





# How to Protect Incarcerated Women from Covid

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PROGRESSIVE POLICY INSTITUTE

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*Editor's note: Throughout this piece, "prison" is used to represent places of detention, including county and regional jails, federal and state prisons, and juvenile detention facilities. Data from The New York Times includes immigration detention centers as well.*

## WOMEN BEHIND BARS: VIOLENCE AND NEGLECT DURING THE PANDEMIC

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**Despite accounting for only four percent of the world's female population, the United States houses more than 30 percent of the world's incarcerated women.<sup>1</sup> This rate has increased nearly 800 percent since the 1970's.<sup>2</sup> These inmates face a harsh and restrictive prison environment designed for violence-prone men, and the emergence of the pandemic has only further opened the doors for inhumane treatment.**

Prisons are among the primary hotspots for the coronavirus, with infection rates three times that of the general public. As the virus surges through correctional facilities, inmates are not able to social distance, quarantine, or benefit from adequate medical treatment. Depleted resources and insufficient space, combined with a vulnerable population, created the perfect storm for Covid-19 to spread quickly.

Inside the Danbury Federal Correction Institution in Connecticut, dozens of women tested positive with no space to quarantine. To prevent the virus from spreading, they were housed in the inmates' waiting room with no beds, only rudimentary restrooms, and no place to bathe (although showers were eventually installed.) During months when nighttime temperatures still dipped below freezing, the women were instructed to assemble and to sleep on metal beds, with limited mattress availability. They lacked substantial food and were generally not granted over-the-counter medication except Tylenol. One sick inmate was hospitalized for

dehydration, and many were left in the locked visiting room without attention to their severe symptoms.<sup>3</sup>

Despite these worsening conditions during the pandemic, the Connecticut Department of Correction claimed that Covid positive inmates were “provided medical care in accordance with CDC guidelines.” Stacy Spagnardi, an inmate at Danbury currently in home confinement, recalls something very different: “We were all thinking we would die in there, and nobody would know until count.”<sup>4</sup> If there is any silver lining to the misery inflicted by the pandemic, it is that the virus turned a spotlight on the lack of adequate healthcare in our country’s prisons, especially for women.

This is particularly true, for example, in the case of prenatal care. Roughly four percent of all newly incarcerated women arrive to serve their sentences while carrying a baby. On average, 2,000 children are born behind prison walls every year. While in prison, only 58 percent of pregnant women report receiving any prenatal care. The Prison Policy Institute found that 31 states lack any nutritional plan or dietary supplements for incarcerated pregnant women, a key component to delivering a healthy child.<sup>5</sup> As a result, many expecting mothers in jail suffer from malnutrition.

Female inmates, many of whom were physically abused or addicted to drugs before their arrests, need better health care. This is especially true for women experiencing high-risk pregnancies because of their struggles with substance abuse.

Women in jail often give birth alone in their cells with no medical aid or assistance.<sup>6</sup> Prisons also have been known to shackle or otherwise restrain inmates during labor. This increases risk by limiting the women’s movement, increasing pain, and obstructing the diagnosis of complications during birth.<sup>7</sup>

After an often-precarious delivery process, most women are separated from their children within 24 hours. Their babies are placed with a relative, adoption family, or into foster care. Maternal separation, of course, can be highly traumatic to both mother and child. For the mother, it’s an additional harsh punishment over and above their sentence. For the newborn, separation can cause emotional and behavioral problems that can last a lifetime.

