Brooklyn Defenders

Brooklyn Defender Services
177 Livingston St, 7th Fl
Brooklyn, NY 11201

Tel (718) 254-0700
Fax (347) 457-5194
info@bds.org

TESTIMONY OF:

Jillian Modzeleski
Director, Women's Defense Practice

BROOKLYN DEFENDER SERVICES

Presented before

New York City Council Committees on Criminal Justice and Women and Gender Equity

Oversight Hearing on Maternal Health and Criminal Justice

October 27, 2026

My name is Jillian Modzeleski and I am the Director of the Women's Defense Practice at Brooklyn Defender Services (BDS). Brooklyn Defenders is a public defense office whose mission is to provide outstanding representation and advocacy free of cost to people facing loss of freedom, family separation and other serious legal harms by the government. I want to thank the Committees on Criminal Justice and Women and Gender Equity, and Chairs Brooks-Powers and Farías, for inviting us to testify today about maternal health and criminal justice.

For 30 years, BDS has worked, in and out of court, to protect and uphold the rights of individuals and to change laws and systems that perpetuate injustice and inequality. After 29 years of serving Brooklyn, we expanded our criminal defense services to Queens. We represent close to 40,000 people each year who are accused of a crime, facing the removal of their children, or deportation. Our staff consists of attorneys, social workers, investigators, paralegals and administrative staff who are experts in their individual fields. BDS also provides a wide range of additional services for our clients, including civil legal advocacy, assistance with educational needs of our clients or their children, housing and benefits advocacy, as well as immigration advice and representation.

I am proud to have helped develop and launch Brooklyn Defenders' Women's Defense Project in 2020, after years of representing criminalized victims in the Human Trafficking Intervention Court. The Women's Defense Project was developed to provide trauma-responsive representation to women with criminal legal system involvement, informed by the experiences of victims of trafficking and domestic violence who have been forced into and prosecuted for criminalized behavior. Our project now has five attorneys, two social workers, and a paralegal who specialize in representing women who have experienced trauma and are accused of crimes. In my practice, I have represented people who are pregnant, postpartum, parenting, and experiencing pregnancy-loss, all while navigating the criminal legal system.

Brooklyn Defenders

Maternal Health and the Criminal Legal System

The vast majority of women with criminal legal system involvement–an estimated 70 to 90 percent–have experienced violence or trauma in their lives prior to incarceration.[1] For many, experiences of violence and exploitation are a direct cause of court involvement. Instead of receiving support and resources, many victims of domestic violence, intimate partner violence, and sexual violence—particularly Black and brown women and girls—are punished for their survival and response to trauma.[2] As public defenders, we see this firsthand when victims of violence face the removal of their children, face criminal charges for self-defense or self-medication, are denied legal immigration status despite experiencing abuse, or are charged with crimes committed under coercion or as a result of trafficking. This disproportionate rate of exposure to trauma and violence is directly connected to the elevated rates of chronic illness, mental health concerns, and substance use among incarcerated women.

Jails are not appropriate settings for people to receive meaningful medical, mental health, or prenatal care. While New York does not collect data on parenting in prisons or jails, an estimated 75 percent of women in jails nationwide are parents.[3] In 2025, Correctional Health Services (CHS) identified 52 pregnant people in custody.[4] A report released by the Birth Support Working Group described the experience of pregnant people at Rikers, citing:

> "dehumanizing, isolating conditions of confinement, mistreatment by prison staff, inadequate supports and information, and substandard medical and mental healthcare – all of which create an infantilizing, hostile environment fundamentally at odds with the conditions needed for healthy, safe pregnancies and human dignity."[5]

As the majority of the people in city jails are detained pretrial, the population is constantly changing as people are released at various stages of their court cases, leaving outcome data on pregnancy in custody incomplete. However, national research indicates that pregnant people who are incarcerated, and their babies, experience poorer health outcomes than those in the

---

[1] Women's Justice Commission, Council On Criminal Justice, A Preliminary Assessment Of Women In The Criminal Justice System (2024), https://councilonj.org/womens-justice-a-preliminary-assessment-of-women-in-the-criminal-justice-system/.

