

# The Guardian

## Pregnant inmates languish in US prisons despite promises of release

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May 22, 2020

Virginia's 19-year-old daughter had been incarcerated for months in New York, at Bedford Hills correctional facility, where dozens of people had tested positive for Covid-19 and one woman has died from the disease.

The teen was almost 39 weeks pregnant as she languished in government custody amid the pandemic in early May. At the time, Virginia believed she would not be allowed to be with her during labor, to hold her child's hand.

Her voice betrayed hints of panic when she described the dangers surrounding her daughter, who was 18 years old when she arrived at prison for non-violent offenses.

"It's very hard to know that your child has asthma and is pregnant, and there's a coronavirus with many cases in her prison," Virginia said then. "I'm very upset. I just want some answers. I just want my daughter home."

The virus's lightning-fast spread in the US's prisons, jails and detention centers has become a tragic reality, as lock-ups likened to petri dishes have spawned thousands of confirmed infections. There is no indication that pregnant women are especially vulnerable to Covid-19, but those who are incarcerated are "much more likely" to get the disease and have higher rates of underlying conditions that put them at risk, warned Carolyn Sufrin, an OB-GYN and researcher at Johns Hopkins University.

"The idea that it's appropriate to put a woman who is pregnant and not a clear and present danger to society in a cage is, I think ... a particularly poignant illustration of how cavalier we've become in locking people up," said Clark Neily, vice-president for criminal justice at the libertarian-leaning Cato Institute.

Some advocates have called for pregnant prisoners to be released, often with caveats around their offense or the time left on their sentences. But these criteria are often unnecessarily exclusive, other advocates say, because they force a false binary between "violent" and "non-violent" convictions that doesn't align with legal reality in the US, especially for women.

"There are charges that are listed as being violent, and yet they're not," said Kimberly Haven, coalition and policy director for Reproductive Justice Inside.

In New York, the state that has been hardest hit by the virus, an aide to the governor announced they would free some pregnant prisoners. The state has let out a dozen pregnant and postpartum

women who were “within six months” of release and “were not committed on a violent felony or sex offense”, according to an official at New York’s Department of Corrections and Community Supervision.

But other prisoners have not yet been released, sparking advocates’ condemnation and upsetting loved ones such as Virginia, who don’t understand why their family members are still locked up. The department official said eligible people would continue to be reviewed, but there were four pregnant and eight postpartum individuals currently incarcerated, “who do not meet the criteria”.

Nationwide, practices around letting out pregnant prisoners have been similarly ambiguous and uneven at best.

The Federal Bureau of Prisons has “released or transferred to the community every pregnant inmate that is eligible for such placement”, a spokesperson said. Since 26 March, 23 women have been transferred through a community residential program, furlough or home confinement, among other forms of release.

The Guardian also contacted all 50 states for information on whether they are letting out pregnant people directly because of coronavirus. Among the 37 states that meaningfully replied, the majority had not let out any expectant mothers (though some had none to begin with in their prisons). Only one state prison system, North Dakota, had released all seven of its pregnant residents.

Neily said part of the problem is it’s “unclear whose responsibility it is” to decide “who really deserves to stay in what has now become one of the most deadly environments on the planet”. Altogether, about 60 pregnant people have been released from state prison facilities because of the pandemic, in New York, Illinois, Connecticut, Michigan, Minnesota, North Carolina, Ohio, North Dakota, Vermont and Washington state, according to The Guardian’s survey.

Hundreds of others are still reportedly incarcerated, though this is likely to be an undercount; although data is scarce, past estimates have put the number of women who are pregnant when admitted to prison or jail in the thousands annually.

### **A wild west**

Under normal circumstances, the US’s correctional facilities are already a wild west for expectant mothers, thanks in part to the lack of mandatory healthcare standards.

“There are some prisons and jails that provide a reasonable quality and level of pregnancy care. However, there are many prisons and jails that do not,” said Sufrin, author of *Jailcare: Finding the Safety Net for Women Behind Bars*.

Twelve state prison systems don’t detail explicit policies on medical exams as an integral part of prenatal care, according to a report published last December by the Prison Policy Initiative (PPI). Likewise, many are silent on other urgent health concerns such as high-risk pregnancies, nutrition and the grotesque yet well-documented use of restraints.

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*Wanda Bertram*

“We went looking for evidence that states are thinking about how to take care of pregnant women. And we found that they’re not, by and large,” said Wanda Bertram, a spokeswoman for PPI.

Now add a pandemic. The public health emergency has already proved deadly for one new mother, who was transferred from jail to a federal prison medical facility in Texas on 20 March. Andrea Circle Bear died last month after testing positive for Covid-19 and having her baby while on a ventilator.

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In a rare moment of political consensus, Americans across the ideological spectrum condemned the systemic failings that preceded Circle Bear's death. Their outcry arose amid a larger bipartisan battle for criminal justice reform; for years now, decarceration has been one of the few platforms that has generally appealed to a large swath of the country.

"The pandemic shows exactly why it's counterproductive to have mass incarceration," said Inimai M Chettiar, the legislative and policy director at Justice Action Network. "When people don't need to be in prison, things get worse. They don't get better."

#### **'There's nothing we can do for you'**

Shavon Ferrell, who completed her prison time at Logan correctional center in Illinois this month, feels the system was actively stacked against her. She returned to the state facility from a transitional center in mid-March after a subchorionic hemorrhage that was causing heavy bleeding.

Given her medical condition during pregnancy, she initially assumed she would be one of the first people to get out amid the public health crisis, partially because she wasn't receiving the medical care she felt she needed. During two months at Logan, she had a single ultrasound, and she said one of the phrases she heard most often was "there is nothing that we can really do for you".

"I have a child that I want in this world, that I feel is not safe. And you guys are taking all these risks and playing with fire by keeping all of us pregnant women here," she remembers telling the warden.

Regardless, she stayed behind bars, even though Illinois had let out other pregnant women and the prison where she was being held has confirmed Covid-19 cases.

It's a sad situation to be pregnant and be incarcerated anyways. During the pandemic, it's even worse

*Shavon Ferrell*

"I felt like nobody was helping me get out of there," Ferrell said. "It's a sad situation to be pregnant and be incarcerated anyways. During the pandemic, it's even worse."

At 7.40am on 15 May, Virginia's daughter gave birth to a baby girl. When the time came, Virginia was there to cut her daughter's umbilical cord.

But, even as other pregnant and postpartum women get released, her daughter has returned to Bedford Hills, now accompanied by a newborn. Because of the public health crisis, their family won't be able to visit until at least next month. Virginia's husband wasn't allowed to see his granddaughter.

Overwhelmed by emotion, Virginia's voice wavered between joy, pride, sadness and desperation. "I love her so much," she wailed. "I want my daughter to come home."