coverage | Online DOC: Preg/Term Counseling |
|----------------|------------------------|--|-----------------------------|-----------------------|--------------------------|------------------------------|-------------------------------|---|
| Montana | no | no as of 2004 | no | no | no | not stated | not stated | not stated |
| Nebraska | no | no as of 2004; funding to save life only | no | no | no | not stated | not stated | not stated |
| Nevada | no | therapeutic only as of 2004 | no | yes | yes | not stated | not stated | not stated |
| New Hampshire | yes | yes | yes | yes | yes | yes- but can't be encouraged | will not pay | not stated |
| New Jersey | yes | yes | yes | yes | yes | yes | not stated | yes, social and religious for termination |
| New Mexico | no | therapeutic only as of 2004 | no | yes | yes | not stated | not stated | yes, pregnancy |
| New York | no | yes | no | yes | yes | not stated | not stated | not stated |
| North Carolina | no | no as of 2004 | no | yes | yes | not stated | not stated | not stated |
| North Dakota | no | no as of 2004 | no | no | no | not stated | not stated | not stated |
| Ohio | no | counseling policy only as of 2004 | no | no | no | not stated | not stated | not stated |
| Oklahoma | yes | yes | yes | yes | yes | yes | will not pay | yes |
| Oregon | no | yes | no | no | no | not stated | not stated | not stated |
| Pennsylvania | yes | yes | yes | yes | yes | yes | will not pay | not stated |
| Rhode Island | no | Funding to save life only as of 2004 | no | no | no | not stated | not stated | not stated |
| South Carolina | no | Funding to save life only as of 2004 | no | no | no | not stated | not stated | not stated |

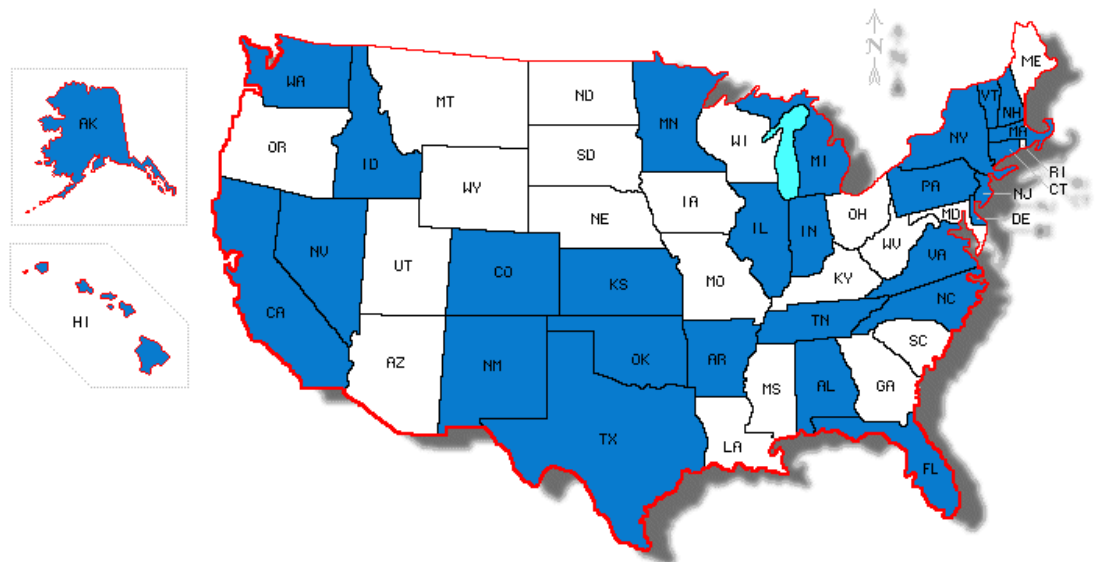
Appendix A.6: Policy Findings- South Dakota-Wyoming + Bureau of Justice

