Memorandum
From: The DC Justice Lab and the Washington Lawyers' Committee for Civil Rights and Urban Affairs.
Date: October 4th, 2024.
Re: National standards, Department of Corrections policies, and clients' experiences on pregnancy and childbirth.

This memorandum summarizes national and local standards, policies, and recommendations on the types of care and treatment people navigating pregnancy and childbirth should experience in institutions. We reviewed materials from the District of Columbia Department of Corrections (5009.1A, 5006.1, PM 6000.1I, and Unity Health Care Inc., Policy CF605) the American Correctional Association, the American Public Health Association, the American College of Obstetricians and Gynecologists, and the National Commission on Correctional Health Care's standards and supplementation statements on care.

This memorandum also shares the experiences of two clients of the Washington Lawyers' Committee for Civil Rights and Urban Affairs who navigated pregnancy and childbirth under the jurisdiction of the DC Department of Corrections in 2024.

The statements of standards, policies, and recommendations on practice for incarcerated people and navigating pregnancy and childbirth are represented in the table below, along with the clients' experiences.

Significant findings under key categories of care or policy include:

- Continuum and type of ongoing care. The American College of Obstetricians and Gynecologists says women should receive "comprehensive perinatal care." *Despite being at the jail for a month, one client was not seen at 28 weeks for an on-site obstetrician/gynecologist (OBGYN) appointment when she should have received an ultrasound and a glucose test. The client put in several sick call slips, specifically requesting a glucose test before she was finally seen and the test administered. She also had to put in sick call slips to receive the results of the test, and even then, was provided only her blood/glucose number and no context for what the number meant.*

- Care for high-risk pregnancies. The American College of Obstetricians and Gynecologists says "delivery services must occur in a licensed hospital, with arrangements for high-risk pregnancies, when indicated." *One client experiencing a known high-risk pregnancy was supposed to be taken to an outside OBGYN appointment twice a week for fetal monitoring but was only taken once a week because DOC did not schedule her appointments correctly. On some weeks, she was not taken to these appointments at all.*

- Health education and breastfeeding. The National Commission on Correctional Health Care standards says, "women should be informed of whether they have the option to breastfeed and/or express breast milk in the postpartum period. Consultation with a health professional knowledgeable about breastfeeding should be available to support lactating

women." The DOC has no policies on this issue. *No information about breastfeeding or lactation support or accommodations was provided to the two pregnant clients. The clients were not told about the logistics of how breastfeeding could be done and how milk could be transferred to their child's custodian, and no supplies were provided until after birth.*

- Labor and delivery. The DOC policy is largely silent on labor and delivery and only states, "pregnant patients shall be referred to Howard University Hospital or, as necessary….." and "regularly followed as clinically indicated by an obstetrical provider until termination, or delivery of the pregnancy." *One pregnant client went into labor and was not transported to the hospital until nearly an hour after her water broke, and both clients had Correctional Officers in the room during both labor and delivery. Correctional Officers did not leave the room when doctors asked them to during both clients' labor and deliveries – including during one client's cesarean (C-section) surgery.*

- Access to newborns after delivery. The National Commission on Correctional Health Care states, "[m]other–infant attachment is critical for the infant's psychological development and the mother's mental health. Maximizing opportunities for mother-infant bonding while the woman is in the hospital during her postpartum recovery should be encouraged." DOC policies are silent on this issue. *For both clients, the child was taken to the custodial parent before the mother was discharged from the hospital, and since the clients returned to the DOC, they are only able to see their babies once a week for one hour during visitation.*

- Access to counseling, support, and safe and healthy conditions. The National Commission on Correctional Health Care publishes a resource that states, "the correctional environment may interfere with women's abilities to ameliorate or may exacerbate common discomforts of pregnancy. . . . Because of restrictions on hospital visitation, these women typically go through childbirth without a support person, which exacerbates their feelings of isolation and emotional distress." *Neither pregnant client received counseling or access to a doula during pregnancy. DOC initially denied one client's request for a support person in the delivery room, citing a DOC policy that required a DOC resident to be in critical condition before anyone was allowed to visit with them in a hospital setting. A support person was not approved until advocacy by the Washington Lawyers' Committee and DC Councilmember Christina Henderson. It was only after the first client was approved for a support person that the second client was also approved. Both women felt isolated and frustrated in DOC's medical unit because of the lack of access to fresh air, a microwave, showers, and programming. One client's faucet was not working, and as a result, had limited water access.*

