WHAT'S WRONG WITH PRESUMING NEGLECT OF DRUG EXPOSED NEWBORNS?

Judicial decisions and state legislation that treat newborns as presumptively neglected based on a pregnant woman's drug use undermine women's and children's health and seriously threaten women's reproductive rights. Moreover, they are based on a number of unsubstantiated and costly myths.

Myth #1: All Drug-Exposed Children Are Seriously Damaged At Birth.

Some newborns exposed pre-natally to some substances do suffer adverse short or long-term consequences. These infants include those whose mothers lacked access to quality prenatal care and adequate nutrition, smoked or drank while pregnant, or used fertility-enhancing medications that cause multiple births associated with prematurity and other life-threatening hazards. However, sensational, inaccurate, and misleading news reports, especially about crack/cocaine, have convinced many people of the necessity of punitive responses to the problem of drug-exposed children. Today, dozens of carefully constructed studies establish that the impact of cocaine on newborns has been greatly exaggerated and that other factors are responsible for many of the ills previously associated with cocaine use -- with poverty chief among them.

Myth #2: Women Who Use Drugs Could Simply Stop.

Women who are addicted to drugs cannot simply stop their use. Addiction is a chronic relapsing disease whose recovery takes time. Nevertheless, addiction is frequently regarded as a moral failing, and pregnant addicted women are presumed to be selfish and uncaring. Many of these women, however, were sexually abused as children or beaten as adults, and turned to drugs to numb the pain of the abuse and trauma they were experiencing. Then, they become addicted.

Once addicted, pregnant women face numerous barriers to getting help. The lack of adequate treatment for women has been well documented, despite evidence of drug treatment's success and cost-effectiveness. Research shows that comprehensive treatment programs that do not separate mothers from their children help women and their families. They are also cost-effective, especially when one compares their price tag to the staggering financial and social costs of separating mother and child

Myth # 3: A Woman Who Used Drugs While Pregnant Would Be Unable To Care For Her Child Once Born.

A single positive drug test cannot determine whether a person occasionally uses a drug, is addicted, or suffers any physical or emotional disability from that addiction.

Most importantly, a single drug test simply is not predictive of a person's parenting ability.

As Susan C. Boyd, in her recent book Mothers and Illicit Drugs: Transcending the Myths, found, there is no significant difference in childrearing practices between addicted and non-addicted mothers. Even mothers who use cocaine have been found to look after and care for their children adequately. As a report published by the American Bar Association concluded: "[M]any people in our society suffer from drug or alcohol dependence yet remain fit to care for a child. An alcohol or drug dependent parent becomes unfit only if the dependency results in mistreatment of the child, or in a failure to provide the ordinary care required for all children."

Myth #4: Presuming Neglect And Requiring Child Welfare Intervention Will Protect Children And Improve Their Health.

In fact, we already know how dangerous presuming neglect can be to children. In the 1980s, New York, as a matter of policy, adopted this approach. The policy though was eventually stopped when it became apparent that it was not consistent with existing state law and was instead pointlessly filling hospital nurseries with healthy infants and overwhelming an already overburdened child protective system with unnecessary referrals.

On a broader level, studies have found that removing children from their parents' care unnecessarily can inflict grave harm on the children. Research has also shown that "the increasing placement of drug-exposed children in foster care is coupled with poor growth outcomes in the physical, mental and emotional development of these children." Furthermore, fear of losing custody of a child deters women from seeking the prenatal health care and drug treatment that can improve both their heath and that of their children. Research by the Southern Regional Infant Mortality Project's on barriers to substance abuse treatment for pregnant women found that "fear of losing their children" was the greatest deterrent to women.

What Should Be Done?

The purpose of civil child welfare laws is to protect children from future harm: not to punish parents for past wrongdoing. Accordingly, the Center for the Future of Children recommends that "[a]n identified drug-exposed infant should be reported to child protective services only if factors in addition to prenatal drug exposure show that the infant is at risk for abuse or neglect." Drug testing would be done only with the woman's fully informed consent. Drug treatment, prenatal care and other reproductive and mental health services would be widely available to women and they would have meaningful access to housing and safe, non-abusive environments.