| State | Online DOC Term Policy | Term Policy Exists | DOC Website-Explicit Policy | Online DOC: Preg Care | Online DOC: Preg Support | Online DOC: Allows for Term | Online DOC: DOC Term Coverage | Online DOC: Preg/Term Counseling |
|----------------------|------------------------|--------------------------------------|-----------------------------|-----------------------|--------------------------|-----------------------------|-------------------------------|----------------------------------|
| South Dakota | no | no as of 2004 | no | no | no | not stated | not stated | not stated |
| Tennessee | no | n/a as of 2004 | no | yes-payment | no | not stated | not stated | not stated |
| Texas | yes | yes | yes | yes | yes | yes | will not pay for elective | not stated |
| Utah | no | Funding to save life only as of 2004 | no | for youths only | youths only | not stated | not stated | not stated |
| Vermont | no | yes | no | yes | yes | not stated | not stated | not stated |
| Virginia | no | n/a as of 2004 | no | yes | yes | not stated | not stated | yes but not detailed |
| Washington | yes | yes | yes | yes | yes | yes | not stated | not stated |
| West Virginia | no | therapeutic only as of 2004 | no | no | no | not stated | not stated | not stated |
| Wisconsin | no | Funding to save life only as of 2004 | no | no | no | not stated | not stated | not stated |
| Wyoming | no | no as of 2004 | no | no | no | not stated | not stated | not stated |
| BOJ | yes | yes | yes | yes | yes | yes | will not fund | yes |

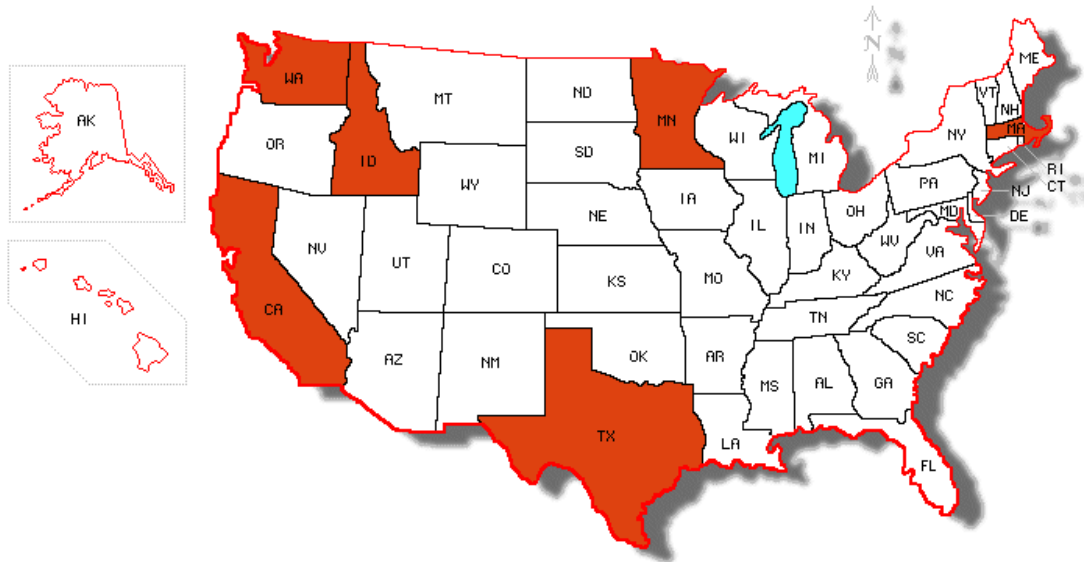
Appendix B: States with DOC Pregnancy Termination Policy Accessible Online



