



National Advocates for Pregnant Women: 2012-2013 Annual Report

In 2012-2013, National Advocates for Pregnant Women (NAPW) made significant progress shifting the reproductive rights paradigm from one focused solely on abortion to one that recognizes that anti-abortion and so-called “personhood” measures provide the foundation for depriving pregnant women not just of the right to choose abortion but, much more fundamentally, their personhood. These laws and measures also expand the war on drugs and could potentially subject at least 6 million women (the number who become pregnant each year) to the U.S. criminal justice system. As our groundbreaking, [peer-reviewed research](#) published this year demonstrates, post-*Roe* anti-abortion measures are being used not only to limit access to abortion but also to set precedent that may be used to establish a [New Jane Crow](#), forcing pregnant women, particularly African-American women, into a permanent second-class status.

By including women who are continuing their pregnancies to term as well as those who seek abortion, NAPW broadens and strengthens reproductive rights, women’s rights, and other progressive movements. By focusing on a range of interrelated maternal and child health, social, and family justice issues, NAPW engages thousands of potential new advocates and activists.

During this period NAPW continued our key integrated strategies: Legal Advocacy, Public Education, and Organizing.

Legal Advocacy: NAPW worked directly as co-counsel or counsel on numerous cases, and provided legal assistance to defense lawyers, social workers, activists, and people working in the medical and public health fields to ensure the civil and human rights of pregnant and parenting women and the well-being of their families. NAPW has been able to effectively challenge legal actions that would establish separate legal status for fertilized eggs, embryos, and fetuses; redefine pregnancy as potential child abuse; transform both abortion and pregnancy loss into the crime of murder; expand the drug war to women’s wombs; broaden the criminal justice and child welfare systems to reach pregnant women; and perpetuate racial and social injustice in the United States.

Organizing: NAPW continued its local and national organizing efforts, including helping to organize and carry out the [third annual](#) “Take Root: Red State Perspectives on Reproductive Justice” conference (and planning for the [fourth annual](#) conference in 2014); successfully organizing a wide variety of [grassroots actions](#) and [community education events](#); mentoring 2013 Law Students for Reproductive Justice (LSRJ) fellows in how to carry out integrated law and action programs; continuing the first coalition in the country to bring together organizations representing child welfare advocates, reproductive justice (RJ) advocates, and drug policy reform activists to develop and carry out strategies challenging the use of child

welfare laws to advance “personhood” measures and the drug war; and organizing hundreds of public health, RJ, and criminal justice organizations and leading medical and public health experts to join amicus briefs and open letters opposing punitive measures against pregnant women.

Public Education: NAPW continued to be a powerful voice for RJ. NAPW communicates with thousands of allies and supporters through: peer-reviewed research; conferences; speaking engagements (NAPW attended, spoke at, assisted in organizing, facilitated, and/or hosted more than 80 conferences, panels, events, or roundtables this year); interviews; writing in a wide variety of traditional and online contexts (this year NAPW has been featured in, referenced, or linked to in more than 250 media articles); NAPW’s “activist updates” (email broadcasts) reaching more than 4,800 subscribers through 25 updates sent this year; NAPW’s [Facebook](#) page with over 5,000 supporters, more than 200 posts yearly, and averaging a 1,200 person reach per post (with our highest post reach at 11,000 users); and an NAPW [Twitter](#) username with over 1,600 followers. This year, NAPW hired the [Raben Group](#) to expand our public education capacity and influence, and worked with the Open Society Foundations to host a [public event](#) in New York City that explored the drug war’s impact on pregnant women and families.