- Mental health services and postpartum depression. The National Commission on Correctional Health Care standards states, "[p]ostpartum depression may manifest itself in different ways, particularly when the woman is separated from her newborn immediately after birth . . . . Medical staff should work with the mental health staff to address these issues and provide appropriate treatment," and in an additional resource, says pregnant patients should receive "routine screening using validated tools at least two

weeks and six weeks postpartum." The DOC policy states, pregnant patients will be "provided with advice . . .and counseling . . .and counseled, examined, and treated according to national guidelines. . . . ." *No postpartum mental health care was offered or provided to either client. One client specifically asked for mental health support but received none.*

- Restraints. The National Commission on Correctional Health Care Standards says, "custody restraints are not used during labor and delivery. Custody restraints, if used, at other points of pregnancy and the postpartum period shall be limited to handcuffs in front of the body." DC law and DOC policy state, "restraints shall not be used on a female arrestee who reports being in the third trimester of pregnancy, is in labor, or is in postpartum recovery," with limited exceptions, and require reporting when restraints are used. *Both pregnant clients were handcuffed in their third trimesters. One client was handcuffed at seven months pregnant for every outside medical appointment. Correctional Officers attempted to handcuff both clients while at the hospital after giving birth.*

Continuum and type of ongoing care.

National Experts	Department of Corrections	Clients' experiences
The American College of Obstetricians and Gynecologists says that institutions should, "[d]eliver comprehensive perinatal care following guidelines of the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists." The National Commission on Correctional Health Care standards says **"**[p]renatal care includes: a) Medical examinations by a provider qualified to provide prenatal care; b) Prenatal laboratory and diagnostic tests in accordance with national guidelines; c) Orders and treatment plans documenting clinically indicated levels of activity, nutrition, medications, housing, and safety precautions; d) Counseling and administering recommended vaccines in accordance with national guidelines."	UNITY Health Care, Counseling and Care of the Pregnant Patient, Policy CF 605 says: All pregnant patients will be: a) provided comprehensive counseling and assistance in accordance with their expressed desires regarding their pregnancy, whether they elect to keep the child, use adoption services, or have an elective abortion; b) transferred to C[orrectional] T[reatement] F[acility] for housing and prenatal follow up care; c) ordered a prenatal diet with snack (unless a specialized diet is indicated, i.e. diabetic, Renal, etc.); and placed on prenatal vitamins; d) provided with advice on appropriate levels of activity, safety precautions, and nutritional guidance and counseling; e) provided with lab testing, immunizations, diagnostic and sonogram testing in accordance with national guidelines; f) followed regularly as clinically indicated by an obstetrical provider until termination, or delivery of the pregnancy; g) counseled, examined, and treated according to national guidelines; and h) sent off-site as clinically indicated with a summary of her prenatal care.	Despite having been at the jail for a month, one client was not seen at 28 weeks for what should have been an on-site obstetrician/gynecologist (OBGYN) appointment when she should have had an ultrasound and a glucose test. The client put in several sick call slips, specifically requesting a glucose test before it was finally administered. She also had to put in sick call slips to receive the results of the test, and even then, was provided only her blood/glucose number and no context for what the number meant. Less than a month before giving birth, one client was placed in a transfer holding cell and told she was going to be taken to an outside medical appointment. However, five hours later, she was told that no female staff was available to take her to the appointment and she was sent back to her unit. One morning a few days later, the same client experienced preterm labor pains but was not taken to the hospital until eight hours later.

Care for high-risk pregnancies.

National Experts	Department of Corrections	Clients' experiences
The American College of Obstetricians and Gynecologists says "delivery services must occur in a licensed hospital, with arrangements for high-risk pregnancies, when indicated." The American Correctional Association says "[w]ritten policy, procedure, and practice provide that pregnancy management is specific as it relates to the following: High-risk prenatal care."	UNITY Health Care, Counseling and Care of the Pregnant Patient, Policy CF 605 says, "Prenatal care for high-risk pregnancies, including the chemically addicted patient, will be managed/directed by an obstetrical provider."	One client's pregnancy was considered high-risk because of a preexisting condition. Her child was also measuring small. In her third trimester, the client was supposed to be taken to an outside OBGYN appointment twice a week for fetal monitoring. She was only taken once a week because DOC did not schedule her appointments correctly. For some weeks, she was not taken at all.

Health education and breastfeeding.

National Standards	Department of Corrections	Clients' experiences
The American College of Obstetricians and Gynecologists says that institutions should "[e]ducate about breastfeeding and provide lactation support and accommodations for postpartum individuals to provide breastmilk for their infants." The National Commission on Correctional Health Care Standards says "[w]omen should be informed of whether they have the option to breastfeed and/or express breast milk in the postpartum period. Consultation with a health professional knowledgeable about breastfeeding should be available to support lactating women."	UNITY Health Care, Counseling and Care of the Pregnant Patient, Policy CF 605 does not address breastfeeding. The policy does mention that patients should be "followed regularly by an obstetrical provider until termination, or delivered of the pregnancy."	No information about breastfeeding or lactation support or accommodations was provided to either client. The clients were not told about the logistics of how breastfeeding could be done, and how milk could be transferred to their child's custodian, and no supplies were provided until after birth. The Washington Lawyers Committee was informed that the following procedures were put into place on July 1, 2024, after both babies were born in June: • The mother will be provided with a cooler, and the custodial parent will be provided with another cooler. • During visitation, the mother will bring a cooler filled with milk and swap with the custodial parent. • The mother will take the empty cooler back to the unit with her in preparation for the next visit. • The number of visits per week would be determined by the baby's needs and the amount of milk produced. These procedures were not followed. Moreover, despite multiple inquiries from both clients, neither received an answer as to whether they could feed their children during visitation.

Labor and delivery

National Experts	Department of Corrections	Clients' experiences
The American Correctional Association standards supplement says"unless mandated by state law, birth certificates/registry does not list a correctional facility as the place of birth." The American College of Obstetricians and Gynecologists says "delivery services must occur in a licensed hospital, with arrangements for high-risk pregnancies, when indicated." In an additional resource, The National Commission on Correctional Health Care states that "Doula support of pregnant incarcerated women while they are in labor at the hospital has been shown to improve obstetrical outcomes and can provide emotional support during childbirth. While in labor and during prenatal visits, correctional staff must respect women's privacy, especially during pelvic exams and childbirth."	UNITY Health Care, Counseling and Care of the Pregnant Patient, Policy CF 605 says "[p]regnant patients shall be referred to Howard University Hospital or, as necessary, another area hospital for consultations, ultrasounds, antenatal testing and delivery with copy or transfer of their prenatal records."	One client went into labor and was not transported to the hospital until nearly an hour after her water broke. Correctional officers were in the rooms of both clients during labor and delivery. Correctional Officers did not leave the room when doctors asked them to during both clients' labor and deliveries – including during one client's cesarean (C-section) surgery.

Access to newborns after delivery.

National Experts	Department of Corrections	Clients' experiences
The American Correctional Association says "[w]here nursing infants are allowed to remain with their mothers, provisions are made for a nursery, staffed by qualified persons, where the infants are placed when they are not in the care of their mothers." In an additional resource, The National Commission on Correctional Health Care states that [m]other-infant attachment is critical for the infant's psychological development and the mother's mental health. Most women who give birth while incarcerated will be separated from their newborns once they are discharged from the hospital. Maximizing opportunities for mother-infant bonding while the woman is in the hospital during her postpartum recovery should be encouraged."	UNITY Health Care, Counseling and Care of the Pregnant Patient, Policy CF 605 is silent on a mother's access to her newborn after delivery. Neither DC law nor DOC policy addresses the ability of DOC to release a new mother to community supervision or any other approach to promote mother-infant bonding.	For both clients, the child was taken to the custodial parent before the mother was discharged from the hospital. Since their return to DOC, the clients are only able to see their babies once a week for one hour during visitation. .