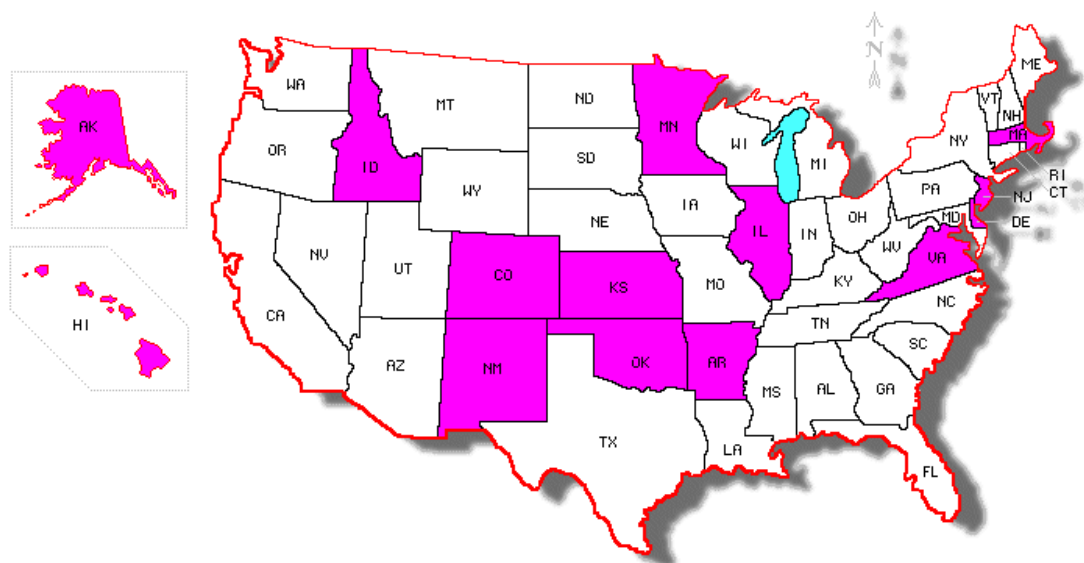
Appendix C: States with Any Type of Pregnancy Healthcare Policy Accessible Online



Appendix D: Posted DOC Policy States Pregnancy Termination Covered if Considered Therapeutic



Appendix E: Posted DOC Policy Offers Pregnancy and/or Termination Counseling Services



Spreadsheet Sources

Sources for State Corrections Statistical Data

| | |
|-----------|---|
| AL | http://www.doc.state.al.us/inmsearch.asp |
| AK | http://www.correct.state.ak.us/admin/docs/2011Profile06.pdf |
| AZ | http://www.azcorrections.gov/Minh_count_sheet.asp |
| AR | http://adc.arkansas.gov/resources/Documents/2012_Annual_Report_final.pdf |
| CA | http://www.leginfo.ca.gov/cgi-bin/displaycode?section=pen&group=03001-04000&file=3400-3409 |
| CO | http://www.doc.state.co.us/sites/default/files/opa/General%20Statistics%2012312012.pdf |
| CT | http://www.ct.gov/doc/cwp/view.asp?a=1505&q=516344 |
| DC | http://doc.dc.gov/sites/default/files/dc/sites/doc/publication/attachments/Demographics%20and%20Statistics%20January%202013.pdf |
| DE | n/a |
| FL | http://www.dc.state.fl.us/oth/faq.html |
| GA | http://www.dcor.state.ga.us/Research/Monthly/Profile_all_inmates_2013_01.pdf |
| HI | http://dps.hawaii.gov/wp-content/uploads/2013/02/PSD-ANNUAL-REPORT-2012.pdf |
| ID | http://www.idoc.idaho.gov/content/locations/prisons |
| IL | http://www2.illinois.gov/idoc/facilities/Pages/correctionalfacilities.aspx |
| IN | http://www.in.gov/idoc/2332.htm |
| IA | http://www.doc.state.ia.us/Institutions.asp |
| KS | http://www.kansascity.com/2012/09/06/3800442/fed-says-kansas-womens-prison.html |
| KY | http://www.doc.ks.gov/facilities |
| LA | http://doc.la.gov/wp-content/uploads/2009/10/Briefing-Book-July-2012.pdf |
| ME | http://www.state.me.us/corrections/facilities/mcc/women/index.htm |
| MD | http://www.dpscs.state.md.us/publicinfo/pdfs/stats/data-reports/I_and_I-Statistics/Inmate_Characteristics/Quarterly_Inmate_Characteristics/FY2013/2013_01_January_Inmate_Char.pdf |
| MA | http://www.mass.gov/eopss/docs/doc/research-reports/wkly-countsheet/2013/03-04-2013.pdf |
| MI | http://www.michigan.gov/corrections/0,4551,7-119-1381_1385---,00.html |
| MN | http://www.doc.state.mn.us/aboutdoc/stats/documents/2013JanAdultProfile.pdf |
| MS | http://www.mdcc.state.ms.us/Research%20and%20Statistics/MonthlyFactSheets/2013MFS/03-01-13%20Fact%20Sheet.pdf |
| MO | http://doc.mo.gov/DAI/Institutional_Facilities.php |
| MT | http://www.corrections.state.ne.us/pdf/datasheets/datasheetJan13.pdf |
| NE | http://www.corrections.state.ne.us/facilities.html |
| NV | http://www.doc.nv.gov/sites/doc/files/pdf/stats/fact_sheets/Fact_Sheet_Weekly_2013_02142013.pdf |
| NH | http://www.nh.gov/nhdoc/facilities/index.html |
| NJ | http://www.state.nj.us/corrections/pages/index.shtml |
| NM | http://www.corrections.state.nm.us/prisons/intro.html |
| NY | http://www.doocs.ny.gov/faclist.html |
| NC | http://www.doc.state.nc.us |
| ND | http://www.nd.gov/docr/adult/ |
| OH | http://www.drc.ohio.gov/web/Reports/FactSheet/February%202013.pdf |
| OK | http://www.doc.state.ok.us/facilities/facilities.htm |