Programmatic highlights of this year include:

- Publication of NAPW’s ground breaking, peer-reviewed study, [“Arrests of and Forced Interventions on Pregnant Women in the United States, 1973– 2005: Implications for Women’s Legal Status and Public Health”](#) in the *Journal of Health Politics, Policy and Law (JHPPL)*;
- Building upon NAPW’s study with the publication of the peer-reviewed commentary, [“Roe v. Wade and the New Jane Crow: Reproductive Rights in the Age of Mass Incarceration”](#) in the *American Journal of Public Health (AJPH)*;
- Unprecedented media coverage, including appearances on PBS’s [Moyers & Company](#) and a conversation about so-called “personhood” measures on [NPR’s Fresh Air](#), that advances NAPW efforts to dismantle the myth that anti-abortion activism only threatens the right to choose an abortion. NAPW has succeeded in getting media and commentators, including guests on MSNBC’s [Melissa Harris-Perry Show](#), to recognize that anti-abortion efforts threaten to create a separate and unequal system of law that deprives all women of their civil and human rights;
- The victory in *McCormack v. Hiedeman*, 694 F.3d 1004, 1008 (9th Cir. 2012), enjoining the state of Idaho from prosecuting [Jennie Linn McCormack](#) for having an abortion that she carried out through medication she took to end her pregnancy, a decision that withstood multiple challenges in 2013;
- The victory in *New Jersey Division of Youth & Family Services v. A.L.* This unanimous New Jersey Supreme Court decision held that that the state’s child protection laws do not give the Division of Child Protection and Permanency

jurisdiction or control over pregnant women, and that evidence of a pregnant woman's drug use is not, as a matter of science or law, evidence of "harm" to a child;

- Obtaining a state level dismissal of charges against Alicia Beltran in Wisconsin in response to the [federal Habeas Petition](#) NAPW, local counsel, and the NYU Law School RJ Clinic filed on her behalf. Twelve weeks into her pregnancy, after being honest with her prenatal care provider about a past drug problem that she had taken successful steps to overcome, Ms. Beltran was arrested and only her 12 week fetus was appointed a lawyer. This challenge, the first of its kind, calls into question the constitutionality of a 1997 Wisconsin law that deprives pregnant women of their constitutional rights and permits state action that is dangerous to maternal, fetal, and child health. The unprecedented media attention about the case included a [front page story in *The New York Times*](#);
- Playing a role in helping to [win a major settlement](#) for a woman who, while incarcerated, had been shackled to her hospital bed as she gave birth. NAPW filed an amicus brief on behalf of 36 organizations and experts in support of her lawsuit against jail officials;
- The victory in the Sara McKenna case in which NAPW filed an amicus brief with the NYU Law School RJ Clinic, on behalf of NAPW and 11 other organizations. Filed in her New York Supreme Court Appellate case, this brief challenged a lower family court ruling finding that a woman's decision to move from California to New York while pregnant was an "appropriation of a child in utero" that was "irresponsible and reprehensible" and denying her access to New York courts as the proper jurisdiction for determining the custody of her child. In December, the New York Supreme Court Appellate Division, First Judicial Department, rejected this lower Family Court's finding, recognized that the child custody statute must conform to common sense and constitutional law, and rejecting the notion that pregnant women must seek approval from putative fathers before making life decisions about where they will live and get an education. This case has received widespread media attention, including in [The New York Times](#);
- NAPW filed an amicus brief on behalf of 76 medical, public health, and drug policy experts to appeal a New Jersey Appellate Division Court decision that ruled a woman who obtains medically supervised methadone treatment during pregnancy may be found to have abused or neglected her child. This fall the New Jersey Supreme Court granted cert in this case. It agreed with NAPW, and the groups and individuals we represented, that it should review an appellate court decision that held that receiving therapeutic methadone treatment while pregnant may be treated as "harm" and as a form of civil child abuse;
- NAPW is working with the NYU School of Law RJ Clinic, as well as the O'Melveny & Myers law firm to develop a case challenging the Alabama chemical endangerment statute, which has been interpreted to apply to pregnant women who use any controlled substance (prescribed or unprescribed). While affirmative civil rights litigation is a long-term process, NAPW is building relationships across the state, developing [community education events](#) about the

statute, supporting and fostering activists and researchers who are [speaking out](#) and [writing about](#) the arrests and the broad human rights violations taking place, and continuing to track new arrests and documenting them for further action;

