

OPINION

Editorial: An injustice of miscarriage in Oklahoma lands a woman in prison



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BY THE TIMES EDITORIAL BOARD

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Criminalizing a woman for suffering a miscarriage seems unfathomable and even



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When Brittney Poolaw, a Oklahoma woman, miscarried at her home in January 2020, she was taken to a hospital where she told staff that she had used methamphetamine and marijuana during her pregnancy. Two months later, she was charged with first-degree manslaughter. Her pregnancy was 17 weeks along.

That was prelude to a [one-day trial](#) this month in which the 21-year-old woman was found guilty of first-degree manslaughter and sentenced to four years in prison. She had already been in jail since she was charged because she couldn't afford to post the \$20,000 bond to get out on bail.

According to a [local newspaper report](#), the judge reminded jurors that, under state law, Poolaw could be found guilty of manslaughter if it was proved beyond a reasonable doubt that her drug use caused the death of her fetus, which could be considered a human being.

Although methamphetamine was found in the fetus, the medical examiner's report lists the cause of death as intrauterine fetal demise. It also lists half a dozen other things as contributing to the death — but not causing it — including Poolaw's drug use, an infection and a congenital abnormality.

No matter what role, if any, Poolaw's drug use played in the demise of her fetus, her miscarriage is a tragic event, not a criminal attack perpetrated by her. No woman, or health professional, can guarantee that a pregnancy won't end in a miscarriage, or a stillborn baby, or a baby born with health problems.

Had Poolaw wanted to end her pregnancy, she could have obtained an abortion. In Oklahoma the procedure is allowed up to 22 weeks of gestation. (According to landmark Supreme Court rulings, a woman has a constitutionally derived right to a safe and legal abortion up to the point of viability of the fetus outside the womb, which is about 24



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for pregnant women in some cases, contend that Oklahoma murder and manslaughter laws do not apply to miscarriages.

But holding women criminally responsible for a bad outcome of a pregnancy or how they conducted themselves during a pregnancy has become a disturbing trend. National Advocates for Pregnant Women commissioned [a study](#) showing that from 1973 to 2005 there were 413 cases of women arrested, detained in hospitals or treatment programs, or forced to have medical interventions for a variety of alleged offenses ranging from drug use during pregnancy to not strictly following medical advice. Further research by the organization showed that between 2006 and 2020 the number of arrests or detentions for alleged pregnancy-related offenses shot up to 1,250 across the country.

Two years ago a woman in Hanford, Calif., who gave birth to a stillborn baby with toxic levels of methamphetamine in his system was charged with murder. (A judge [dismissed](#) the charges in May.) [Another Hanford, Calif., woman](#) who used meth and also delivered a stillborn accepted an 11-year sentence in prison as part of a plea deal on a murder charge filed in early 2018. Her conviction is now being challenged, an effort supported by California Atty. Gen. Rob Bonta.

In a statement on its website, the American College of Obstetricians and Gynecologists [opposes policies](#) “that criminalize individuals for conduct alleged to be harmful to their pregnancy.” The organization further calls criminalization and incarceration for substance-use disorder during pregnancy “ineffective as behavioral deterrents and harmful to the health of the pregnant person and their infant.”

Many women who end up arrested for drug use during or after their pregnancies are already suffering from poverty and lack of healthcare. These women need treatment and care of their choice, not arrest or prison.



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and the fetus died soon after?

Pregnant women are under attack these days. In Texas, most pregnant women cannot get an abortion — despite a constitutional right to obtain one. If Roe vs. Wade is overturned, pregnant women in perhaps half the states in the country will become criminals if they have an abortion. Police and courts shouldn't also be manipulating their laws to turn women into outlaws for their behavior during their pregnancies.

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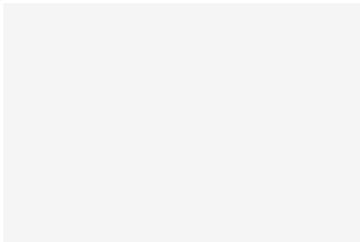
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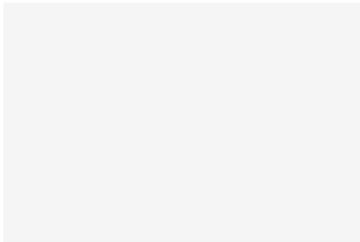
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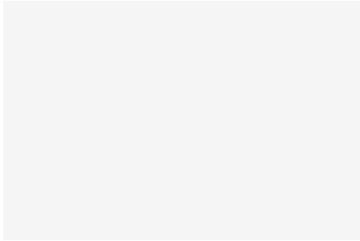
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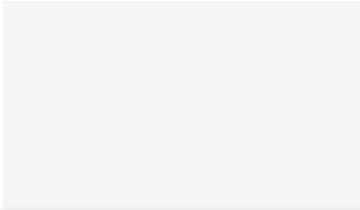
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