| | |
|-----------|---|
| OR | http://www.oregon.gov/DOC/RESRCH/docs/inmate_profile.pdf |
| PA | http://www.cor.state.pa.us/portal/server.pt/community/institutions/5270 |
| RI | http://www.doc.ri.gov/institutions/facilities/index.php |
| SC | https://sword.doc.state.sc.us/population/summary.do |
| SD | http://doc.sd.gov/adult/facilities/ |
| RN | http://www.tn.gov/correction/institutions/stateprisons.html |
| TX | http://www.tdcj.state.tx.us/documents/Statistical_Report_FY2012.pdf |
| UT | http://www.corrections.utah.gov/visitation_facilities/gunnison_prison.html |
| VT | http://www.doc.state.vt.us/custody-supervision/facilities/ |
| VA | http://www.vadoc.state.va.us/about/facts/research/new-popsum/2012/dec12popsummary.pdf |
| WA | http://www.doc.wa.gov/facilities/prison/default.asp |
| WV | http://en.wikipedia.org/wiki/West_Virginia_Division_of_Corrections |
| WI | http://en.wikipedia.org/wiki/List_of_Wisconsin_state_prisons |
| WY | n/a |

Sources for State DOC Policies

| | | |
|----------------------|---|---|
| Alabama | http://www.doc.state.al.us/facility.asp?id=18 | |
| Alaska | http://www.correct.state.ak.us/pnp/pdf/808.06.pdf | |
| Arizona | http://www.azcorrections.gov/Policies/1100/1101.pdf | |
| Arkansas | http://adc.arkansas.gov/resources/Documents/adcar_pdf/AR829.pdf | |
| California | http://law.justia.com/codes/california/2005/pen/3400-3409.html | http://www.cdcr.ca.gov/Regulations/Adult_Operations/docs/Title%2015%202009.pdf |
| Colorado | http://www.doc.state.co.us/sites/default/files/ar/0700_12.pdf | |
| Connecticut | http://www.ct.gov/doc/lib/doc/pdf/compendium/compendiumyork.pdf | |
| DC | http://doc.dc.gov/sites/default/files/dc/sites/doc/publication/attachments/DOC_PM_6000_1G_Medical_Mgmt_01252012_wsig.pdf | |
| Delaware | http://doc.delaware.gov/pdfs/policies/policy_11-G-07.pdf | |
| Florida | http://www.leg.state.fl.us/Statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App_mode=Display_Statute&Search_String=corrections+equality+act&URL=0900-0999/0944/Sections/0944.24.html | |
| Georgia | http://www.dcor.state.ga.us/pdf/GDC_Inmate_Handbook.pdf | |
| Hawai'i | http://dps.hawaii.gov/wp-content/uploads/2012/10/COR.10.1G.07.pdf | http://dps.hawaii.gov/wp-content/uploads/2012/10/COR.10.1G.9.pdf |
| Idaho | http://www.idoc.idaho.gov/content/policy/806 | http://www.idoc.idaho.gov/content/policy/622 |
| Illinois | http://www.ilga.gov/commission/jcar/admincode/020/020004150000300R.html | |
| Indiana | http://www.in.gov/legislative/ic/code/title11/ar10/ch3.html | |
| Iowa | n/a | |
| Kansas | http://www.dc.state.ks.us/kdoc-policies/impp/chapter-10/10122.pdf | |
| Kentucky | n/a | |
| Louisiana | n/a | |
| Maine | http://www.mainelegislature.org/legis/statutes/34-A/title34-Asec3031.html | |
| Maryland | n/a | |
| Massachusetts | http://www.mass.gov/eopss/docs/doc/policies/620.pdf | |
| Michigan | http://www.michigan.gov/documents/corrections/03_04_100_342178_7.pdf | |
| Minnesota | http://www.doc.state.mn.us/DocPolicy2/Document/500.108.htm | |
| Mississippi | n/a | |
| Missouri | n/a | |
| Montana | n/a | |
| Nebraska | n/a | |
| Nevada | http://www.doc.nv.gov/sites/doc/files/pdf/ar/AR623.pdf | |
| New Hampshire | http://www.nh.gov/nhdoc/documents/6-19.pdf | |
| New Jersey | http://www.lexisnexis.com/hottopics/njcode/ | N.J.A.C. 10A:16-6.4 |
| New Mexico | http://www.corrections.state.nm.us/policies/docs/CD-170100.pdf | |
| New York | http://weblinks.westlaw.com/result/default.aspx?cnt=Document&db=NY%2DCRR%2DF | |

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| | %2DTOC%3BTOCDUMMY&docname=365881381&findtype=W&fn=%5Ftop&pb=DA010192&rlt=CLID%5FFQRLT24570051213&rp=%2FSearch%2Fdefault%2Ewl&rs=WEBL13%2E01&service=Find&spa=nycrr%2D1000&vr=2%2E0 | |
| North Carolina | http://www.doc.state.nc.us/Publications/2010Handbook.pdf | |
| North Dakota | n/a | |
| Ohio | n/a | |
| Oklahoma | http://www.doc.state.ok.us/treatment/medical/msrm/140145-01.pdf | http://www.doc.state.ok.us/Offtech/op140145.pdf |
| Oregon | n/a | |
| Pennsylvania | http://www.cor.state.pa.us/portal/serve.r.pt/community/doc_policies/20643 | http://www.governor.state.pa.us/portal/serve.r.pt?open=space&name=Dir&id=cached&psname=Dir&psid=1&in_hi_userid=2&cached=true&control=DirRepost&rangeFrom=41&rangeTo=60&subfolderID=185016&DirMode=1 |
| Rhode Island | n/a | |
| South Carolina | n/a | |
| South Dakota | n/a | |
| Tennessee | http://www.tn.gov/correction/pdf/113-15.pdf | |
| Texas | http://www.cmhcc.state.tx.us/CMHC_Policy_Manual/G/G-55.1%20(0712).pdf | |
| Utah | http://le.utah.gov/~code/TITLE62A/htm/62A07_040300.htm | |
| Vermont | http://www.doc.state.vt.us/about/Handbook%20HSD%202007%20to%20be%20posted%20online.pdf/view?searchterm=health%20care%20services | |
| Virginia | 6 VAC 15-31-260. Specialized health care programs. | |
| Washington | http://www.doc.wa.gov/family/offenderlife/docs/OffenderHealthPlan.pdf | |
| West Virginia | n/a | |
| Wisconsin | n/a | |
| Wyoming | n/a | |
| BOJ | http://www.bop.gov/policy/progstat/6070_005.pdf | http://www.law.cornell.edu/cfr/text/28/551.23 |

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Cover image via: NAACPLDF.org