- Successful NAPW interventions that prevented doctors in South Carolina, Pennsylvania, [Florida](#), Texas, and Georgia from using threats of arrest or other state action to force pregnant women to undergo unwanted and unneeded cesarean surgery;
- Successful NAPW outreach and interventions that helped local counsel get criminal charges filed against pregnant women dropped or dismissed in Ohio, Nebraska, Tennessee, Louisiana, Texas, and Missouri;
- Precedent that NAPW helped to set in a North Dakota case, *State v. Geiser*, 763 N.W.2d 469 (N.D. 2009), provided the basis for dismissing new criminal charges against at least three pregnant women in that state (see this April 2013 [news report](#));
- Persuading the Tennessee Attorney General to withdraw and correct an erroneous opinion that supported the arrest of pregnant women who “assaulted” their unborn children, and then helping local counsel get charges dropped or dismissed;
- Preparing an analysis of Tennessee House Bill 1295 that Tennessee advocates used to help prevent passage of the law this legislative term. This law would amend the state’s Fetal Assault and Criminal Homicide laws to say that they do not apply to “any *legal* act or *legal* omission by a pregnant woman with respect to an embryo or fetus with which she is pregnant.” This change would open the door to prosecutions of pregnant women who used an illegal drug, had a self-abortion, or engaged in any activity while pregnant that could be defined as illegal;
- Combining legal advocacy and organizing, NAPW helped to win a victory in *Mississippi v. Buckhalter*. In this case, the State of Mississippi charged Ms. Buckhalter with manslaughter when she experienced a pregnancy loss that the state blames (without scientific evidence) on her use of a criminalized drug. On appeal, NAPW became co-counsel with Robert McDuff and worked with the Drug Policy Alliance to ensure that five amicus briefs were filed, impressing upon the court that criminal prosecutions for stillbirths based on junk science are wrong as a matter of law, bad medicine, an unspeakable cruelty to women who have experienced pregnancy loss, a form of gender discrimination, and a violation of women’s human rights. NAPW then helped prepare Mr. McDuff for the oral argument. The Mississippi Supreme Court ruled in Ms. Buckhalter’s favor and dismissed the charges against her. See “[Mississippi Supreme Court Dismisses Manslaughter Indictment in Stillbirth Case](#)”;
- In Mississippi, NAPW is co-counsel in another case representing an African-American teenager who suffered a stillbirth shortly after turning 16 and was then charged with “depraved heart” homicide. We have organized scores of public health, medical, and international human rights organizations to oppose this prosecution, and are preparing the case for trial in May of 2014;

- Obtaining Bei Bei Shuai’s release on bail, an Indiana woman who attempted suicide while pregnant and was then charged with murder and attempted feticide; obtaining a ruling that the original medical examiner in the case was unqualified to testify; playing a pivotal role in organizing [a successful protest rally](#) in April 2013; initiating and following through on an [online petition to Free Bei Bei Shuai](#) that motivated more than 100,000 people to oppose Ms. Shuai’s arrest and prosecution; and organizing and co-sponsoring a successful [community education event](#). All of these legal advocacy, organizing, and public education efforts resulted in the state prosecutor’s decision to drop the murder and feticide charges in August 2013 and free Ms. Shuai;
- Developing and maintaining a direct line of communication with the Office of National Drug Control Policy (ONDCP) following NAPW’s Executive Director’s [appearance as an invited speaker](#) and then as a participant at the 2013 ONDCP Conference on Drug Policy Reform;
- Carrying out the third annual “[Take Root: Red State Perspectives on Reproductive Justice](#)” conference in Norman, Oklahoma (comprehensive report available upon request) and preparing for the [fourth annual](#) conference;
- Seeing NAPW experts, ideas, and strategies being featured at major conferences, such as the [American Bar Association’s Center on Children and the Law’s 3rd National Parent Attorneys Conference](#) and the Drug Policy Reform Conference; being used by lawyers in CA, NY, NJ, KY, and TN to challenge the misuse of child welfare laws to advance the separate rights of fertilized eggs, embryos, and fetuses and expand the war on drugs – rather than to protect children; and providing the basis for legal victories in cases in many of these states (e.g., *Matter of William N.*, 2013 NY Slip Op 23181 (Fam. Ct., Kings Co. 2013), finding that parents’ use of marijuana, including a woman’s use of marijuana during pregnancy, is not the same as child abuse);
- [Organizing and representing](#) more than 50 national and international experts speaking out against alarmist and inaccurate reporting on prescription opiate use by pregnant women in an open letter to media outlets and policy makers. NAPW worked with board member Dr. Robert Newman to distribute this letter to more than 500 media outlets and each state Attorney General and Department of Health commissioner. We follow-up with a media strategy to respond to journalists who continue to inaccurately report on the issue of opiate use and pregnancy. Using email, social media, and the twitter hashtag #ScienceNotStigma, we work to address the inaccuracies in these articles by directing people to science on this topic and by connecting journalists with experts and providers who are willing to speak on the issue of pregnancy and drug use;
- Filing, along with a coalition of researchers and advocates, a [Citizen Petition, as well as a Petition for Stay of Action](#), to the Food and Drug Administration (FDA) calling on the agency to refrain from implementing new labeling changes to Extended-Release Long-Acting (ER/LA) Opioid Analgesics that are medically inaccurate and dangerous to maternal and fetal health. One of the label changes would require a