Research suggests that children born to imprisoned parents experience psychological and educational problems, such as higher rates of depression and suicide, antisocial behavior, learning disabilities, and behavioral issues that result in suspension or expulsion from school. On average, children with incarcerated parents are six times more likely to become incarcerated themselves.<sup>8</sup>

**FIGURE 1: 2016 INCARCERATED PARENTS AND THEIR CHILDREN**

State and federal inmates with at least one minor child	Percentage of women in state and federal prisons with minor children	Percentage of women in jails with minor children	Reported number of children belonging to state and federal female inmates	Reported children with a parent incarcerated in state or federal prison
684,500	58%	80%	131,700	1,473,700

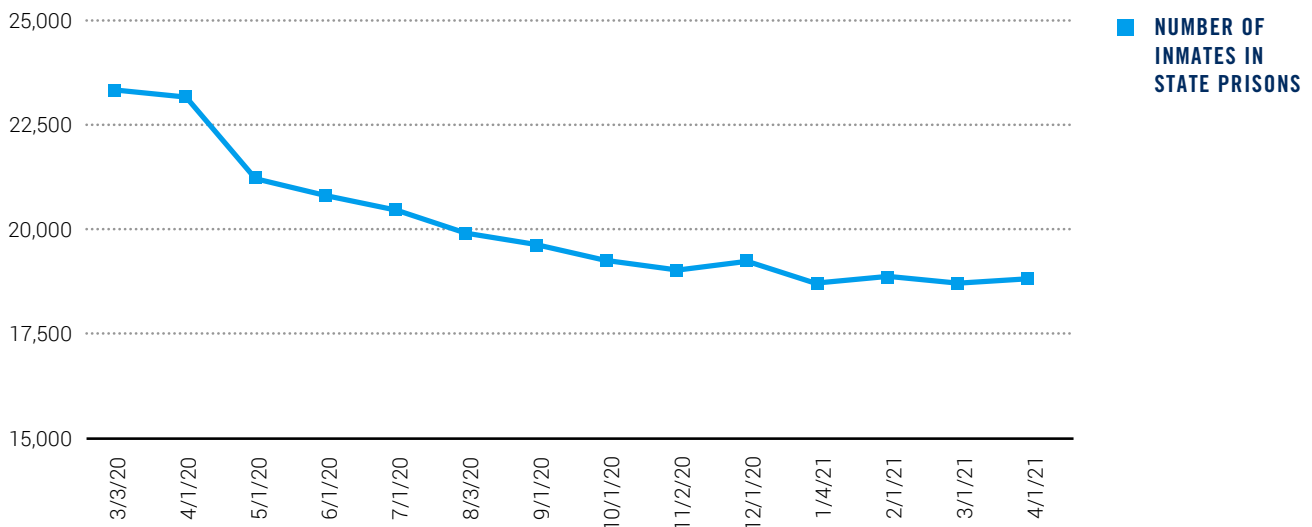
Source: Bureau of Justice Statistics<sup>9</sup> and Vera Institute of Justice<sup>10</sup>

Covid-19 has made prison even more perilous for pregnant women. Consider the case of Andrea Circle Bear, who was pregnant and serving a two-year sentence for selling drugs on the Cheyenne River Indian Reservation. Circle Bear contracted Covid-19 in the overcrowded prison in Fort Worth, Texas.<sup>11</sup> She was on a ventilator when the time came to give birth. Three weeks later, she was the first federal female prisoner to die from Covid-19. “Not every prison death is avoidable, but Andrea Circle Bear’s certainly seems to have been — she simply should not have been in a federal prison under these circumstances,”<sup>12</sup> contends Kevin Ring of Families Against Mandatory Minimums.

For Circle-Bear and other non-violent offenders, early release or home-confinement policies could have prevented unnecessary sickness and death behind bars, but many states made few efforts to reduce their prison populations amidst the pandemic. In states that did try to halt Covid-19’s spread in their prisons, the response was uneven. Some states enacted limited early-release programs. A handful of governors have issued executive orders to grant early release for certain inmates, while the Federal Bureau of Prisons transferred some into home-confinement.

