

DATE:	AUGUST 22, 2023
NUMBER:	M.38
SUBJECT:	PREGNANT INCARCERATED PERSONS
RELATED SECTIONS:	CCR Title 15, Sec. 1206; PC 3407, 4023.5, 4023.6, 4023.8, 4028, 6030(e & f); I.45 ; I.47 ; I.52 ; I.57 ; I.85 ; M.11 ; P.9 ; MSD.F.1

PURPOSE

To protect the right of privacy with respect to personal reproductive decisions of female incarcerated persons and provide quality medical care to those that are pregnant while in custody.

POLICY

Incarcerated persons shall have the right to summon and receive the services of a physician in order to confirm pregnancy, continue the pregnancy or elect an abortion. An incarcerated person may also request to see their own physician, nurse practitioner, certified nurse midwife, or physician assistant at their own expense. Pregnant incarcerated persons identified by the red striped paper insert on their wristband and applicable colored clothing marked "SD JAIL" in red lettering.

Childbirth is to be treated as a medical emergency and shall require the incarcerated person be transported to a hospital in the least restrictive way possible when they are in labor (Per Penal Code 4023.8). An incarcerated person known to be pregnant shall only be restrained as permitted by law and shall be assigned to a lower bunk and lower tier for the duration of their pregnancy.

For further details, information, and health staff responsibilities of each subsection contained in this policy refer to MSD.F.5.1.

PROCEDURE

I. INTAKE/MEDICAL SCREENING

When an incarcerated person is suspected of being pregnant, the health staff will administer an on-site pregnancy test within 72 hours of arrival to the facility. Pregnancy tests shall be voluntary and not mandatory and are free of charge. Victims of sex abuse shall be offered pregnancy testing without cost and regardless of whether the victim cooperates with any investigation per the Prison Rape Elimination Act (PREA)(See DSB P&P section F.16 – Sexual Misconduct Case Assignments & Investigations for more information in regards to PREA). Pregnancy tests will also be administered at the request of an incarcerated person at any time during their incarceration, free of charge.

II. ADVISEMENTS

Standards and policies governing pregnant incarcerated persons, including, but not limited to, the provisions of California Penal Code sections 4023.5, 4023.6, 4023.8, 4028, and the guidelines in regard to lactation shall be displayed as signs in the female intake and medical waiting areas.

III. TERMINATION OF PREGNANCY

Health staff will coordinate transportation via the Sheriff Transportation Unit or facility staff. Upon return to the facility, the incarcerated person shall be taken directly to the facility's dispensary for a follow-up evaluation.

IV. USE OF FORCE/RESTRAINTS

- A. An incarcerated person known to be pregnant or in recovery after delivery shall not be restrained by the use of leg chains, waist chains or handcuffs behind the body. A pregnant incarcerated person shall not be shackled to anyone else and shall only be handcuffed with their hands in front of the body.
- B. A pregnant incarcerated person in labor, during delivery or in recovery after delivery, or anytime the baby is in the room shall not be restrained by the wrists, ankles or both (e.g., chained during transport to the hospital, chained to the bed during or after delivery, chained during transport back to the facility, etc.), unless deemed necessary for the safety and security of the incarcerated person, staff, or the public, and approved by the medical professional who is currently responsible for the medical care of the pregnant individual. Any such restraint based on safety and security needs must be based on an individualized assessment of the incarcerated person's likelihood of escape, assault, or self-harm.
 1. If restraints are deemed necessary, deputies must inform the watch commander for approval. The watch commander will:
 - a. Document the incarcerated person's name, booking number and reason for restraints in the watch commander's log.
 - b. Ensure an incident report, detailing the necessity for restraints, is written, and entered in the Jail Information Management System (JIMS).
 2. Restraints shall be removed as soon as practicable after the specific safety and security concerns that warranted the use of restraints are no longer present, or it appears to any observer that the continued use of the restraints will cause the incarcerated person to suffer harm.
 3. The restraints must also be removed if a medical professional who is currently responsible for the medical care of the pregnant incarcerated person determines the removal of the restraints is medically necessary. Removal of restraints must be communicated to the watch commander. The watch commander will:
 - a. Determine if extra deputies are needed for safety and security.
 - b. Update the watch commander's log, documenting the removal of restraints.

- c. Ensure an incident report, detailing the necessity to remove restraints, is written, and entered in JIMS.
- C. Pregnant incarcerated persons shall not be tased, pepper sprayed, or exposed to other chemical weapons in compliance with California Penal Code section 4023.8 and DSB P&P section I.85. In all circumstances where physical force is used by a deputy on a pregnant, incarcerated person, deputies shall seek immediate medical evaluation and/or treatment and the watch commander shall be notified.
- D. An incarcerated person who has given birth shall be considered to be, "in recovery," and therefore subject to the limitations on use of restraints as set forth in California Penal Code section 3407 and in this section, until such time the incarcerated person is determined to be no longer, "in recovery," by the medical professional who is responsible for the incarcerated person's medical care, and such determination has been noted in the incarcerated person's health record. Upon determination that the incarcerated person is no longer, "in recovery," health staff shall notify sworn staff so a clothing exchange can be performed, and the red striped insert can be removed from the incarcerated person's wristband.

V. ADMITTANCE TO HOSPITAL

- A. Incarcerated persons hospitalized for OB/GYN treatment shall be guarded by a female deputy. If the incarcerated person is not housed in the HGU Safety/Security Interest - GC 7922.000 [REDACTED] Las Colinas Detention and Reentry Facility (LCDRF) is responsible for providing a female deputy to guard the incarcerated person.
- B. Pregnant incarcerated persons shall be given the maximum level of privacy possible during the labor and delivery process. The deputy guarding an incarcerated person who is in active labor and delivery shall ensure the following:
 - 1. Remain stationed outside the room but within sight, unless deemed necessary for the safety and security of the incarcerated person, staff, and public.
 - 2. If a deputy presence is needed inside the room, the deputy shall stand in a place that grants as much privacy as possible during active labor and delivery.
 - 3. A deputy shall leave the room if the medical professional who is currently responsible for the medical care of the pregnant incarcerated person determines it is medically necessary.
- C. Hospital policies and the medical professional who is currently responsible for the medical care of the baby will determine placement of the baby postpartum. The baby is authorized to remain in the room while the incarcerated person is hospitalized, with or without the support person present.

VI. ADMITTANCE TO HOSPITAL GUARD UNITS

- A. Pregnant incarcerated persons from LCDRF may be temporarily housed in either of the HGU locations until the child is delivered. Incarcerated persons in labor while hospitalized will be transferred to that corresponding hospital's Labor and Delivery Department.

1. Female HGU deputies will assist in guarding pregnant incarcerated persons when on duty and while the incarcerated person is housed in the HGU.
2. In the absence of a HGU female deputy, or if the incarcerated person is not housed in the HGU, LCDRF is responsible for providing a female deputy to guard the incarcerated person.

VII. SUPPORT PERSON

- A. Pregnant incarcerated persons may elect to have a support person present during labor, childbirth, and during postpartum recovery while hospitalized. The support person may be an approved visitor or health staff designated by the department to assist with prenatal care, labor, childbirth, lactation, and postpartum care. The approval for the support person shall be outlined via a facility specific green sheet. If the request for an elected support person is denied, a reason for the denial shall be provided in writing to the incarcerated person within 15 working days of receipt of the request.

VIII. LACTATION

The San Diego Sheriff's Department will provide an incarcerated person support and care as it relates to the cessation of lactation and/or weaning. An incarcerated person shall be provided the opportunity and location to provide for milk expression, for disposal, or same day storage for later retrieval and delivery to an infant/toddler with approval of the facility administrator. Specific procedures shall be outlined in the Las Colinas Detention and Reentry Facility via a green sheet M38. L. Policies in regard to breast milk feeding shall be posted in areas of the facility where medical care is provided. For further information on lactation, breast feeding, etc. please review and refer to San Diego County Sheriff's Department Medical Services Division Operations Manual section MSD.F.5.2 – Breast Feeding Milk Collection