boxed warning—the strongest warning required by the FDA and one that indicates significant risks associated with a drug—stating: “For patients who require opioid therapy while pregnant, be aware that infants may require treatment for neonatal opioid withdrawal syndrome [NOWS]. Prolonged use during pregnancy can result in life-threatening neonatal opioid withdrawal syndrome.” The petitions specifically challenge the claim that NOWS is “life-threatening,” which is false and misleading, unsupported by medical and scientific evidence, and inconsistent with leading national and international expert opinion on opioid use and treatment during pregnancy;

- Participating in meetings and side events at the UN for the 57th Session of the Commission on the Status of Women as an NGO in consultative status with ECOSOC (U.N. Economic and Social Council);
- Engaging local activists and allies to [sponsor petitions](#) and write op-eds and issue-defining blog posts, such as [Your Epidural is Against the Law: What Alabama Women and Doctors Need to Know](#);
- Providing continuing education programs. At the request of a Queens County Family Court Judge, NAPW developed and presented a [two-part continuing legal education program](#) for judges, attorneys, and workers for the Administration for Children’s Services. The response to this program was so positive that NAPW made a similar presentation to the Office of Clinical Practice, Policy & Support for New York City’s Administration of Children’s Services and has been invited to do a similar program at Bronx County Family Court this fall;
- Providing research to direct counsel in a case challenging Florida’s new law requiring TANF (Temporary Assistance for Needy Families) applicants to first pay for and submit to drug tests, and becoming an Amicus in the case represented by the Drug Policy Alliance. Happily, the 11th Circuit Court of Appeals in *Lebron v. Secretary, Florida Department of Children and Families* upheld a preliminary injunction that halted Florida’s law requiring such pointless, stigmatizing, and counterproductive [drug testing](#);
- Advancing our birth justice work in numerous ways, including becoming a trusted source of information and advocacy through ongoing collaborations with grassroots networks such as Legal Advocates for Birth Options and Rights, the International Cesarean Awareness Network, ImprovingBirth.org, Birth Action, and the Human Rights in Childbirth Legal Defense Network; presenting at the second Human Rights in Childbirth Conference (Persecution of Midwives as a Human Rights Issue) in Eugene, OR; helping to form the first-ever Homebirth Legal Defense Network (a coalition of legal experts from around the country dedicated to protecting and expanding women’s reproductive freedom at the time of birth); and helping important spokespeople, such as pediatrician Dr. Pippa Abston, to become proponents of midwifery. See Dr. Abston’s [five-part blog series](#) titled “A Woman’s Body is Her Own, Including in Pregnancy and Birth,” in which she explains that, in collaboration with NAPW, she decided to publicly support licensure of Certified Professional Midwives.