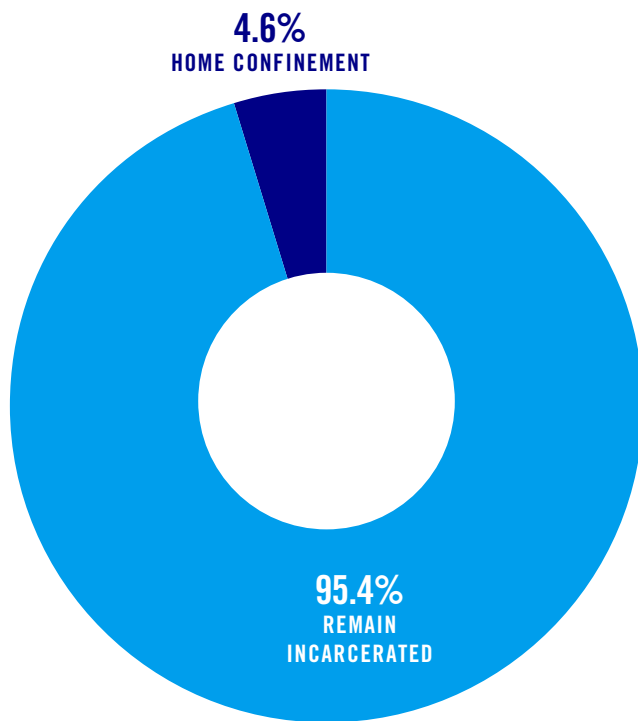
For example, Kentucky’s public defenders, prosecutors, Supreme Court, county jails, and Gov. Andy Beshear worked together to reduce Kentucky’s prison population. Those who were medically vulnerable, low-risk, or near the end of their sentences received priority in early release policies.<sup>13</sup>

**FIGURE 2: KENTUCKY PRISON POPULATION**



Source: Kentucky Department of Corrections

**FIGURE 3: PERCENTAGE OF FEDERAL INMATES CURRENTLY GRANTED HOME CONFINEMENT**



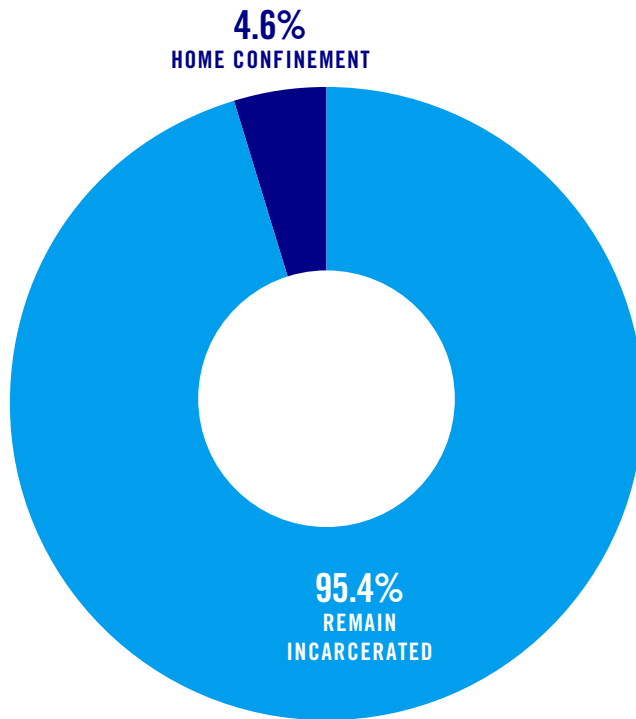
Source: Federal Bureau of Prisons

Of the 152,124 prisoners currently under federal jurisdiction, 7,314 have been placed in home confinement. The Attorney General released a memo in March of 2020 instructing the Federal Bureau of Prisons to allow inmates to serve out their sentences at home when appropriate. Since then, 24,668 inmates have been granted home confinement.<sup>14</sup>

In April of 2020, Pennsylvania’s Governor Tom Wolf began the Temporary Program to Repeive Sentences of Incarceration. Although the plan originally estimated that 1,800 inmates would qualify for reprieve, only 159 individuals were released through this program.<sup>15</sup>