[2] Malika Saada Saar et. al., Human Rights Project for Girls, Georgetown Law, Ms. Foundation for Women, The Sexual Abuse to Prison Pipeline: The Girls' Story (2019) https://genderjusticeandopportunity.georgetown.edu/wp-content/uploads/2020/06/The-Sexual-Abuse-To-Prison-Pipeline-The-Girls%E2%80%99-Story.pdf.

[3] Women's Justice Commission, *supra* note 1.

[4] NYC Health + Hospitals, Correctional health Services, Local Law 72: Report for Calendar Year 2025, (2025), https://hhinternet.blob.core.windows.net/uploads/2026/02/CC-LL72-CY2025-report.pdf.

[5] Birth Support Working Group. Born Inside: Birth Experiences During Incarceration & the Need for Doula Care. October 2025. https://womenandjusticeproject.org/born-inside/ X

community.[6] A child born to an individual who is incarcerated is likely to be separated from that parent at birth, a practice with devastating health outcomes for both parent and infant.[7]

The stress of incarceration is likely to compound the crisis of Black maternal mortality and morbidity in the city. Nearly 60% of the women incarcerated at Rikers are Black and over 84% are women of color.[8] In New York, Black women and birthing parents are six times more likely than their peers to die of a pregnancy-related cause. A pregnancy-related death is one which occurs during pregnancy or within one year from the end of pregnancy and is caused by a pregnancy complication, or the aggravation of an existing condition by the physiological effects of pregnancy.[9] Data suggests that Black women in New York City experience severe maternal morbidity (defined as life-threatening complications of labor and delivery) at a rate 61% higher than the citywide average, with 457 cases per 10,000 births.[10] This Council has invested great resources into addressing the Black Maternal Mortality crisis–including supporting families and communities, addressing racial bias, and removing barriers to care. Decarcerating pregnant people should also be a tenet of this healthcare platform.

Decarcerate Pregnant and Postpartum New Yorkers

Foremost, no one should be forced to labor or give birth behind bars, in shackles, or in a court room. For New York to continue to subject people to these conditions is a devastating reflection of the cruelty embedded in our carceral system. All people in the criminal legal system deserve to be treated with care, compassion, and dignity.
We urge the Council to focus on strategies to divert pregnant people from jail to allow them to remain in their community where they can engage in services, access prenatal care with their own providers, and be close to their loved ones and support systems. The Council can take actionable steps to reduce the population at Rikers, including:

- Addressing the fact that New Yorkers continue to be detained pretrial because bail is set in amounts they cannot afford. The Council should use its oversight authority to demand transparent data, identify the practices that are driving detention, and require concrete corrective action from courts, prosecutors, and city agencies.

---

[6] Camille Kramer et al., Maternal Health and Incarceration: Advancing Pregnancy Justice Through Research, *Health Justice*. (June 2, 2025), https://pmc.ncbi.nlm.nih.gov/articles/PMC12128387/.
[7] Jennifer G. Clarke & Rachel E. Simon, Shackling and Separation: Motherhood in Prison, 15 *Virtual Mentor: American Medical Association Journal of Ethics 779*, 781-82 (2013), https://journalofethics.ama-assn.org/article/shackling-and-separation-motherhood-prison/2013-09.
[8] *New York Criminal Justice System Data Hub*, VERA, https://www.vera.org/ny-data-hub/jail (last visited Oct. 29, 2026).
[9] *Maternal Mortality and Severe Maternal Morbidity Surveillance*, NYC Department of Health, https://www.nyc.gov/site/doh/data/data-sets/maternal-morbidity-mortality-surveillance.page (last visited Oct. 29, 2026).
[10] *Id*.