Board Highlights

This year, NAPW's board played a particularly active role both substantively and in successful fundraising efforts. For example:

- NAPW board president Professor Jeanne Flavin co-authored NAPW's study, "[Arrests of and Forced Interventions on Pregnant Women in the United States, 1973– 2005: Implications for Women's Legal Status and Public Health](#)," and played a major role in public education efforts relating to the study and the *AJPH* commentary about it. With NAPW's Executive Director, she also co-authored "[Toward a "Pro Lives" Perspective that Values the Lives of Pregnant Women and the Well-Being of Our Nation](#)" in an online journal published by University of Notre Dame, a Catholic university, and "Are Pregnant Women Persons After 20 Weeks' Gestation?" published on [RH Reality Check](#) and [Huffington Post](#). Jeanne Flavin also invited two of NAPW's staff members - Farah Diaz-Tello, NAPW Staff Attorney, and Laura Huss, NAPW Research & Program Associate - to guest lecture at Fordham University this year, where she is a Professor of Sociology. Additionally, Jeanne Flavin worked with Laura Huss, Research & Program Associate, to plan and execute a fundraiser and social event for NAPW: *Blues, Rock, & Repro Justice: A Benefit for NAPW*. This New York City evening included three live bands, a raffle, and remarks about NAPW and its work. This event, the first of its kind at NAPW, was overwhelmingly successful (with over 100 attendees) and allowed us to engage with a new and younger audience through the combination of music and activism.
- NAPW board member Dr. Robert Newman helped to [draft, organize, and distribute an open letter to media outlets and policy makers](#) countering the misleading and alarmist reporting about pregnant women and prescription opiate use (see discussion of letter above). Then, with NAPW's Executive Director and Drs. Sharon Stancliff and Mishka Terplan, he co-authored [a comprehensive critique](#) of a Florida Report on the issue of pregnant women and prescription opiates that made erroneous findings and perpetuated misinformation about neonatal abstinence syndrome, pregnant women, and opiate use. A recent op-ed in the [Tampa Bay Times](#) published on May 25, 2013 is an example of how our efforts are starting to gain traction. This commentary said in part:

Moreover, babies are not born "addicted" to drugs, though they may be "exposed" before birth. Words like this matter because when pregnant women are demonized in the media as having victimized their babies by addicting them, it changes the conversation. People who are labeled "drug pushers and perpetrators" get punished, not treated and helped.

Dr. Newman has also played a major role in advising NAPW's Soros Justice Fellow and helping her to prepare and submit a Citizens Petition and a Petition for Stay of Action to the FDA regarding labeling changes that will harm pregnant women.

- As part of our public education and fundraising efforts, NAPW board members Professor Carol Mason, Angela Moreno, and Professor Jeanne Flavin developed an outreach strategy and [designed a brochure](#) to advertise and promote NAPW's Executive Director as a paid speaker on college campuses across the country. Numerous schools, including Princeton University, Michigan's Ferris State University, Butler University, Indiana University-Purdue University Fort Wayne (IPFW), University of Michigan, Franklin & Marshall College, University of Maine in Farmington, and University of Redlands are among the campuses that have hosted NAPW to give the talk: *Forty Years after Roe v. Wade: Reproductive Justice in the Age of Mass Incarceration*.

Staff Highlights:

NAPW's staff has worked extremely effectively in all of its strategic areas – legal advocacy, public education, and organizing. NAPW has also been successful in obtaining additional staff support through volunteers, pro-bono legal assistance, and supported fellowship programs. Highlights include:

- Staff attorney Farah Diaz-Tello continued to bring her expertise in birth justice and human rights to NAPW's programmatic work. In addition, she advanced her litigation skills in cases involving drug policy issues, authored such commentaries as [Jamie Lynn Russell: One Pregnant Woman's Tragic Death Reveals the Human Cost of Devaluing Women](#), and directed NAPW's online Facebook and Twitter presence. This year, she also demonstrated exceptional skill in the media, resulting in this story in *Mother Jones*, "[Mississippi Could Soon Jail Women for Stillbirths, Miscarriages](#)", that was picked up by *Salon*, *Huffington Post*, and *MSN*, and addressing hard issues in television interviews including this one on [RTV](#) and this one on [Al Jazeera](#);
- Laura Huss, Program and Research Associate, has proven to be invaluable. She has gained mastery over NAPW's website, Constant Contact (the program we use for mass email communication), and our donor database. She documents NAPW's extraordinary volume of public appearances, oversees submission of grant proposals, and coordinates major public education mailings. Ms. Huss has also taken on a wide range of program and research activities, including tracking new cases and obtaining documentation for them, screening and helping to respond to the numerous individual requests for help NAPW receives each week, providing substantive updates on major RJ issues around the country, planning and executing fundraising and public education events, and implementing our new #ScienceNotStigma media strategy;
- Since the beginning of 2013, NAPW has benefited from the work of 18 law school, undergraduate, and social work students as interns;
- This year, NAPW has been the beneficiary of two recent law graduates as volunteer attorneys, Veronica Corsaro, through the Indiana University Maurer School of Law Bridge to Practice Program, and Olivia Meier, through Brooklyn Law School;

