

Arresting pregnant women is bad for babies

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On Dec. 10, 2009, the Kentucky Supreme court will consider a case involving a woman who gave birth and got arrested. In this case the Commonwealth claims that because a cocaine-using pregnant woman went to term, she should be punished for the crime of “wanton endangerment” for threatening the health of her “unborn” child. Two other women were recently arrested on similar grounds. Here are five surprising reasons why arresting pregnant drug-using women is a bad idea:

Threatening pregnant women with arrest is bad for babies. Babies have the best birth outcomes when their mothers are not afraid to come in for health care, not afraid to talk honestly to their health care providers, and when they can find the right kind of help for their problems. This explains why threatening pregnant women with arrest and prosecution is bad for babies. While using drugs, smoking cigarettes, drinking alcohol, and many other things can create risks, the good news is women who get health care during pregnancy, whether or not they can overcome an addiction, can have healthy babies. Women who are afraid that getting health care will lead to arrest often stop coming in for health care, or if they go, keep their drug problems secret. This is one reason why every medical group in the country to address the issue, including the March of Dimes and the American Academy of Pediatrics, oppose prosecution of pregnant women.

Threatening arrests and prosecutions create an incentive for women to have abortions. Given how hard it is for most people to overcome an addiction problem quickly (even strong and successful people like Rush Limbaugh) laws that threaten to punish women who carry their pregnancies to term in spite of a drug problem puts pressure on them to get unwanted abortions. In North Dakota, a woman was arrested on charges similar to those in Kentucky. She was twelve weeks pregnant at the time and managed to obtain an abortion. The result? The prosecutor dropped the criminal charges citing the fact that she had “terminated her pregnancy.” Indeed, if the Kentucky Supreme Court uses the current case to permit prosecution of women who “endanger” their unborn children, we might as well post signs saying: “If you are pregnant

and can't achieve abstinence immediately, have an abortion now, before you get arrested.”

Education, health care, and support work. For years Kentucky has led the country in applying proven methods for helping drug using women. Since Kentucky adopted laws supporting education and treatment over arrest, it has seen a dramatic increase in the number of women receiving prenatal care. In 1990, Kentucky was ranked 26th out of 50 states for prenatal care. In 2000, Kentucky improved its rank to 11th. Infant mortality rates fell 25 percent during that decade and in 2001, Kentucky reported the lowest infant mortality rate since statistics were first recorded. In contrast, South Carolina, the only state that has upheld the prosecution of women who go to term in spite of a drug problem, ranks near the bottom of the list on infant mortality.

Women who use drugs while pregnant are not doing so because they don't care about their babies. The truth is lots of people use drugs — legal and illegal. Some become addicted and just like people who struggle with obesity and hypertension, most would like to change their behaviors, but find that they can't do so immediately or without the right kind of help. Kentucky does have some specialized programs for women — but not yet nearly enough. Threatening arrest doesn't help them or their babies. And the good news is that we have much less to fear than we thought if recovery is not immediate.

What the medical research says about cocaine use and pregnancy is very different from what most people have heard on the news. Scientific experts as well as leading government agencies now confirm that the use of cocaine is not uniquely or inevitably harmful. The National Institute for Drug Abuse has reported that while babies born to mothers who used cocaine while pregnant “were at one time written off by many as a lost generation... It was later found that this was a gross exaggeration.” And, as the U.S. Sentencing Commission concluded, “[t]he negative effects of prenatal cocaine exposure are significantly less severe than previously believed” and those negative effects “do not differ from the effects of prenatal exposure to other drugs, both legal and illegal.” While health experts do not say that there are no health risks associated with cocaine use during pregnancy, the good news is that they overwhelmingly agree that the risks are comparable to cigarettes and less than the possible harm from excessive alcohol use. Exaggerated claims of harm from illegal drugs should not provide the cover for drastically changing Kentucky law, to permit treating pregnant women who do any of these things as criminals.

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