



ROGER BALDWIN FOUNDATION
OF ACLU, INC.

Illinois

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June 12, 2019

VIA FAX AND U.S. MAIL

Rob Jeffreys, Director
Illinois Department of Corrections
Executive Office Bldg
1301 Concordia Ct
Springfield, IL 62702
Fax: (217) 558-5627

Dear Director Jeffreys:

We write to ask that the Illinois Department of Corrections (IDOC) and Logan Correctional Facility end the unlawful prohibition on breastfeeding during inmate visits. The ACLU of Illinois urges you to take immediate steps to ensure that all inmates and visitors are permitted to exercise the right to breastfeed as is required by state law.

IDOC visitation guidelines prohibit “any display of nudity, including breastfeeding” during inmate visits.¹ We were contacted by Emily French, who was recently paroled from Logan Correctional Facility. After she gave birth in February, Ms. French nursed her infant son in the hospital until they were separated, and pumped breast milk thereafter in order to nourish him and maintain her milk supply. Ms. French planned to maintain this bond by nursing her baby during in-person visits – and was initially told by her Women and Family Services counselor that she would be allowed to do so. But when Ms. French’s family brought her newborn infant for his first visit a week after his birth, her counselor and a correctional officer informed them that her counselor had been mistaken: She would not be permitted to breastfeed her son during that visit or any others.

During seven or eight visits from February through May 2019, Ms. French was denied the right to breastfeed her infant and experienced engorgement, leaking, discomfort and emotional distress as a result.² Ms. French’s only option for alleviating her physical discomfort during these visits was to express milk in the bathroom; IDOC staff informed her that any milk

¹ IDOC Visitation Rules & Information, Additional Information for All Visits, at <https://www2.illinois.gov/idoc/facilities/Pages/VisitationRules.aspx>.

² A breastfeeding parent’s “let-down” or milk ejection reflex may be triggered by holding the baby or hearing the baby cry. The “let-down” reflex causes the parent’s breasts to move milk through the milk ducts, causing engorgement, leaking, tingling and/or discomfort. See U.S. Department of Health and Human Services Office on Women’s Health, Your Guide to Breastfeeding at 11, available at <https://www.womenshealth.gov/files/documents/your-guide-to-breastfeeding.pdf>.

she expressed during these visits could not be fed to her newborn infant and would have to be discarded. When Ms. French contacted us, she was concerned about how these circumstances would impact her son's ability to nurse, and her bond with him, when she returned home.

These denials – and IDOC's prohibition on breastfeeding during visits – violate Illinois law. Ms. French, other inmates, and visitors to IDOC facilities are guaranteed the right to breastfeed in "any location, public or private" where they are otherwise authorized to be by the Illinois Right to Breastfeed Act.³ The Right to Breastfeed Act also creates a private right of action for women who have been denied the ability to breastfeed in any location other than a private residence or a place of worship.⁴ Prohibiting breastfeeding in visitation rooms facially violates right-to-breastfeed laws like the one enacted in Illinois. Federal Bureau of Prisons correctional institutions have amended their visitation guidelines specifically to recognize that breastfeeding is permitted in visitation rooms, based on the federal statute that permits a woman to breastfeed her child on federal property anywhere that she and her child are otherwise authorized to be.⁵

Medical and professional organizations agree that correctional authorities should allow breastfeeding parents to nurse their infants directly when possible.⁶ The Illinois legislature indicated that its purpose in passing the Right to Breastfeed Act was not only because of the nutritional value that breastfeeding offers infants, but also because it improves bonding between mothers and infants.⁷ This has been linked to a reduced risk of post-partum depression in mothers⁸ and has been shown to reduce recidivism rates by maintaining the parent-child bond and improving mothers' mental health outcomes.⁹

Moreover, IDOC has no rational basis to justify this prohibition or to equate breastfeeding with nudity. Logan Correctional Facility already allows incarcerated mothers to hold their babies and to go into the restroom to express breastmilk during visits. While Logan Correctional Facility is entitled to prohibit nudity in its visiting area, Illinois law specifically prohibits treating breastfeeding as an act of public indecency.¹⁰ Additionally, staff at Logan

³ Right to Breastfeed Act, 740 ILCS 137/10 (Aug. 6, 2004).

⁴ 740 ILCS 137/15 (Aug. 6, 2004).

⁵ See, e.g., Bureau of Prisons Visiting Regulations for the Federal Correctional Institution and Federal Prison Camp in Florence, Colorado, available at https://www.bop.gov/locations/institutions/flf/FLF_visit_hours.pdf; Bureau of Prisons Visiting Regulations for the Federal Correctional Institution in Sandstone, Minnesota, available at https://www.bop.gov/locations/institutions/sst/sst_visiting102617.pdf.

⁶ American Bar Association (ABA) Treatment of Prisoners Standards 23-6.9 (2018); National Commission on Correctional Health Care Position Statement on Breastfeeding in Correctional Settings (2017) (recommending that correctional facilities devise systems to permit postpartum women to express breast milk *and* to breastfeed their infants directly); American Public Health Association (APHA) Standards for Health Services in Correctional Institutions at 108 (2003) (directing that postpartum women be placed in mother-infant facilities or, at a minimum, have provisions for infant visiting).

⁷ 740 ILCS 137/5 (Aug. 6, 2004).

⁸ See, e.g., U.S. Dept. of Health and Human Services, The Surgeon General's Call to Action to Support Breastfeeding, at 3, 29 (2011)

⁹ See, e.g., American College of Obstetricians and Gynecologists (ACOG) Committee Opinion No. 511: Health Care for Pregnant and Postpartum Incarcerated Women and Adolescent Females (Nov. 2011).

¹⁰ 720 ILCS 5/11-30. See also *Tagami v. City of Chicago*, 875 F.3d 375, 383 (7th Cir. 2017) (Rovner, J., dissenting).

Correctional Facility would not allow Ms. French to breastfeed her son even when she offered to cover herself with a blanket.

Based on the above, we ask that you take the following measures to comply with the law:

1. Amend IDOC's visitation guidelines to affirmatively state that breastfeeding parents are allowed to directly nurse their infants during visitation, and
2. Ensure that all relevant staff are informed of and comply with the amended guidelines.

Please provide a response by Wednesday, June 26, 2019. You may reach me by email at ameek@aclu-il.org or by phone at (312) 201-9740 ext. 341.

Sincerely,



Amy Meek
Senior Staff Attorney
Roger Baldwin Foundation of the ACLU of Illinois

cc: Carolyn Gurski, Chief of Women's Division, IDOC (*via email*)
Camile Lindsay, Chief Legal Counsel, IDOC (*via email*)