- Jessica Cochrane, a JD/MPH student at Northeastern Law School and Tufts University, chose NAPW to act as her preceptor for an Applied Learning Experience project researching issues for us concerning pregnant women and marijuana use;
- NAPW helped Kylee Sunderlin, a former NAPW summer legal intern and a recent graduate of the University of Michigan Law School, obtain an Open Society Foundations Soros Justice Fellowship to work at NAPW full time for 18 months (starting in September 2013) combating the unconscionable practice of leveling child abuse and neglect charges against pregnant women based on their enrollment in methadone maintenance treatment. Ms. Sunderlin is one of 14 emerging and established leaders to be awarded such a fellowship as part of the foundation’s program to curb mass incarceration, eliminate harsh punishment, and ensure justice system accountability in the United States;
- As a result of our outreach and collaboration with NYU, NAPW was awarded an NYU Law School Hays Fellow who worked at NAPW part time this fall. Even more significantly, NYU Clinical Law Professor Sarah Burns has established a Reproductive Justice Clinic at NYU Law School that NAPW now works with extensively.
- This year NAPW received pro-bono legal support from four different law firms – Gibbons P.C., Shulte Roth & Zabel LLP, O’Melveny & Myers LLP, and Davis Wright Tremaine LLP.

Examples of NAPW efforts that have helped to advance reproductive health, rights, and justice:

1) NAPW’s research and public education efforts are having an impact in numerous ways. Through painstaking and careful published research, NAPW is broadening the base of activists who will support RJ. We are reframing the abortion debate away from the divisive pro-life/pro-choice dichotomy to one that considers the personhood and humanity of *all* pregnant women; documenting how anti-abortion and related measures threaten all pregnant women – whether they want to end a pregnancy or go to term; and providing evidence-based research that can be used in court cases and policy battles to prove that women’s equality and status (not just the right to abortion) are implicated by anti-abortion and related so-called “pro-life” measures such as feticide laws and measures that would establish separate constitutional rights for fertilized eggs, embryos, and fetuses. Indeed, this argument has helped defeat “personhood” measures. At the same time, our work presents a rare opportunity to put anti-choice, so-called “pro-life” organizations on the defensive, forcing them to spend time and resources defending their positions and exposing them as people who in fact do not care about the health or rights of pregnant women.

The response to the publication of NAPW’s groundbreaking, peer-reviewed research and articles in *JHPPL* and *AJPH* has been tremendous. Released to coincide with the 40th anniversary of *Roe v. Wade*, our research helped to expand the discussion beyond abortion and to include all pregnant women in a way that challenged the pro-life/pro-choice

dichotomy. Radio and TV coverage from coast to coast included the [Democracy Now segment](#) “Criminalizing Pregnancy: As *Roe v. Wade* Turns 40, Study Finds Forced Interventions on Pregnant Women,” and the [NPR affiliate Southern California Public Radio segment](#), “Study shows more than 400 women denied rights due to pregnancy.” Our commentary discussing the research was published by [The Huffington Post](#) and [RH Reality Check](#), and reposted on and written about by at least 60 media outlets and online sites, including [Truthout](#), [Daily Kos](#), and [Alternet](#). RH Reality Check sponsored a major blogger/journalist briefing: [Audio News Conference: First Ever Study of Post-*Roe v. Wade* Anti-Choice Measures Reveals Broad Consequences for Pregnant Women](#), and NAPW’s Executive Director was invited to participate in the Center for American Progress’ [Roe 2.0 Event](#), featuring a broadcast discussion of the strategies reproductive rights activists could use over the next 40 years to secure the full promise of *Roe*. National and international newspapers and other media outlets published thoughtful stories about our research. [The Guardian’s](#) story about the study ran in numerous additional places with different headlines, such as “[Troubling number of women denied constitutional rights based on pregnancy.](#)” Some, like this one from [Gather](#), included powerful new introductions:

This story should horrify, and outrage you. I read it early this morning, in my first pass for today’s SR. It upset me so much that I had to just stop and sit, and meditate for some moments. And it worried me that I knew nothing about this. That’s how deeply buried this part of the war on women has been.