- Increasing access to transitional housing, supportive housing, and alternatives to incarceration for pregnant people and parents. Programs like New Hour—which provide care, housing, and programming for pregnant people or parents with their children—are limited.
- Ensure pregnant people in custody have adequate discharge planning so they are connected to care when they return to the community or are transferred to an upstate prison.

Ensure Access to Trauma-Informed Care for People in Custody

Most of the people I represent have experienced sexual assault or sexual violence prior to their incarceration. Many report avoiding accessing gynecological care, due the trauma and intimidation associated with pelvic exams. The American College of Obstetricians and Gynecologists stresses that victims of sexual violence should receive trauma-informed care, which they define as "ensuring physical and emotional safety, maximizing trustworthiness, prioritizing individual choice and control, empowering individuals, and encouraging peer support."[11] When a person is incarcerated, they are stripped of choice and control, which makes building safety, trust, and empowerment nearly impossible.

Maternal healthcare must be trauma informed and full spectrum, including prenatal and postpartum care. Postpartum care should also be availed to people experiencing pregnancy loss or miscarriage. We encourage the City Council to use your oversight powers to examine the care provided to people in custody.

End the Shackling of Pregnant and Postpartum People

Brooklyn Defenders strongly supports Res. 497, in support of state legislation (S2667-C / A1670-B) which would amend the New York State law to protect pregnant people from shackling and physical force during pregnancy, labor, and after childbirth. New York has established protections to prevent the shackling of pregnant and postpartum people in prison, but the existing law allows overbroad exceptions to the prohibitions against the use of restraints on pregnant people in prisons and jails, and there is no law restricting the use of restraints on people in other custodial settings, like police custody. This legislation strengthens existing prohibitions on the use of restraints on pregnant and postpartum people in custody by limiting the allowable exceptions to this rule. It also, for the first time, mandates that pregnant and postpartum people in other custodial settings, including police custody, are protected from being subjected to physical restraints. We urge the Council to pass this Resolution to send a message to the Governor that this critical bill should be signed into law to end shackling and restraint of pregnant people.

[11] ACOG Committee Opinion No. 777: Sexual Assault (2019). Obstetrics & Gynecology, 133(4), e296-e302. https://doi.org/10.1097/AOG.0000000000003178

Brooklyn Defenders

Support the New York State CARE Act

We also urge the Council to work with the State Legislature to support the CARE Act (S4583A / A4879A), which would ensure that incarcerated pregnant people, birthing parents, and their children receive comprehensive healthcare, safety protections, and family integrity in correctional facilities. The physical and emotional demands of pregnancy are immeasurable— incarceration only compounds these challenges. Incarcerated individuals receive a level of care that is substandard to the recommendations set forth by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists and consequently face higher risk of pregnancy complications such as preterm labor, low birthweight, and stillbirth.[12] Despite this, New York lacks clear statutory requirements for prenatal and postpartum care. Without such protections, incarcerated birthing parents and their children remain vulnerable to preventable harm. The CARE Act would address this injustice by establishing clear, enforceable standards of care statewide. The Act is more expansive than the legislation currently being considered: it applies to birthing parents across the state, extends birthing-parent protections to individuals with custody of a child up to 24 months old, and specifies requirements for medical examinations, nutrition, and the right to parent. This bill is a critical step toward advancing the reproductive health of incarcerated New Yorkers; we urge the Council to join your colleagues in the Legislature in championing the CARE Act.

Conclusion

Pregnant New Yorkers deserve dignity, care, and choice—regardless of system involvement. We are grateful to the Council for drawing attention to the intersection of maternal health and the criminal legal system. If you have any questions, please reach out to Kathleen McKenna, Senior Policy Social Worker, at kmckenna@bds.org.

[12] Kramer et al., *supra* note 6.

Brooklyn Defenders

DEFEND • ADVOCATE • CHANGE