Nutrition and Activity.

National Experts	Department of Corrections	Clients' experiences
The American College of Obstetricians and Gynecologists says institutions should "ensure adequate nutrition with appropriate folic acid, calcium, and other nutrient intake to incarcerated pregnant and breastfeeding individuals." The National Commission on Correctional Health Care calls for "]o]rders and treatment plans documenting clinically indicated levels of activity, nutrition, medications, housing, and safety precautions." In an additional resource, The National Commission on Correctional Health Care says, "[d]iets provided by correctional institutions should be specialized to the women's needs and be rich in whole grains, calcium, and fruits and vegetables. Pregnant women must also receive prenatal vitamins that contain, among other essential vitamins and minerals, 400 mcg to 800 mcg of folic acid, which is important for the prevention of neural tube defects. Activity for pregnant women must take into account the physical constraints of being in a correctional facility."	UNITY Health Care, Counseling and Care of the Pregnant Patient, Policy CF 605 says a pregnant parent should be "ordered a prenatal diet with a snack (unless a specialized diet is indicated, i.e. diabetic, Renal, etc.); and placed on prenatal vitamins."	The Washington Lawyers Committee was informed that the prenatal tray is supposed to have double portions and a snack. One client was not informed that she could have a prenatal tray until 37 weeks into her pregnancy. Indeed, she did not receive a prenatal tray until advocacy was done by the Washington Lawyers Committee. She only received the tray for a week and a half after giving birth. She also did not receive it for six weeks postpartum, although she continued to pump, and additional portions and nutrients were necessary for her milk supply. Prior to receiving the prenatal tray at 37 weeks, this client did not receive any fresh vegetables or fruit on her regular trays. The other client did not receive a prenatal tray until 35 weeks, even though she had previously requested it and the OBGYN said the request was in the system. Neither client consistently received the tray. While in the medical unit, both clients received recreation time only sporadically and were denied access to programming. Neither client received appropriate postpartum nutrition or vitamins.

Access to family services and counseling.

National Experts	Department of Corrections	Clients' experiences
The American Correctional Association standards supplements says "[m]anagement should include family planning services prior to release." The National Commission on Correctional Health Care standards say "[c]ounseling and assistance are provided and documented in accordance with the pregnant [resident's]expressed desires regarding her pregnancy, whether she elects to keep the child, use adoptive services, or have an abortion."	UNITY Health Care, Counseling and Care of the Pregnant Patient, Policy CF 605 states that a patient will be "provided comprehensive counseling and assistance in accordance with their expressed desires regarding their pregnancy, whether they elect to keep the child, use adoption services, or have an elective abortion."	Neither client received counseling of any type.

Access to counseling, support, and safe and healthy conditions

National Experts	Department of Corrections	Clients' experiences
In an additional resource, the National Commission on Correctional Health Care says "[t]he correctional environment may interfere with women's abilities to ameliorate or may exacerbate common discomforts of pregnancy, such as beds or being able to eat smaller, more frequent meals. Usual security precautions that are applied to nonpregnant [residents], such as the use of restraints, pose risks for pregnant women. Being pregnant while incarcerated can be emotionally isolating, especially with the knowledge of impending separation from one's newborn. Because of restrictions on hospital visitation, these women typically go through childbirth without a support person, which exacerbates their feelings of isolation and emotional distress."	UNITY Health Care, Counseling and Care of the Pregnant Patient, Policy CF 605 states that pregnant patients are "counseled, examined, and treated according to national guidelines" and "be evaluated by a clinician upon return for medical stability and determination of housing requirement."	Neither client received counseling during pregnancy or access to a doula. DOC initially denied one client's request for a support person in the delivery room, citing a DOC policy that required a DOC resident to be in critical condition before anyone was allowed to visit with them in a hospital setting. After advocacy by the Washington Lawyers Committee and Councilmember Christina Henderson, DOC reversed its position. As a result, both patients had a support person with them when they delivered. Both women were transferred to the medical unit before giving birth and while breastfeeding. However, on the medical unit, they only sporadically got two hours per day of recreational time and could not access educational or other programming. One client could not finish her class because Corrections Officers did not walk her to her classes. Both women felt isolated and frustrated in the medical unit because of the lack of access to fresh air, a microwave, showers, and programming. One client's faucet did not work, and as a result, she had limited water.