The study has already spurred [Personhood USA to admit](#)¹ that its mission includes not only ending legal abortion, but also making state child abuse laws applicable to pregnant women in relationship to the embryos, eggs, and fetuses they carry, nurture, and sustain. In the past, supporters of “personhood” measures dismissed the arguments that these measures would make all pregnant women subject to state surveillance, control, and punishment as “[scare tactics](#).” In response to our study, Personhood USA has finally revealed the very real and scary truth that its efforts would hurt *all* pregnant women.

We are particularly pleased by the extent to which we have evidence that the new frameworks and ideas NAPW presented are being used and expanded upon, see e.g., “[Policing African-American Motherhood From Every Angle](#),” by Alicia Walters; “[The ‘New Jane Crow’ and American Women’s Civil Rights](#),” by Soraya Chemaly; and “[Is miscarriage murder? States that put fetal rights ahead of a mother’s say so](#),” by Sadhbh Walshe. This last commentary echoes our important message that “the effort to undo *Roe v. Wade* threatens not just reproductive rights but the very definition of personhood for American women.”

Our research and framing continue to have an impact. For example, journalists, from those at *The New York Times* to freelance writers around the world, have followed up with NAPW and are interested in pursuing stories about our cases in Alabama, Indiana, and Mississippi that provide more recent examples of our research findings. And when news hit that a

¹ After publishing this in a blog post, Personhood USA removed the piece from their website. NAPW, however, has a copy of its original publication.

Cleveland prosecutor was considering bringing feticide charges against accused kidnapper Ariel Castro, NAPW was the go-to organization for [press inquiries](#), (see also [Mother Jones](#)) and was invited to write a commentary for *The Nation* magazine online: “[Why Prosecuting Ariel Castro for Murder Won’t Prevent Violence Against Pregnant Women](#).”

2) NAPW believes that one reason for the continuing loss of reproductive freedom in this country has been the lack of true grassroots organizing and leadership development on this issue. Specifically, NAPW recognized that the activist potential of young women in red states had not been effectively encouraged or supported. As a result, NAPW has sought to remedy this by inspiring, nurturing, and playing a vital role in sustaining the Oklahoma-based “Take Root: Red State Perspectives on Reproductive Justice” conference now heading into its fourth year. NAPW prepared a full report on the third annual conference that occurred in February 2013, including the impact it has had on participants and activism (available upon request). Summarizing here, we note that “Take Root”:

- Lead to direct student participation in demonstrations at the Oklahoma State Capitol and as part of this summer’s Texas people’s filibuster;
- Connected Mississippi IVF (In vitro fertilization) activist Atlee Breland to activists in Oklahoma, which lead to effective education and lobbying efforts against so-called “personhood” measures in Oklahoma;
- Linked students to the Kansas-based Trust Women organization, leading four of them to staff positions at the South Wind Clinic, which provides much-needed abortion services in what had been Dr. George Tiller’s clinic. The clinic is not only a provider of a desperately needed service, but also an act of political education, defiance, and advocacy for reproductive health, rights, and justice for women in red states;
- Obtained national recognition, highlighted the fact that reproductive rights and justice activists exist in the red states, and gave former Oklahoma Take Root students and graduates national forums. For example, former Oklahoma University student and Take Root organizer Sandra Criswell was given the opportunity [to be a plenary speaker](#) to the more than 1,000 people in attendance at the 2013 CLPP conference;
- Supported Take Root activists in playing an important role in combating Justice for All (JFA), a particularly provocative anti-abortion strategy and campus-wide campaign that equates legal abortion with the holocaust;
- Inspired grassroots Mississippi activists to begin efforts with NAPW to create a similar event in their state.