**FIGURE 3: PERCENTAGE OF PENNSYLVANIA INMATES GRANTED REPRIEVE**



Source: Pennsylvania Department of Corrections

In an effort to reduce Covid-19 transmission, some states also have restricted the number of security guards on staff. Unfortunately, this has had the unintended consequence of making women more vulnerable to sexual assault and abuse.<sup>16</sup> According to the U.S. Bureau of Justice Statistics, 42 percent of sexual abuse in prisons is perpetrated by staff, while 58 percent is perpetrated by other inmates. However, this data reflects only substantiated sexual assault claims, which amounted to 5,187 of the 67,169 allegations from 2012-2015, or just eight percent of all claims.<sup>17</sup> While it would seem that having less prison guards would reduce the number of potential abusers, a lack of security can empower predatory staff or inmates to commit sexual assault without supervision.<sup>18</sup>

Sexual abuse is a notorious aspect of prison life for men and women. But it's a special problem for women, a majority of whom previously have been victims of physical and/or sexual assault.<sup>19</sup> The cycle of abuse continues in prison. The Department of Justice found widespread rape and sexual harassment inside the Julia Tutwiler Prison for Women in Alabama<sup>20</sup> and the Edna Mahan Correction Facility for Women in New Jersey.<sup>21</sup> Along with suffering severe mental and physical trauma, several women became pregnant after being raped by guards. The DOJ argued that these conditions violated women's eighth amendment rights against "cruel and unusual punishment." But under Covid protocols that limit personnel and surveillance, more women are at risk in understaffed facilities like Edna Mahan and Tutwiler.

Covid-19 also has created new stresses on female inmates' social and emotional well-being. In addition to the life-threatening physical conditions during the pandemic, incarcerated women also are subject to the misuse of punitive policies like solitary confinement and terminated phone and visitor access that can impair their mental health. The use of solitary confinement as a blunt instrument for enforcing social distancing during the pandemic has increased 500 percent.<sup>22</sup> Yet solitary confinement is known to increase anxiety and suicidal thoughts, particularly in women who have suffered sexual abuse<sup>23</sup> and feelings of low self-worth. Prisons need to be more careful in calculating the trade-off between protecting inmates from Covid and endangering their mental health.

Covid-related policies preventing communication between incarcerated mothers and their children also have strained family relationships. As the

general population has relied on technology to stay in touch with our loved ones, many prisons have restricted access to the phone and eliminated visitation.<sup>24</sup> An overwhelming majority of female inmates are mothers, and these policies can degrade their mental health by cutting off communication with their children.

### WHAT SHOULD BE DONE?

Even as Covid cases plateau nationwide, Covid-19 infections continue to rise in jails and prisons. Moreover, new variants found in Michigan, Colorado, and other states pose fresh dangers of contagion, since prison staff can carry the virus in and out of prison from these hotspots.

The task of mitigating the pandemic inside our jails and prisons is complicated by the fact that a multiplicity of federal and state jurisdictions cut across the U.S. criminal justice system. States decide their own policies, whether for early release programs, vaccine rollout, or correctional institution budgeting. As a result, prisoners across the country experience a variety of conditions and Covid-19 protocols.

**“If there was clearly a right strategy, we all would have done it,”**

said Dr. Owen Murray, a physician in charge of correctional healthcare at dozens of Texas prisons. Nonetheless, America’s correctional facilities have a myriad of ways to create more humane and safe conditions for inmates:

- 1. Increase testing and dedicate spaces for quarantine.** The first step is better measurement of the challenge. Correctional facilities should test all staff and inmates routinely and release results publicly. To limit transmission of

the virus, symptomatic inmates should be placed in a separate space from other prisoners while they wait for their results. These areas should be adequately climate controlled and fully equipped with food, water, sanitary and medical resources, books or other sources of entertainment, and working phones for communication with loved ones during this short isolation period.