Mental health services and postpartum depression

National Experts	Department of Corrections	Clients' experiences
The National Commission on Correctional Health Care says "[p]ostpartum depression may manifest itself in different ways, particularly when the woman is separated from her newborn immediately after birth. Women who experience miscarriages, stillbirths, and other losses may also have difficulties. Medical staff should work with the mental health staff to address these issues and provide appropriate treatment." In an additional resource, the National Commission on Correctional Health Care says "[c]orrectional health care providers should maintain vigilance for signs and symptoms of postpartum depression, with routine screening using validated tools at least two weeks and six weeks postpartum."	UNITY Health Care, Counseling and Care of the Pregnant Patient, Policy CF 605 does not specifically address mental health services or Postpartum Depression. The policy says pregnant individuals will be "provided with advice . . .and counseling . . . and counseled, examined, and treated according to national guidelines . . . ."	No postpartum mental health care was provided to either client. One client explicitly asked the DOC OBGYN for a referral to go to counseling, but she was not provided with that service or any other support.

Restraints.

National Experts	Department of Corrections	Clients' experiences
The American Correctional Association standards supplement says that institutions should have a "written policy, procedure, and practice, in general, prohibit the use of restraints on [individuals] during active labor and the delivery of a child." The National Commission on Correctional Health Care standards says "custody restraints are not used during labor and delivery. Custody restraints, if used, at other points of pregnancy and the postpartum period shall be limited to handcuffs in front of the body." In an additional resource, The National Commission on Correctional Health Care states that "[r]estraints pose significant health risks to the mother and her fetus during labor, transport for labor, delivery, postpartum recovery, and antenatally. They interfere with medical professionals' abilities to provide necessary care during obstetrical emergencies throughout pregnancy, childbirth, and the postpartum period. They also can increase the risk of falls and prevent a pregnant inmate from breaking a fall, which can lead to direct abdominal trauma, which can then result in placental abruption, maternal hemorrhage, and even stillbirth. Restraints are not used during active labor and delivery."	DC law (D.C. Official Code § 24–276.02) generally prohibits the shackling of pregnant individuals. UNITY Health Care, Counseling and Care of the Pregnant Patient, Policy CF 605 requires front restraints only through week 27 of pregnancy. During the third trimesper and postpartum transport, no restraints are to be used. These restrictions on restraints are also mentioned in the Central Cell Block Operational Manual (5009.1A): "[i]f the [Early Pregnancy Test] results are Positive, and the arrestee reports that she is in her first or second trimester, transport staff may use front restraints on the arrestee so long as front restraints are the least restrictive available and the most reasonable under the circumstances. Restraints shall not be used on a female arrestee who reports being in the third trimester of pregnancy, is in labor, or is in postpartum recovery." Program Policy 5009.1.A also lists a series of exceptions that allow "the health professional [to] authorize the use of restraints …..after making an individualized determination that extraordinary circumstances apply" under two instances. 5009 1.A also discusses when restraints should be removed, and lists notification and reporting requirements to the Directors office governing the use of restraints on pregnant patients.	Both clients were handcuffed in their third trimesters. At 7 months pregnant, one client was handcuffed for every outside medical appointment. Another client was handcuffed at her wrists and ankles at the end of her second trimester. On at least three more occasions, she was handcuffed at her wrists in her third trimester. One client was handcuffed when she left the hospital after giving birth. DOC attempted to handcuff both clients while at the hospital after giving birth, but both advocated for themselves in accordance with the policy. In both cases, the Correctional Officer attempting to handcuff the client had to call upper management to verify that the client should not be shackled.