3) Applying the lessons we learned from our [Missed Opportunities](#) paper, NAPW was the first (and for a long time, the only) reproductive rights legal advocacy group to reach out to Jennie McCormack’s local Idaho legal counsel. Ms. McCormack’s case represents the future of the United States, where fewer and fewer women have access to abortion providers, many of whom have been intimidated or regulated out of practice in large swaths of the country. Unable to access a clinic near her, Ms. McCormack took matters into her own hands by using the safe and effective drug, Cytotec, to have a self-abortion. She was then arrested for having

an illegal abortion in the state of Idaho. NAPW assisted her local counsel and then helped to persuade Legal Voice and the Center for Reproductive Rights to join us in filing the only amicus brief in support of Ms. McCormack in her effort to enjoin the statutes that had been used as a basis for her arrest. On September 11, 2012, in the first decision of its kind, [the U.S. Court of Appeals for the Ninth Circuit issued an opinion](#) that addressed whether states may use their existing criminal abortion laws to arrest and prosecute women who self-induce abortions. The court upheld a lower court injunction against two of Idaho’s anti-abortion statutes prohibiting the state from using those laws to prosecute Ms. McCormack in the future. The decision stated that the principles that underpin the criminalization of dangerous abortions “[i]n no way recognize, permit, or stand for the proposition that a state may prosecute a pregnant woman who seeks an abortion in a manner that may not be authorized by the state’s statute, including when a pregnant woman receives physician-prescribed medication to terminate her pregnancy.”²

4) Our public education efforts have had a very clear impact on practice and legal decisions in child welfare cases. For example, an NAPW educational forum in Michigan regarding the legality and benefit of methadone treatment for pregnant and parenting women had an almost immediate effect, getting local child welfare advocates to stop addressing such treatment as a form of civil child abuse. A report from the local methadone treatment provider included:

*I wanted to let you know that two weeks ago one of my clients gave birth at a local hospital. The baby was slightly premature, but only went through minimal withdrawals and was discharged from the hospital after one week. **The really awesome part was that NO report was made to CPS.** This is the first time a report has not been made on one of our clients delivering at this hospital. My client stated that she was treated kindly by the nurses and that a few of them told her they had been to [NAPW’s] presentation.*

As a result of ongoing legal education, outreach, and the creation of the first coalition to address RJ, drug policy, and child welfare issues, family defense lawyers in Kentucky, California, and New York are filing motions to dismiss and summary judgment motions against erroneous child welfare interventions that treat what a woman does or does not do during her pregnancy as a form of child abuse. New York Family Defense groups have also agreed to file *Daubert* motions – challenging the qualifications of child welfare workers to express opinions on matters of science and medicine. NAPW has been promoting this strategy at continuing legal education programs and in written materials. As a result of NAPW’s long-standing efforts, we helped to achieve a major victory in a Brooklyn, NY case with a written opinion that relies on a qualified expert to dismiss a case in which the state claimed that a pregnant woman’s use of marijuana for morning sickness was the same as child abuse (*Matter of Jones v. Jones*, 34 Misc. 3d 1226(A), 2012 N.Y. Misc. LEXIS 639 (N.Y. Fam. Ct. 2012)). NAPW’s efforts, together with our allies’, have resulted in unprecedented press coverage on both this issue and the racially discriminatory application of child welfare policies and the searches that lead to them. See e.g., Oren Yaniv, “[WEED OUT: More than a dozen city maternity wards regularly test new moms for marijuana and](#)

² *Id.* at 1013.

[other drugs.](#)” As a result of its research, legal advocacy, and organizing, NAPW also obtained a victory in the New Jersey Supreme Court. The decision in [New Jersey Division of Youth & Family Services v. A.L.](#) had a statewide impact and ensured that neither fetal rights ideology nor junk science can be used to substitute a positive drug test on a pregnant woman for evidence of actual harm to a child.

Conclusion

NAPW looks forward to another year of advocacy, organizing, and public education on behalf of pregnant women, families, and communities in the United States.