- 2. Prioritize inmates in vaccine distribution.**

The CDC and the American Medical Association have recommended that vulnerable populations, including incarcerated individuals, be given priority for receiving vaccines. Overcrowding, lack of medical care, and an at-risk population has made Covid-19 an even deadlier threat inside prisons. The federal prison system has administered at least the first vaccine dose to about 146,972 of its approximately 152,124 federal prisoners. However, vaccine distribution inside state correctional facilities is controlled by the state government and varies widely across the country. In Florida, no inmates in state correctional institutions have received the vaccine. Contrastingly, Kansas has vaccinated about two-thirds of its 8,700 inmates.<sup>25</sup> Kansas Governor Laura Kelly faced intense political resistance to prioritizing inmates in vaccine efforts, but as John Carney, a member of the Kansas Coronavirus Vaccine Advisory Council explains, “All of us kind of came around to this notion that the most vulnerable is the most vulnerable.”<sup>26</sup> Inmates should be considered high priority in state and federal vaccination efforts, especially now that the

national vaccine supply has increased and shots are more readily available.

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**3. Adopt alternate forms of sentencing.**

When possible, courts and lawmakers should seek alternatives to incarceration, especially for non-violent offenders, to decrease the number of people in prisons nationwide. Fewer people entering correctional facilities means more room for social distancing, resources for other prisoners, and fewer Covid cases. Drug courts, fines, restitution, community service, probation, house arrest, psychiatric treatment, and work release are other plausible avenues to explore.

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**4. Increase and improve medical care for inmates.** Correctional facilities should be given the resources to hire more medical staff trained to recognize inmates' Covid-19 symptoms and treat them appropriately, move prisoners to the hospital if their conditions become serious or require more equipment than on hand, and frequently monitor inmates' health.

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**5. End solitary confinement for at-risk prisoners and as a method for social distancing.** State and federal jails and prisons should be prohibited from using solitary confinement as a means of quarantining inmates. The practice can particularly harm pregnant women or those with underlying health conditions.<sup>27</sup> New York recently ended long-term solitary confinement and banned the practice entirely for minors and pregnant women; correctional facilities should follow this lead to protect vulnerable inmates from the

severe mental health ramifications caused by this isolation.

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**6. Reopen libraries and educational programs.**

In keeping with CDC guidelines, prisons should reinstate these crucial educational spaces and programs. Inmates who participate in educational programs have a lower rate of recidivism, higher rate of literacy, increased employment opportunities upon release, and receive fewer disciplinary infractions.<sup>28</sup> The Utah State Prison houses five libraries with an array of books to keep inmates engaged and busy. Camille Randles, an inmate who regularly uses the women's prison library, explains how books are a "safety net" that allow inmates an escape from reality. The prison also offers programs on substance abuse and sex-offender treatment that can help inmates gain parole upon graduation.<sup>29</sup> The largest meta-analysis on correctional educational studies found that inmates participating in educational programs are 43 percent less likely to return to prison than those who do not. These programs are also cost-effective, reducing incarceration costs by \$4-5 for every dollar invested in correctional education programs.<sup>30</sup> If all safety precautions and social distancing measures are enforced, the benefits of these programs towards limiting future incarceration and reducing costs far outweigh the risk of transmission.

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**7. Allow for greater virtual communication.**

To connect prisoners with their families and attorneys, prisons should end restrictive communication policies and install video conferencing, increase access



to phones, and expand computer usage. These shared tools and spaces should follow CDC guidelines and be thoroughly cleaned between prisoner use. They will allow incarcerated individuals to better communicate with their loved ones, which also has been shown to reduce recidivism by strengthening family support before the re-entry experience.<sup>31</sup>

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**8. Institute job training programs.** One of the largest obstacles for people re-entering society is securing a well-paying job.<sup>32</sup> Job training programs equip inmates with the skills and confidence they need to be successful in the workforce and increase odds of employment by 28 percent.<sup>33</sup> Some programs, like Trades Related Apprentice Coaching, partner with local businesses or labor unions to place women in jobs once their training is complete. Crystal Lansdale, an inmate at Washington Corrections Center for Women, explains, “The construction trades is something like a way out of the box for me. I need a career that is going to give me retirement, that’s going to give me benefits, that’s going to give me an opportunity to take care of my kids.”<sup>34</sup> Many people like Crystal need legitimate work to support themselves and their families once they are out of prison. Furthermore, certain programs should be tailored specifically to youth workforce development, so that juvenile offenders can form connections with professionals and mentors that can influence them during their developmental years as well assist them in entering the workforce. The DOJ’s National Institute of Corrections highlights how building “employable skills”

for incarcerated youth increases safety in the community and advances employment opportunities for juvenile offenders.<sup>36</sup>

## IMPROVING CONDITIONS FOR WOMEN

In addition to these general reforms, policymakers should adopt specific strategies for creating more safe and humane conditions for incarcerated women vulnerable to ill-health, neglect and abuse:

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### 9. Report accurate, disaggregated data.

Providing disaggregated data will help to gauge the pandemic’s effect on incarcerated women and minorities. Only then can policies be designed to better encompass their needs. Congress should pass the Covid-19 in Corrections Data Transparency Act introduced by Representative Clarke, Garcia, and Pressley alongside Senators Warren, Murray, Booker, and Kelly. The legislation would require the Federal Bureau of Prisons, the U.S. Marshall Service, and state and local governments to report disaggregated Covid data for federal, state, and local correctional facilities.

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### 10. Prioritize women in early release policies.

According to The New York Times, only about 5 percent of prisoners currently serving federal sentences have been granted home confinement. Some governors have implemented early release policies, but not at the rate that various prosecutors, judges, and interest groups have called for.<sup>37</sup> Pregnant women, women in prison for non-violent offenses, and women with pre-existing conditions should be prioritized for early release. A two-year

stint for selling drugs should not be a death sentence. Women also have a lower rate of recidivism than males, indicating that early release plans would not encourage future crime.<sup>38</sup>

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#### 11. **Increase and improve prenatal care.**

Comprehensive prenatal care should be extended to all pregnant inmates to decrease the risk of serious complications if they contract Covid-19. The House in October 2020 passed the Protecting the Health and Wellbeing of Babies and Pregnant Women in Custody Act, which dictates that the Bureau of Justice reports annual data on the demographics and health needs of pregnant women in custody, prohibits the use of restraints on pregnant inmates, and provides appropriate services, health care, and nutrition for pregnant women. The Senate should act quickly to pass this bipartisan bill.<sup>39</sup>

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#### 12. **Train, recruit, and oversee more qualified guards and officials.** Improving the quality of prison staff is a key step toward increasing safety for female prisoners. Monitoring guards on duty, hiring more female officers, and educating personnel around the specific challenges incarcerated women face can decrease sexual assault and violence in prisons.<sup>40</sup>

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#### 13. **Provide enhanced nutritional options for female prisoners, especially pregnant women.** According to national guidelines,<sup>41</sup> women generally need more nutrients than men, especially for a healthy pregnancy.<sup>42</sup> A balanced diet including folic acid, iron, calcium, zinc, and Vitamin D will help

strengthen prisoners' immune systems to fend off the virus and deliver healthier babies.

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#### 14. **Supply adequate cleaning supplies and feminine hygiene products.** Many states are not required to provide incarcerated women with menstrual products. In Alabama's Tutwiler Prison for Women, the Department of Justice found that male guards withheld menstrual items unless prisoners would have sex with them. Correctional facilities should provide feminine hygiene products to all incarcerated women to ensure their basic needs are met.<sup>43</sup> In addition, correctional facilities should be equipped with various cleaning supplies to limit transmission of the virus.

## CONCLUSION

Prisons are dangerous places for everyone, especially women. The pandemic introduced a new threat to incarcerated women's existing conditions of violence, sexual assault, and neglect. To make prisons safer for women, legislation must address the structural issues plaguing the criminal justice system. As the country works to rebuild itself, women in prison continue to struggle against mass incarceration, gender discrimination, and punitive methods. The pandemic magnified many of these issues and crafting a gendered response to the virus is the first step toward treating incarcerated individuals with respect and human dignity.

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