Shackling Women Inmates During Labor

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At approximately 8:15 p.m. on October 19, Valerie Nabors was leaving the main gates of the Florence McClure women’s correctional center to give birth to her fourth child. Before Nabors was put in an ambulance Sgt. Daniel Tracey placed shackles around her ankles. “According to Nevada state law, no restraints of any kind may be used on an inmate who is in labor, delivering her baby or recovering from delivery unless she presents a serious harm to herself or others or presents a substantial flight risk” (Abbey, 2012). Apparently Nabors, and many women like her are categorized a flight risk while in the process of giving birth.

There is much controversy over shackling women in labor because in most states it has been deemed a violation of the Eight Amendment. If there was ever a situation that should be considered cruel and unusual, shackling a woman while in labor certainly fits the criteria.

“A majority of states shackles female prisoners during childbirth; forty states allow the shackling of female prisoners during labor, delivery, and post-partum recovery” (Griggs, 2012). The fact that forty states allow this to happen is surprising. States in which shackling of women during labor is illegal for all situations include New York, California, Washington, Vermont, New Mexico, Colorado, West Virginia, Pennsylvania, Texas, and Illinois. There are both states that are known to be tough on crime and soft on crime included on this list. Even in the states with laws banning the use of shackles on women in labor there are still an abundance of lawsuits filed by women claiming they were shackled while in labor. A significant anti-shackling court case is Nelson v. Correctional Medical Services. While imprisoned for fraud charges, Nelson started experiencing labor pains and upon arrival at the hospital the correctional officer assigned to escort her shackled her to a
wheelchair and brought her to the maternity ward. Then when she was almost fully dilated, the officer shackled Nelson to a bed. “The Eighth Circuit held that the law clearly established that shackling a woman prisoner during labor and delivery violated the Eighth Amendment, imposing cruel and unusual punishment. The court also discussed the standard of confinement and medical care, and found that the security officer acted with deliberate indifference.” (Griggs, 2012) There a clear lack of understanding for what the woman was going through and what the law states is legal for that situation.

Shackling a woman in labor a clear violation of the Eighth Amendment. There are possible situations where injuries could occur to both the mother and the baby. By shackling the woman’s legs she loses the ability to move freely during labor, which may make the entire process more uncomfortable and painful than necessary. Feeling discomfort and pain could cause the woman more stress that is not good for her or the baby. “Women in labor need to be mobile so that they can assume various positions as needed and so they can quickly be moved to an operating room. Having the women in shackles compromises the ability to manipulate her legs into the proper position for necessary treatment. The mother and baby’s health could be compromised if there were complications during delivery, such as a hemorrhage or decrease in fetal heart tones.” (Women, 2000) Also, if there were a need for a C-section, the mother would need to be moved to an operating room instantly because any delay could result in permanent brain damage for the baby. The use of restraints creates a hazardous situation for the mother and the baby, compromises the mother’s ability postpartum to care for her baby and keeps her from being able to breastfeed and bond with her child.
I do not believe there is any circumstance in which a woman should be shackled during labor. Childbirth is one of the most difficult and demanding processes that a woman’s body goes through. For a woman to have her ankles and wrists shackled during hours of contractions and the actual delivery is inhumane and completely unnecessary. There is no reason to shackles women while they are in labor, especially if there is a correctional officer assigned to escort and watch them while in the hospital. Any woman in her right mind will be more than willing to follow a correctional officer’s orders while being brought to the hospital as well as during her stay there. Maternal instincts make it so women want to do everything they can to keep their baby safe and healthy. Staci Pratt, from the American Civil Liberties Union of Nevada was asked about her opinion of shackling women in labor while attending Valerie Nabor’s trial. Pratt stated, “I think we have the right to expect more as women and the right to expect more from society” (Abbey, 2012). For correctional officers to believe all women in labor are a flight risk is ridiculous, especially during labor. After the baby is born it is slightly more reasonable to use shackles when bringing the woman back to jail or prison, but with proper supervision even then they may not be necessary.

I also do not believe women who are pregnant need to be incarcerated to begin with. Pregnant women should not be put in jail or prison to begin with unless they are serious violent offenders. In a majority of cases women are incarcerated for drug crimes, or other non-violent offenses including larceny and fraud. (Crime, 2000) Criminal justice officials should take that into consideration when deciding on a sentence for a pregnant woman and use different methods of punishment. Women who are pregnant and convicted of non-violent offenses should receive an alternate punishment such as, community service or house
arrest. “To protect the health of the mother and of the newborn child, pregnancy should in principle be an obstacle to incarceration, both pre-trial and post-conviction, and pregnant women should not be imprisoned except for absolutely compelling reasons. When a woman in prison is found to be pregnant, the need for her imprisonment should immediately be reviewed and continue to be reviewed throughout the pregnancy.” (Menabde, 2009, p. 32) It may also be reasonable to delay incarceration for certain offenses until after the baby is born and does not rely on the mother for care.

Shackling women during labor is an apparent violation of the Eighth Amendment. It is a form of cruel and unusual punishment and must be stopped in all states. With the proper supervision of a female inmate in labor, the use of shackles would not be necessary and the risk of injuries or complications from shackling during childbirth would not be a threat.
References:


